

1-1 By: Goodman, Dutton (Senate Sponsor - Harris) H.B. No. 913
1-2 (In the Senate - Received from the House April 25, 2003;
1-3 April 28, 2003, read first time and referred to Committee on
1-4 Jurisprudence; May 19, 2003, reported favorably by the following
1-5 vote: Yeas 6, Nays 0; May 19, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the conservatorship of, and the possession of and
1-9 access to, a child.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Sections 105.001(a) and (c), Family Code, are
1-12 amended to read as follows:

1-13 (a) In a suit, the court may make a temporary order,
1-14 including the modification of a prior temporary order, for the
1-15 safety and welfare of the child, including an order:

1-16 (1) for the temporary conservatorship of the child;

1-17 (2) for the temporary support of the child;

1-18 (3) restraining a party from ~~[molesting or]~~ disturbing
1-19 the peace of the child or another party;

1-20 (4) prohibiting a person from removing the child
1-21 beyond a geographical area identified by the court; or

1-22 (5) for payment of reasonable attorney's fees and
1-23 expenses.

1-24 (c) Except on a verified pleading or an affidavit in
1-25 accordance with the Texas Rules of Civil Procedure, an order may not
1-26 be rendered:

1-27 (1) attaching the body of the child;

1-28 (2) taking the child into the possession of the court
1-29 or of a person ~~[parent]~~ designated by the court; or

1-30 (3) excluding a parent from possession of or access to
1-31 a child.

1-32 SECTION 2. Section 105.002(c), Family Code, is amended to
1-33 read as follows:

1-34 (c) In a jury trial:

1-35 (1) a party is entitled to a verdict by the jury and
1-36 the court may not contravene a jury verdict on the issues of:

1-37 (A) the appointment of a sole managing
1-38 conservator;

1-39 (B) the appointment of joint managing
1-40 conservators;

1-41 (C) the appointment of a possessory conservator;
1-42 ~~[and]~~

1-43 (D) the determination of which joint managing
1-44 conservator has the exclusive right to designate the primary
1-45 residence of the child;

1-46 (E) the determination of whether to impose a
1-47 restriction on the geographic area in which a joint managing
1-48 conservator may designate the child's primary residence; and

1-49 (F) if a restriction described by Paragraph (E)
1-50 is imposed, the determination of the geographic area within which
1-51 the joint managing conservator must designate the child's primary
1-52 residence; and

1-53 (2) the court may not submit ~~[a party is not entitled]~~
1-54 to the ~~[a]~~ jury questions ~~[verdict]~~ on the issues of:

1-55 (A) ~~[child]~~ support under Chapter 154 or Chapter
1-56 159;

1-57 (B) a specific term or condition of possession of
1-58 or access to the child; or

1-59 (C) any right or duty of a ~~[possessory or~~
1-60 ~~managing]~~ conservator, other than the determination of which joint
1-61 managing conservator has the exclusive right to designate the

1-62 [issue of] primary residence of the child ~~[determined]~~ under
1-63 Subdivision (1)(D) ~~[, and]~~

1-64 ~~[(3) the court may submit to the jury an issue~~

2-1 ~~described by Subdivision (2)].~~

2-2 SECTION 3. Section 151.001(a), Family Code, is amended to
2-3 read as follows:

2-4 (a) A parent of a child has the following rights and duties:

2-5 (1) the right to have physical possession, to direct
2-6 the moral and religious training, and to designate [~~establish~~] the
2-7 residence of the child;

2-8 (2) the duty of care, control, protection, and
2-9 reasonable discipline of the child;

2-10 (3) the duty to support the child, including providing
2-11 the child with clothing, food, shelter, medical and dental care,
2-12 and education;

2-13 (4) the duty, except when a guardian of the child's
2-14 estate has been appointed, to manage the estate of the child,
2-15 including the right as an agent of the child to act in relation to
2-16 the child's estate if the child's action is required by a state, the
2-17 United States, or a foreign government;

2-18 (5) except as provided by Section 264.0111, the right
2-19 to the services and earnings of the child;

2-20 (6) the right to consent to the child's marriage,
2-21 enlistment in the armed forces of the United States, medical and
2-22 dental care, and psychiatric, psychological, and surgical
2-23 treatment;

2-24 (7) the right to represent the child in legal action
2-25 and to make other decisions of substantial legal significance
2-26 concerning the child;

2-27 (8) the right to receive and give receipt for payments
2-28 for the support of the child and to hold or disburse funds for the
2-29 benefit of the child;

2-30 (9) the right to inherit from and through the child;

2-31 (10) the right to make decisions concerning the
2-32 child's education; and

2-33 (11) any other right or duty existing between a parent
2-34 and child by virtue of law.

