

BILL ANALYSIS

Senate Research Center
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H.B. 555
By: Phillips et al. (Harris)
Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 79th Legislature, Regular Session, 2005, H.B. 252 was passed. That bill incorporated parenting plans and coordinators into newly created Subchapter J (Rights of Siblings), Chapter 153, Family Code.

H.B. 252 went into effect on September 1, 2005, however many courts have not implemented the provisions of the statute. Furthermore, attorneys currently practicing family law have expressed concerns about increased costs to families stemming from the law, such as problems caused by new pleading rules, the kinds of cases to which the subchapter applies, the need for clarification regarding the duties and authority of parenting coordinators, and the role of alternative dispute resolution described by the law.

H.B. 555 amends the Family Code to alleviate such concerns by incorporating recommendations of the family law practice bar.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 153.007(d), Family Code, to authorize the court, after notice and hearing, to order a parenting plan that the court finds to be in the best interest of the child, rather than to render an order for the conservatorship and possession of the child, if the parties to a suit affecting the parent-child relationship do not submit a revised parenting plan that is satisfactory to the court.

SECTION 2. Amends Section 153.0071, Family Code, by adding Subsection (g), as follows:

(g) Provides that the provisions for confidentiality of alternative dispute resolution procedures under Chapter 154 (Alternative Dispute Resolution Procedures), Civil Practice and Remedies Code, apply equally to the work of a parenting coordinator, as defined by Section 153.601, and to the parties and any other person who participates in the parenting coordination. Provides that this subsection does not affect the duty of a person to report abuse or neglect under Section 261.101 (Persons Required to Report; Time to Report), Family Code.

SECTION 3. Amends Section 153.133(b), Family Code, to authorize, rather than require, the agreed parenting plan to contain an alternative dispute resolution procedure.

SECTION 4. Amends Subchapter J, Chapter 153, Family Code, by amending Sections 153.601 through 153.603 and by adding Section 153.6031, as follows:

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

Sec. 153.602. New heading: PARENTING PLAN NOT REQUIRED IN TEMPORARY ORDER. Provides that a temporary order, rather than such an order that establishes a conservatorship, in a suit affecting the parent-child relationship rendered in accordance

with Section 105.001 (Temporary Orders Before Final Order) is not required to include a temporary parenting plan, rather than being required to incorporate such a plan. Prohibits the court from requiring the submission of a temporary parenting plan in any case or by local rule or practice. Deletes existing text requiring the parenting plan to comply with the requirements for a final parenting plan under Section 153.603, Family Code. Deletes existing Subsection (b), authorizing the court, on its own motion or the motion of a party, to order the parties to participate in a dispute resolution process to establish a temporary parenting plan if the parties cannot agree to such a plan. Deletes existing Subsection (c), authorizing a party to file a written objection to the referral of the suit to a dispute resolution process, if the court orders as such, on the basis of family violence having been committed by another party against the objecting party. Deletes existing text outlining the process of altering the dispute resolution process to accommodate the party who had been the target of previous family violence by another party. Deletes existing Subsection (d), authorizing a party to request and authorizing the court to order an expedited hearing to establish a temporary parenting plan if a dispute resolution process is unavailable or unsuccessful.

Sec. 153.603. New heading: REQUIREMENT OF PARENTING PLAN IN FINAL ORDER. (a) Requires a final order in a suit affecting the parent-child relationship to include a parenting plan, rather than incorporating a final parenting plan, except as provided by Subsection (b). Deletes existing text requiring that certain provisions be included in a final parenting plan.

(b) Provides that an order that only modifies child support, an order that only terminates parental rights, or certain final orders that do not create continuing, exclusive jurisdiction for the court, as described by Section 155.001(b), Family Code, are orders that are not required to include a parenting plan. Deletes existing text requiring a parenting plan, in providing for a dispute resolution process, to state that preference is required to be given to carrying out the parenting plan and that the parties are required to use the designated process to resolve disputes. Deletes existing Subsection (c) authorizing the court, on its own motion or the motion of a party, to order appropriate dispute resolution proceedings under Section 153.0071 (Alternate Dispute Resolution Procedures), Family Code, to determine a final parenting plan.

