

By: Nixon

H.B. No. 2159

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to a suit affecting the parent-child relationship in which  
3 an international parental child abduction risk factor is present or  
4 an international parental child abduction prevention measure has  
5 been taken.

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

7 SECTION 1. Section 153.008, Family Code, is amended to read  
8 as follows:

9 Sec. 153.008. CHILD'S PREFERENCE OF PERSON TO DESIGNATE  
10 RESIDENCE. (a) Except as provided by Subsection (b), a [A] child 12  
11 years of age or older may file with the court in writing the name of  
12 the person who is the child's preference to have the exclusive right  
13 to designate the primary residence of the child, subject to the  
14 approval of the court.

15 (b) This section does not apply in a suit in which one or  
16 more abduction risk factors described by Section 153.502 are  
17 present or one or more abduction prevention measures described by  
18 Section 153.503 have been taken.

19 SECTION 2. Section 153.134, Family Code, is amended by  
20 amending Subsection (a) and adding Subsection (c) to read as  
21 follows:

22 (a) If a written agreement of the parents is not filed with  
23 the court, the court may render an order appointing the parents  
24 joint managing conservators only if the appointment is in the best

1 interest of the child, considering the following factors:

2 (1) whether the physical, psychological, or emotional  
3 needs and development of the child will benefit from the  
4 appointment of joint managing conservators;

5 (2) the ability of the parents to give first priority  
6 to the welfare of the child and reach shared decisions in the  
7 child's best interest;

8 (3) whether each parent can encourage and accept a  
9 positive relationship between the child and the other parent;

10 (4) whether both parents participated in child rearing  
11 before the filing of the suit;

12 (5) the geographical proximity of the parents'  
13 residences;

14 (6) if the child is 12 years of age or older, the  
15 child's preference, if any, regarding the appointment of joint  
16 managing conservators, except as provided by Subsection (c); and

17 (7) any other relevant factor.

18 (c) The court may not consider the child's preference under  
19 Subsection (a)(6) in a suit in which one or more abduction risk  
20 factors described by Section 153.502 are present or one or more  
21 abduction prevention measures described by Section 153.503 have  
22 been taken.

23 SECTION 3. Section 156.101, Family Code, is amended to read  
24 as follows:

25 Sec. 156.101. GROUNDS FOR MODIFICATION OF ORDER  
26 ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. (a) The  
27 court may modify an order that provides for the appointment of a

1 conservator of a child, that provides the terms and conditions of  
2 conservatorship, or that provides for the possession of or access  
3 to a child if modification would be in the best interest of the  
4 child and:

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

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

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

11 (2) the child is at least 12 years of age and has filed  
12 with the court, in writing, the name of the person who is the  
13 child's preference to have the exclusive right to designate the  
14 primary residence of the child, except as provided by Subsection  
15 (b); or

16 (3) the conservator who has the exclusive right to  
17 designate the primary residence of the child has voluntarily  
18 relinquished the primary care and possession of the child to  
19 another person for at least six months.

20 (b) The court may not consider the child's preference under  
21 Subsection (a)(2) in a suit in which one or more abduction risk  
22 factors described by Section 153.502 are present or one or more  
23 abduction prevention measures described by Section 153.503 have  
24 been taken.

25 SECTION 4. The changes in law made by this Act apply to a  
26 suit affecting the parent-child relationship or suit for  
27 modification pending in a trial court on the effective date of this

1 Act or filed on or after the effective date of this Act.

2 SECTION 5. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2005.