2-35 SECTION 4. Section 152.209(a), Family Code, is amended to
2-36 read as follows:

2-37 (a) Except as provided by Subsection (e) or unless each
2-38 party resides in this state, in a child custody proceeding, each
2-39 party, in its first pleading or in an attached affidavit, shall give
2-40 information, if reasonably ascertainable, under oath as to the
2-41 child's present address or whereabouts, the places where the child
2-42 has lived during the last five years, and the names and present
2-43 addresses of the persons with whom the child has lived during that
2-44 period. The pleading or affidavit must state whether the party:

2-45 (1) has participated, as a party or witness or in any
2-46 other capacity, in any other proceeding concerning the custody of
2-47 or visitation with the child and, if so, identify the court, the
2-48 case number, and the date of the child custody determination, if
2-49 any;

2-50 (2) knows of any proceeding that could affect the
2-51 current proceeding, including proceedings for enforcement and
2-52 proceedings relating to domestic violence, protective orders,
2-53 termination of parental rights, and adoptions and, if so, identify
2-54 the court, the case number, and the nature of the proceeding; and

2-55 (3) knows the names and addresses of any person not a
2-56 party to the proceeding who has physical custody of the child or
2-57 claims rights of legal custody or physical custody of, or
2-58 visitation with, the child and, if so, the names and addresses of
2-59 those persons.

2-60 SECTION 5. Section 153.008, Family Code, is amended to read
2-61 as follows:

2-62 Sec. 153.008. CHILD'S PREFERENCE [~~CHOICE~~] OF PERSON TO
2-63 DESIGNATE RESIDENCE [~~MANAGING CONSERVATOR~~]. A [~~if the~~] child [~~is~~]
2-64 12 years of age or older may file [~~, the child may, by writing filed~~]
2-65 with the court in writing [~~, choose~~] the name of the person who is
2-66 the child's preference to have the exclusive right to designate the
2-67 primary residence of the child [~~managing conservator~~], subject to
2-68 the approval of the court.

2-69 SECTION 6. Section 153.073(a), Family Code, is amended to

3-1 read as follows:

3-2 (a) Unless limited by court order, a parent appointed as a
3-3 conservator of a child has at all times the right:

3-4 (1) ~~[as specified by court order:~~
3-5 ~~[(A)]~~ to receive information from any ~~[the]~~ other
3-6 conservator of the child ~~[parent]~~ concerning the health, education,
3-7 and welfare of the child; ~~[and]~~

3-8 (2) ~~[(B)]~~ to confer with the other parent to the
3-9 extent possible before making a decision concerning the health,
3-10 education, and welfare of the child;

3-11 (3) ~~[(2)]~~ of access to medical, dental,
3-12 psychological, and educational records of the child;

3-13 (4) ~~[(3)]~~ to consult with a physician, dentist, or
3-14 psychologist of the child;

3-15 (5) ~~[(4)]~~ to consult with school officials concerning
3-16 the child's welfare and educational status, including school
3-17 activities;

3-18 (6) ~~[(5)]~~ to attend school activities;

3-19 (7) ~~[(6)]~~ to be designated on the child's records as a
3-20 person to be notified in case of an emergency;

3-21 (8) ~~[(7)]~~ to consent to medical, dental, and surgical
3-22 treatment during an emergency involving an immediate danger to the
3-23 health and safety of the child; and

3-24 (9) ~~[(8)]~~ to manage the estate of the child to the
3-25 extent the estate has been created by the parent or the parent's
3-26 family.