(c) Redesignates text from existing Subsection (d). Authorizes a party to file with the court and serve a parenting plan, rather than requiring each party to file with the court and serve a proposed final parenting plan, if the parties have not reached agreement on the merits of a final parenting plan on or before the 30th day before the date set for trial. Deletes existing text authorizing the court to adopt the proposed final parenting plan filed by the opposing party if the other party fails to comply with this subsection.

(d) Provides that this section does not preclude the parties from requesting the appointment of a parenting coordinator to resolve parental conflicts. Deletes existing Subsection (e), requiring each party filing a proposed parenting plan to attach a verified statement of income and a verified statement that the plan is proposed in good faith and is in the best interest of the child.

Sec. 153.6031. EXCEPTION TO DISPUTE RESOLUTION PROCESS REQUIREMENT. Provides that a requirement in a parenting plan that a party initiate or participate in a dispute resolution process before filing a court action does not apply to certain actions.

SECTION 5. Amends Section 153.605, Family Code, as follows:

Sec. 153.605. APPOINTMENT OF PARENTING COORDINATOR. (a) Authorizes the court, on its own motion or the motion of a party, to appoint a parenting coordinator to assist the parties in resolving parenting issues, rather than issues related to parenting or other family issues in the suit.

(b) Prohibits the court from appointing a parenting coordinator unless, after notice and hearing, the court makes a specific finding that the case is, rather than is or is likely to become, a high-conflict case or if there is good cause shown for the appointment of a parenting coordinator and the appointment is in the best interest of any minor child in the suit. Deletes existing text prohibiting the court from appointing a parenting coordinator if any party objects.

(c) Deletes existing text authorizing a party to file a written objection to the appointment of a parenting coordinator, on the basis of family violence, prior to said appointment.

SECTION 6. Amends the heading to Section 153.606, Family Code, to read as follows:

Sec. 153.606. DUTIES OF PARENTING COORDINATOR.

SECTION 7. Amends Sections 153.606(a) and (c), Family Code, as follows:

(a) Requires the duties, rather than the authority, of a parenting coordinator to be specified in the order appointing the parenting coordinator. Sets forth certain limitations on the duties of the parenting coordinator.

(c) Deletes existing text authorizing a parenting 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. Requires, rather than authorizes, any agreement made by the parties with the assistance of the parenting coordinator to be reduced to writing, signed by the parties and their attorneys, if any, and filed with the court, rather than presented to the court for approval, if a suit is pending. Makes conforming changes.

SECTION 8. Amends Section 153.607(b), Family Code, by requiring, rather than authorizing, 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.

SECTION 9. Amends Section 153.608, Family Code, as follows:

Sec. 153.608. REPORT OF PARENTING COORDINATOR. Requires a report submitted by a parenting coordinator to be limited to a statement of whether the parenting coordination should continue, rather than authorizing the parenting coordinator to give an opinion on whether the parenting coordination is succeeding and should continue.

SECTION 10. Amends Sections 153.609(a) and (c), Family Code, as follows:

(a) Prohibits the court from appointing a parenting coordinator, other than a domestic relations office or a comparable county agency appointed under Subsection (c), rather than an employee described by Subsection (c) or a volunteer appointed under Subsection (d), unless after notice and hearing the court finds that the parties have the means to pay the coordinator's fees. Makes a conforming change.

(c) Deletes existing text authorizing a court to appoint an employee of the court to act as a parenting coordinator.

SECTION 11. Repealer: (1) Section 153.604 (Modification of Final Parenting Plan); and (2) Sections 153.606(e) (regarding certain prohibitions relating to a parenting coordinator) and (f) (regarding Subsection (e) not affecting the duty to report child abuse), Family Code.

SECTION 12. Makes application of this Act prospective.

SECTION 13. Effective date: September 1, 2007.