

By: Wu

H.B. No. 4355

A BILL TO BE ENTITLED

AN ACT

relating to the interview of a child in a suit affecting a parent-child relationship.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 153.009, Family Code, is amended to read as follows:

Sec. 153.009. INTERVIEW OF CHILD BY COURT [~~IN CHAMBERS~~].

SECTION 2. Sections 153.009(a), (b), (d), and (f), Family Code, are amended to read as follows:

(a) In a nonjury trial or at a hearing, on the application of a party, the amicus attorney, or the attorney ad litem for the child, the court shall interview [~~in chambers~~] a child 12 years of age or older and may interview [~~in chambers~~] a child under 12 years of age to determine the child's wishes as to conservatorship or as to the person who shall have the exclusive right to determine the child's primary residence. The court may also interview a child [~~in chambers~~] on the court's own motion for a purpose specified by this subsection. The court may interview the child in chambers or in another location used by the court.

(b) In a nonjury trial or at a hearing, on the application of a party, the amicus attorney, or the attorney ad litem for the child or on the court's own motion, the court may interview the child under this section [~~in chambers~~] to determine the child's wishes as to possession, access, or any other issue in the suit affecting the

1 parent-child relationship.

2 (d) In a jury trial, the court may not interview the child
3 under this section ~~[in chambers]~~ regarding an issue on which a party
4 is entitled to a jury verdict.

5 (f) If the child is 12 years of age or older, the court:

6 (1) may cause a record of the interview to be made on
7 the court's own motion; or

8 (2) on ~~[On]~~ the motion of a party, the amicus attorney,
9 or the attorney ad litem for the child, ~~[or on the court's own~~
10 ~~motion, the court]~~ shall cause:

11 (A) a record of the interview to be made; and

12 (B) the ~~[when the child is 12 years of age or~~
13 ~~older. A]~~ record of the interview to ~~[shall]~~ be part of the record
14 in the case.

15 SECTION 3. Section 156.006(b), Family Code, is amended to
16 read as follows:

17 (b) While a suit for modification is pending, the court may
18 not render a temporary order that has the effect of creating a
19 designation, or changing the designation, of the person who has the
20 exclusive right to designate the primary residence of the child, or
21 the effect of creating a geographic area, or changing or
22 eliminating the geographic area, within which a conservator must
23 maintain the child's primary residence, under the final order
24 unless the temporary order is in the best interest of the child and:

25 (1) the order is necessary because the child's present
26 circumstances would significantly impair the child's physical
27 health or emotional development;

1 (2) the person designated in the final order has
2 voluntarily relinquished the primary care and possession of the
3 child for more than six months; or

4 (3) the child is 12 years of age or older and has
5 expressed to the court [~~in chambers~~] as provided by Section 153.009
6 the name of the person who is the child's preference to have the
7 exclusive right to designate the primary residence of the child.

8 SECTION 4. Section 156.101(a), Family Code, is amended to
9 read as follows:

10 (a) The court may modify an order that provides for the
11 appointment of a conservator of a child, that provides the terms and
12 conditions of conservatorship, or that provides for the possession
13 of or access to a child if modification would be in the best
14 interest of the child and:

15 (1) the circumstances of the child, a conservator, or
16 other party affected by the order have materially and substantially
17 changed since the earlier of:

18 (A) the date of the rendition of the order; or

19 (B) the date of the signing of a mediated or
20 collaborative law settlement agreement on which the order is based;

21 (2) the child is at least 12 years of age and has
22 expressed to the court [~~in chambers~~] as provided by Section 153.009
23 the name of the person who is the child's preference to have the
24 exclusive right to designate the primary residence of the child; or

25 (3) the conservator who has the exclusive right to
26 designate the primary residence of the child has voluntarily
27 relinquished the primary care and possession of the child to

1 another person for at least six months.

2 SECTION 5. The change in law made by this Act applies only
3 to a suit affecting the parent-child relationship pending on the
4 effective date of this Act or filed on or after that date.

5 SECTION 6. This Act takes effect September 1, 2023.