3-27 SECTION 7. Section 153.074, Family Code, is amended to read
3-28 as follows:

3-29 Sec. 153.074. RIGHTS AND DUTIES DURING PERIOD OF
3-30 POSSESSION. Unless limited by court order, a parent appointed as a
3-31 conservator of a child has the following rights and duties during
3-32 the period that the parent has possession of the child:

3-33 (1) the duty of care, control, protection, and
3-34 reasonable discipline of the child;

3-35 (2) the duty to support the child, including providing
3-36 the child with clothing, food, shelter, and medical and dental care
3-37 not involving an invasive procedure;

3-38 (3) the right to consent for the child to medical and
3-39 dental care not involving an invasive procedure; and

3-40 (4) ~~[the right to consent for the child to medical,~~
3-41 ~~dental, and surgical treatment during an emergency involving~~
3-42 ~~immediate danger to the health and safety of the child; and~~

3-43 ~~[(5)]~~ the right to direct the moral and religious
3-44 training of the child.

3-45 SECTION 8. Section 153.076, Family Code, is amended to read
3-46 as follows:

3-47 Sec. 153.076. ~~[PARENTS']~~ DUTY TO PROVIDE INFORMATION. (a)
3-48 ~~The~~ ~~[If both parents are appointed as conservators of the child,~~
3-49 ~~the]~~ court shall order that each conservator of a child ~~[parent]~~
3-50 has a duty to inform the other conservator of the child ~~[parent]~~ in
3-51 a timely manner of significant information concerning the health,
3-52 education, and welfare of the child.

3-53 (b) ~~The~~ ~~[If both parents are appointed as conservators of a~~
3-54 ~~child, the]~~ court shall order that each conservator of a child
3-55 ~~[parent]~~ has the duty to inform the other conservator of the child
3-56 ~~[parent]~~ if the conservator ~~[parent]~~ resides with for at least 30
3-57 days, marries, or intends to marry a person who the conservator
3-58 ~~[parent]~~ knows:

3-59 (1) is registered as a sex offender under Chapter 62,
3-60 Code of Criminal Procedure ~~[, as added by Chapter 668, Acts of the~~
3-61 ~~75th Legislature, Regular Session, 1997]~~; or

3-62 (2) is currently charged with an offense for which on
3-63 conviction the person would be required to register under that
3-64 chapter.

3-65 (c) The notice required to be made under Subsection (b) must
3-66 be made as soon as practicable but not later than the 40th day after
3-67 the date the conservator of the child ~~[parent]~~ begins to reside with
3-68 the person or the 10th day after the date the marriage occurs, as
3-69 appropriate. The notice must include a description of the offense

4-1 that is the basis of the person's requirement to register as a sex
 4-2 offender or of the offense with which the person is charged.

4-3 (d) A conservator [~~person~~] commits an offense if the
 4-4 conservator [~~person~~] fails to provide notice in the manner required
 4-5 by Subsections (b) and (c). An offense under this subsection is a
 4-6 Class C misdemeanor.

4-7 SECTION 9. Section 153.132, Family Code, is amended to read
 4-8 as follows:

4-9 Sec. 153.132. RIGHTS AND DUTIES OF PARENT APPOINTED SOLE
 4-10 MANAGING CONSERVATOR. Unless limited by court order, a parent
 4-11 appointed as sole managing conservator of a child has the rights and
 4-12 duties provided by Subchapter B and the following exclusive rights:

4-13 (1) the right to designate [~~establish~~] the primary
 4-14 residence of the child;

4-15 (2) the right to consent to medical, dental, and
 4-16 surgical treatment involving invasive procedures, and to consent to
 4-17 psychiatric and psychological treatment;

4-18 (3) the right to receive and give receipt for periodic
 4-19 payments for the support of the child and to hold or disburse these
 4-20 funds for the benefit of the child;

4-21 (4) the right to represent the child in legal action
 4-22 and to make other decisions of substantial legal significance
 4-23 concerning the child;

4-24 (5) the right to consent to marriage and to enlistment
 4-25 in the armed forces of the United States;

4-26 (6) the right to make decisions concerning the child's
 4-27 education;

4-28 (7) the right to the services and earnings of the
 4-29 child; and

4-30 (8) except when a guardian of the child's estate or a
 4-31 guardian or attorney ad litem has been appointed for the child, the
 4-32 right to act as an agent of the child in relation to the child's
 4-33 estate if the child's action is required by a state, the United
 4-34 States, or a foreign government.

