

BILL ANALYSIS

Senate Research Center

H.B. 252
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Jurisprudence
5/10/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

H.B. 252 adopts the terminology of "parenting plan" for parents in litigation regarding their rights and duties as parents and the possession time for each parent. Approximately one half of all states have adopted this terminology. The terminology shifts the focus of litigation to the future well being of children by having the parents provide detailed plans on how the children will be handled on a daily basis.

H.B. 252 also authorizes the court to appoint "parenting coordinators" to assist parents in a nonjudicial manner to resolve parenting issues in certain cases. Approximately 10 states have enacted legislation or court rules authorizing parenting coordinators. The coordinators are compensated by the parties and no public funds are authorized for such appointments. Additionally, a domestic relations office may be appointed as parenting coordinator and be awarded a fee as any other individual.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that the legislature finds that the use of parenting plans and parenting coordinators in suits affecting the parent-child relationship will assist in promoting the best interest of children and in helping litigants resolve their issues relating to parenting. Provides that the legislature further finds that conciliatory forms of dispute resolution, including mediation and the use of parenting coordinators, promote the policy set forth in Section 153.001 (Public Policy), Family Code.

SECTION 2. Amends Chapter 153, Family Code, by adding Subchapter J, as follows:

SUBCHAPTER J. PARENTING PLAN AND PARENTING COORDINATOR

Sec. 153.601. DEFINITIONS. Defines "dispute resolution process," "high-conflict case," "parenting coordinator," and "parenting plan."

Sec. 153.602. REQUIREMENT FOR TEMPORARY PARENTING PLAN. (a) Requires a temporary order that establishes a conservatorship in a suit affecting the parent-child relationship to incorporate a temporary parenting plan. Requires the temporary parenting plan to comply with the requirements for a final parenting plan under Section 153.603.

(b) Authorizes the court, subject to Subsection (c), if the parties cannot agree to a temporary parenting plan, on the motion of a party or on the court's own motion, to order the parties to participate in a dispute resolution process to establish a temporary parenting plan.

(c) Authorizes a party, at any time before the court orders the parties to participate in a dispute resolution process under Subsection (b), to file a written objection to the referral of the suit to a dispute resolution process on the basis of family violence having been committed by another party against the objecting

party or a child who is the subject of the suit. Prohibits the suit, after an objection is filed, from being referred to a dispute resolution process unless, on the request of a party, a hearing is held and the court finds that a preponderance of the evidence does not support the objection. Requires the court to order appropriate measures be taken to ensure the physical and emotional safety of the party who filed the objection if the suit is referred to a dispute resolution process. Authorizes the order to provide that the parties not be required to have face-to-face contact and that the parties be placed in separate rooms during the dispute resolution process.

(d) Authorizes a party to request and the court to order an expedited hearing to establish a temporary parenting plan if a dispute resolution process is not available or is not successful.

Sec. 153.603. REQUIREMENT OF FINAL PARENTING PLAN. (a) Requires a final order in a suit affecting the parent-child relationship to incorporate a final parenting plan. Requires a final parenting plan to serve certain functions.

(b) Requires the parenting plan to state certain information in providing for a dispute resolution process.

(c) Authorizes the court, if the parties cannot reach agreement on a final parenting plan, on the motion of a party or on the court's own motion, to order appropriate dispute resolution proceedings under Section 153.0071 (Alternate Dispute Resolution Procedures) to determine a final parenting plan.

(d) Requires each party to file with the court and serve a proposed final parenting plan if the parties have not reached agreement on a final parenting plan on or before the 30th day before the date set for trial. Provides that failure by a party to comply with this subsection may result in the court's adoption of the proposed final parenting plan filed by the opposing party if the court finds that plan to be in the best interest of the child.

(e) Requires each party filing a proposed final parenting plan to attach certain verified statements.

Sec. 153.604. MODIFICATION OF FINAL PARENTING PLAN. (a) Requires, in a suit for modification, a proposed parenting plan to be filed with the court and served with the petition for modification and with the response to the petition for modification, unless the modification is sought only with regard to child support. Requires the obligor party's proposed parenting plan to be accompanied by a verified statement of income determined in accordance with the child support guidelines and related provisions prescribed by Chapter 154 (Child Support).

(b) Provides that the procedure for modifying a final parenting plan is governed by Chapter 156 (Modification).

Sec. 153.605. APPOINTMENT OF PARENTING COORDINATOR. (a) Authorizes the court, in a suit affecting the parent-child relationship, on its own motion or on a motion or agreement of the parties, to appoint a parenting coordinator to assist the parties in resolving issues related to parenting or other family issues in the suit.

(b) Prohibits the court from appointing a parenting coordinator if any party objects unless the court makes certain findings.