4-35 SECTION 10. Section 153.133(a), Family Code, is amended to
 4-36 read as follows:

4-37 (a) If a written agreement of the parents is filed with the
 4-38 court, the court shall render an order appointing the parents as
 4-39 joint managing conservators only if the agreement:

4-40 (1) designates the conservator who has the exclusive
 4-41 right to designate [~~establish~~] the primary residence of the child
 4-42 and:

4-43 (A) establishes, until modified by further
 4-44 order, the geographic area within which the conservator shall
 4-45 maintain the child's primary residence; or

4-46 (B) specifies that the conservator may designate
 4-47 [~~establish~~] the child's primary residence without regard to
 4-48 geographic location;

4-49 (2) specifies the rights and duties of each parent
 4-50 regarding the child's physical care, support, and education;

4-51 (3) includes provisions to minimize disruption of the
 4-52 child's education, daily routine, and association with friends;

4-53 (4) allocates between the parents, independently,
 4-54 jointly, or exclusively, all of the remaining rights and duties of a
 4-55 parent provided by Chapter 151;

4-56 (5) is voluntarily and knowingly made by each parent
 4-57 and has not been repudiated by either parent at the time the order
 4-58 is rendered; and

4-59 (6) is in the best interest of the child.

4-60 SECTION 11. Section 153.134(b), Family Code, is amended to
 4-61 read as follows:

4-62 (b) In rendering an order appointing joint managing
 4-63 conservators, the court shall:

4-64 (1) designate the conservator who has the exclusive
 4-65 right to determine the primary residence of the child and:

4-66 (A) establish, until modified by further order, a
 4-67 geographic area [~~consisting of the county in which the child is to~~
 4-68 ~~reside and any contiguous county thereto~~] within which the
 4-69 conservator shall maintain the child's primary residence; or

5-1 (B) specify that the conservator may determine
5-2 the child's primary residence without regard to geographic
5-3 location;

5-4 (2) specify the rights and duties of each parent
5-5 regarding the child's physical care, support, and education;

5-6 (3) include provisions to minimize disruption of the
5-7 child's education, daily routine, and association with friends;

5-8 (4) allocate between the parents, independently,
5-9 jointly, or exclusively, all of the remaining rights and duties of a
5-10 parent as provided by Chapter 151; and

5-11 (5) if feasible, recommend that the parties use an
5-12 alternative dispute resolution method before requesting
5-13 enforcement or modification of the terms and conditions of the
5-14 joint conservatorship through litigation, except in an emergency.

5-15 SECTION 12. Section 153.137, Family Code, is amended to
5-16 read as follows:

5-17 Sec. 153.137. GUIDELINES FOR THE POSSESSION OF CHILD BY
5-18 PARENT NAMED AS JOINT MANAGING CONSERVATOR. The standard
5-19 possession order provided by Subchapter F constitutes a presumptive
5-20 minimum amount of time for possession of a child by a parent named
5-21 as a joint managing conservator who is not awarded the exclusive
5-22 right to designate the primary [physical] residence of the child in
5-23 a suit.

5-24 SECTION 13. Section 153.312(a), Family Code, is amended to
5-25 read as follows:

5-26 (a) If the possessory conservator resides 100 miles or less
5-27 from the primary residence of the child, the possessory conservator
5-28 shall have the right to possession of the child as follows:

5-29 (1) on weekends beginning at 6 p.m. on the first,
5-30 third, and fifth Friday of each month and ending at 6 p.m. on the
5-31 following Sunday or, at the possessory conservator's election made
5-32 before or at the time of the rendition of the original or
5-33 modification order, and as specified in the original or
5-34 modification order, beginning at the time the child's school is
5-35 regularly dismissed and ending at 6 p.m. on the following Sunday;
5-36 and

5-37 (2) on Thursdays [~~Wednesdays~~] of each week during the
5-38 regular school term beginning at 6 p.m. and ending at 8 p.m., or, at
5-39 the possessory conservator's election made before or at the time of
5-40 the rendition of the original or modification order, and as
5-41 specified in the original or modification order, beginning at the
5-42 time the child's school is regularly dismissed and ending at the
5-43 time the child's school resumes, unless the court finds that
5-44 visitation under this subdivision is not in the best interest of the
5-45 child.

5-46 SECTION 14. Section 153.314, Family Code, is amended to
5-47 read as follows:

5-48 Sec. 153.314. HOLIDAY POSSESSION UNAFFECTED BY DISTANCE
5-49 PARENTS RESIDE APART. The following provisions govern possession
5-50 of the child for certain specific holidays and supersede
5-51 conflicting weekend or Thursday [~~Wednesday~~] periods of possession
5-52 without regard to the distance the parents reside apart. The
5-53 possessory conservator and the managing conservator shall have
5-54 rights of possession of the child as follows:

5-55 (1) the possessory conservator shall have possession
5-56 of the child in even-numbered years beginning at 6 p.m. on the day
5-57 the child is dismissed from school for the Christmas school
5-58 vacation and ending at noon on December 26, and the managing
5-59 conservator shall have possession for the same period in
5-60 odd-numbered years;

5-61 (2) the possessory conservator shall have possession
5-62 of the child in odd-numbered years beginning at noon on December 26
5-63 and ending at 6 p.m. on the day before school resumes after that
5-64 vacation, and the managing conservator shall have possession for
5-65 the same period in even-numbered years;

5-66 (3) the possessory conservator shall have possession
5-67 of the child in odd-numbered years, beginning at 6 p.m. on the day
5-68 the child is dismissed from school before Thanksgiving and ending
5-69 at 6 p.m. on the following Sunday, and the managing conservator

6-1 shall have possession for the same period in even-numbered years;
 6-2 (4) the parent not otherwise entitled under this
 6-3 standard order to present possession of a child on the child's
 6-4 birthday shall have possession of the child beginning at 6 p.m. and
 6-5 ending at 8 p.m. on that day, provided that the parent picks up the
 6-6 child from the residence of the conservator entitled to possession
 6-7 and returns the child to that same place;

6-8 (5) if a conservator, the father shall have possession
 6-9 of the child beginning at 6 p.m. on the Friday preceding Father's
 6-10 Day and ending on Father's Day at 6 p.m., provided that, if he is not
 6-11 otherwise entitled under this standard order to present possession
 6-12 of the child, he picks up the child from the residence of the
 6-13 conservator entitled to possession and returns the child to that
 6-14 same place; and

6-15 (6) if a conservator, the mother shall have possession
 6-16 of the child beginning at 6 p.m. on the Friday preceding Mother's
 6-17 Day and ending on Mother's Day at 6 p.m., provided that, if she is
 6-18 not otherwise entitled under this standard order to present
 6-19 possession of the child, she picks up the child from the residence
 6-20 of the conservator entitled to possession and returns the child to
 6-21 that same place.

6-22 SECTION 15. Section 153.317, Family Code, is amended to
 6-23 read as follows:

6-24 Sec. 153.317. ALTERNATIVE POSSESSION TIMES. If a child is
 6-25 enrolled in school and the possessory conservator elects before or
 6-26 at the time of the rendition of the original or modification order,
 6-27 the standard order must expressly provide that the possessory
 6-28 conservator's period of possession shall begin or end, or both, at a
 6-29 different time expressly set in the standard order under and within
 6-30 the range of alternative times provided by one or both of the
 6-31 following subdivisions:

6-32 (1) instead of a period of possession by a possessory
 6-33 conservator beginning at 6 p.m. on the day school recesses, the
 6-34 period of possession may be set in the standard possession order to
 6-35 begin at the time the child's school is regularly dismissed or at
 6-36 any time between the time the child's school is regularly dismissed
 6-37 and 6 p.m.; and

6-38 (2) except for Thursday [~~Wednesday~~] evening
 6-39 possession, instead of a period of possession by a possessory
 6-40 conservator ending at 6 p.m. on the day before school resumes, the
 6-41 period of possession may be set in the standard order to end at the
 6-42 time school resumes.

6-43 SECTION 16. Section 153.371, Family Code, is amended to
 6-44 read as follows:

6-45 Sec. 153.371. RIGHTS AND DUTIES OF NONPARENT APPOINTED AS
 6-46 SOLE MANAGING CONSERVATOR. Unless limited by court order or other
 6-47 provisions of this chapter, a nonparent, licensed child-placing
 6-48 agency, or authorized agency appointed as a managing conservator of
 6-49 the child has the following rights and duties:

6-50 (1) the right to have physical possession and to
 6-51 direct the moral and religious training of the child;

6-52 (2) the duty of care, control, protection, and
 6-53 reasonable discipline of the child;

6-54 (3) the duty to provide the child with clothing, food,
 6-55 shelter, education, and medical, psychological, and dental care;