(c) Authorizes a party, notwithstanding any other provision of this subchapter, at any time prior to the appointment of a parenting coordinator, to file a written objection to the appointment of a parenting coordinator on the basis of family violence having been committed by another party against the objecting party or a child who is the subject of the suit. Prohibits, after an objection is filed, a parenting coordinator from being appointed unless, on the request of a party, a

hearing is held and the court finds that a preponderance of the evidence does not support the objection. Requires the court, if a parenting coordinator is appointed, to order appropriate measures be taken to ensure the physical and emotional safety of the party who filed the objection. Authorizes the order to provide that the parties not be required to have face-to-face contact and that the parties be placed in separate rooms during the parenting coordination.

Sec. 153.606. **AUTHORITY OF PARENTING COORDINATOR.** (a) Requires the authority of a parenting coordinator to be specified in the order appointing the parenting coordinator and limited to matters that will aid the parties in taking certain actions.

(b) Provides that the appointment of a parenting coordinator does not divest the court of certain authority and jurisdiction.

(c) Prohibits the parenting coordinator from modifying any order, judgment, or decree but authorizes the coordinator to urge or suggest that the parties agree to minor temporary departures from a parenting plan if the parenting coordinator is authorized by the court to do so. Authorizes any agreement made by the parties and the parenting coordinator to be reduced to writing and presented to the court for approval.

(d) Authorizes meetings between the parenting coordinator and the parties to be informal and provides that they are not required to follow any specific procedures.

(e) Sets forth certain prohibitions applicable to a parenting coordinator.

(f) Provides that Subsection (e) does not affect the duty to report child abuse or neglect under Section 261.101 (Persons Required to Report; Time to Report).

Sec. 153.607. **REMOVAL OF PARENTING COORDINATOR.** (a) Requires the court to reserve the right to remove the parenting coordinator in the court's discretion except as otherwise provided by this section.

(b) Authorizes the court to remove the parenting coordinator on the request and agreement of both parties or on the motion of a party, if good cause is shown.

Sec. 153.608. **REPORT OF PARENTING COORDINATOR.** Requires a parenting coordinator to submit a written report to the court and to the parties as often as ordered by the court. Authorizes the parenting coordinator to give in the report only an opinion regarding whether the parenting coordination is succeeding and should continue.

Sec. 153.609. **COMPENSATION OF PARENTING COORDINATOR.** (a) Prohibits a court from appointing a parenting coordinator, other than an employee described by Subsection (c) or a volunteer appointed under Subsection (d), unless the court finds that the parties have the means to pay the fees of the parenting coordinator.

(b) Requires any fees of a parenting coordinator appointed under Subsection (a) to be allocated between the parties as determined by the court.

(c) Prohibits public funds from being used to pay the fees of a parenting coordinator. Authorizes the court, notwithstanding this prohibition, to appoint an employee of the court, the domestic relations office, or a comparable county agency to act as a parenting coordinator if personnel are available to serve that function.

(d) Authorizes the court, if due to hardship the parties are unable to pay the fees of a parenting coordinator, and a public employee is not available under Subsection (c), if feasible, to appoint a person to act as a parenting coordinator on a volunteer basis.

Sec. 153.610. QUALIFICATIONS OF PARENTING COORDINATOR. (a) Requires the court to determine the required qualifications of a parenting coordinator, provided that a parenting coordinator must at least meet certain criteria.

(b) Requires a parenting coordinator, in addition to the qualifications prescribed by Subsection (a), to complete at least eight hours of family violence dynamics training provided by a family violence service provider.

(c) Provides that the actions of a parenting coordinator who is not an attorney do not constitute the practice of law.

Sec. 153.611. EXCEPTION FOR CERTAIN TITLE IV-D PROCEEDINGS. Provides that, notwithstanding any other provision of this subchapter, this subchapter does not apply to a proceeding in a Title IV-D case relating to the determination of parentage or establishment, modification, or enforcement of a child support or medical support obligation.

SECTION 3. Amends Section 153.007, Family Code, as follows:

Sec. 153.007. New heading: AGREED PARENTING PLAN. (a) Authorizes the parties, to promote the amicable settlement of disputes between the parties to a suit, to enter into a written agreed parenting plan, rather than an agreement, containing provisions for conservatorship and possession of the child and for modification of the parenting plan, including variations from the standard possession order. Makes conforming changes.

(b), (c), and (d) Make conforming changes.

SECTION 4. Amends Section 153.133, Family Code, as follows:

Sec. 153.133. New heading: PARENTING PLAN FOR JOINT MANAGING CONSERVATORSHIP. (a) Requires the court, if a written agreed parenting plan is filed with the court, to render an order appointing the parents as joint managing conservators only if the parenting plan, rather than the agreement, serves certain functions. Makes conforming changes.

(b) Makes a conforming change.

SECTION 5. Amends Section 153.134(a), Family Code, to make a conforming change.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2005.