6-56 (4) the right to consent for the child to medical,
 6-57 psychiatric, psychological, dental, and surgical treatment and to
 6-58 have access to the child's medical records;

6-59 (5) the right to receive and give receipt for payments
 6-60 for the support of the child and to hold or disburse funds for the
 6-61 benefit of the child;

6-62 (6) the right to the services and earnings of the
 6-63 child;

6-64 (7) the right to consent to marriage and to enlistment
 6-65 in the armed forces of the United States;

6-66 (8) the right to represent the child in legal action
 6-67 and to make other decisions of substantial legal significance
 6-68 concerning the child;

6-69 (9) except when a guardian of the child's estate or a

7-1 guardian or attorney ad litem has been appointed for the child, the
 7-2 right to act as an agent of the child in relation to the child's
 7-3 estate if the child's action is required by a state, the United
 7-4 States, or a foreign government;

7-5 (10) the right to designate [~~establish~~] the primary
 7-6 residence of the child and to make decisions regarding the child's
 7-7 education; and

7-8 (11) if the parent-child relationship has been
 7-9 terminated with respect to the parents, or only living parent, or if
 7-10 there is no living parent, the right to consent to the adoption of
 7-11 the child and to make any other decision concerning the child that a
 7-12 parent could make.

7-13 SECTION 17. Section 155.301(a), Family Code, is amended to
 7-14 read as follows:

7-15 (a) A court of this state with continuing, exclusive
 7-16 jurisdiction over a child custody proceeding under Chapter 152 or a
 7-17 [~~suit or an action for~~] child support proceeding under Chapter 159
 7-18 shall transfer the proceeding to the county of residence of the
 7-19 resident party if one party is a resident of this state and all
 7-20 other parties including the child or all of the children affected by
 7-21 the proceeding [~~proceedings~~] reside outside this state.

7-22 SECTION 18. Section 156.006(b), Family Code, is amended to
 7-23 read as follows:

7-24 (b) While a suit for modification is pending, the court may
 7-25 not render a temporary order that has the effect of changing the
 7-26 designation of the person who has the exclusive right to designate
 7-27 [~~determine~~] the primary residence of the child under the final
 7-28 order unless:

7-29 (1) the order is necessary because the child's present
 7-30 living environment may endanger the child's physical health or
 7-31 significantly impair the child's emotional development;

7-32 (2) the person designated in the final order has
 7-33 voluntarily relinquished the primary care and possession of the
 7-34 child for more than six months and the temporary order is in the
 7-35 best interest of the child; or

7-36 (3) the child is 12 years of age or older and has filed
 7-37 with the court in writing the name of the person who is the child's
 7-38 preference to have the exclusive right to designate [~~determine~~] the
 7-39 primary residence of the child and the temporary order designating
 7-40 that person is in the best interest of the child.

7-41 SECTION 19. Section 156.101, Family Code, is amended to
 7-42 read as follows:

7-43 Sec. 156.101. GROUNDS FOR MODIFICATION OF ORDER
 7-44 ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. The court
 7-45 may modify an order [~~or portion of a decree~~] that provides for the
 7-46 appointment of a conservator of a child, that provides the terms and
 7-47 conditions of conservatorship, or that provides for the possession
 7-48 of or access to a child if modification would be in the best
 7-49 interest of the child and:

7-50 (1) the circumstances of the child, a conservator, or
 7-51 other party affected by the order have materially and substantially
 7-52 changed since the earlier of:

7-53 (A) the date of the rendition of the order; or
 7-54 (B) the date of the signing of a mediated or
 7-55 collaborative law settlement agreement on which the order is based;

7-56 (2) the child is at least 12 years of age and has filed
 7-57 with the court, in writing, the name of the person [~~conservator~~] who
 7-58 is the child's preference to have the exclusive right to designate
 7-59 [~~determine~~] the primary residence of the child; or

7-60 (3) the conservator who has the exclusive right to
 7-61 designate [~~establish~~] the primary residence of the child has
 7-62 voluntarily relinquished the primary care and possession of the
 7-63 child to another person for at least six months.

7-64 SECTION 20. Sections 156.102(a) and (b), Family Code, are
 7-65 amended to read as follows:

7-66 (a) If a suit seeking to modify the designation of the
 7-67 person having the exclusive right to designate [~~determine~~] the
 7-68 primary residence of a child is filed not later than one year after
 7-69 the earlier of the date of the rendition of the order or the date of

8-1 the signing of a mediated or collaborative law settlement agreement
 8-2 on which the order is based, the person filing the suit shall
 8-3 execute and attach an affidavit as provided by Subsection (b).

8-4 (b) The affidavit must contain, along with supporting
 8-5 facts, at least one of the following allegations:

8-6 (1) that the child's present environment may endanger
 8-7 the child's physical health or significantly impair the child's
 8-8 emotional development;

8-9 (2) that the person who has the exclusive right to
 8-10 designate [~~determine~~] the primary residence of the child is the
 8-11 person seeking or consenting to the modification and the
 8-12 modification is in the best interest of the child; or

8-13 (3) that the person who has the exclusive right to
 8-14 designate [~~determine~~] the primary residence of the child has
 8-15 voluntarily relinquished the primary care and possession of the
 8-16 child for at least six months and the modification is in the best
 8-17 interest of the child.

8-18 SECTION 21. Section 156.401(a), Family Code, is amended to
 8-19 read as follows:

8-20 (a) Except as provided by Subsection (b), the court may
 8-21 modify an order that provides for the support of a child if:

8-22 (1) the circumstances of the child or a person
 8-23 affected by the order have materially and substantially changed
 8-24 since the earlier of:

8-25 (A) the date of the order's rendition; or
 8-26 (B) the date of the signing of a mediated or
 8-27 collaborative law settlement agreement on which the order is based;
 8-28 or

8-29 (2) it has been three years since the order was
 8-30 rendered or last modified and the monthly amount of the child
 8-31 support award under the order differs by either 20 percent or \$100
 8-32 from the amount that would be awarded in accordance with the child
 8-33 support guidelines.

8-34 SECTION 22. Sections 105.002(d) and 153.136, Family Code,
 8-35 are repealed.

8-36 SECTION 23. (a) This Act takes effect September 1, 2003.

8-37 (b) The changes in law made by this Act to Sections
 8-38 105.001(a) and (c), Family Code, apply only to an order rendered in
 8-39 a suit affecting the parent-child relationship on or after the
 8-40 effective date of this Act. An order rendered in a suit affecting
 8-41 the parent-child relationship before the effective date of this Act
 8-42 is governed by the law in effect on the date the order was rendered,
 8-43 and the former law is continued in effect for that purpose.

8-44 (c) The changes in law made by this Act to Sections
 8-45 105.002(c) and 153.008, Family Code, apply only to a suit affecting
 8-46 the parent-child relationship filed on or after the effective date
 8-47 of this Act. A suit affecting the parent-child relationship filed
 8-48 before the effective date of this Act is governed by the law in
 8-49 effect on the date that the suit was filed, and the former law is
 8-50 continued in effect for that purpose.

8-51 (d) The changes in law made by this Act to Sections
 8-52 152.209(a) and 155.301(a), Family Code, apply only to a child
 8-53 custody proceeding under Chapter 152, Family Code, filed on or
 8-54 after the effective date of this Act. A child custody proceeding
 8-55 under Chapter 152, Family Code, filed before the effective date of
 8-56 this Act is governed by the law in effect on the date that the
 8-57 proceeding was filed, and the former law is continued in effect for
 8-58 that purpose.

8-59 (e) The changes in law made by this Act to Sections 153.076,
 8-60 153.312(a), 153.314, and 153.317, Family Code, apply only to a
 8-61 court order providing for possession of or access to a child
 8-62 rendered on or after that date. A court order rendered before the
 8-63 effective date of this Act is governed by the law in effect on the
 8-64 date the order was rendered, and the former law is continued in
 8-65 effect for that purpose.

8-66 (f) The change in law made by this Act to Section
 8-67 153.134(b), Family Code, applies only to a court order appointing
 8-68 joint managing conservators rendered on or after the effective date
 8-69 of this Act. A court order appointing joint managing conservators

9-1 rendered before the effective date of this Act is governed by the
9-2 law in effect on the date the order was rendered, and the former law
9-3 is continued in effect for that purpose.

9-4 (g) The changes in law made by this Act to Sections 156.101,
9-5 156.102(a) and (b), and 156.401(a), Family Code, apply only to an
9-6 action to modify an order in a suit affecting the parent-child
9-7 relationship pending on the effective date of this Act or filed on
9-8 or after that date.

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