

## **BILL ANALYSIS**

C.S.H.B. 555  
By: Phillips  
Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

During the 79<sup>th</sup> Legislature, Regular Session, H.B.252 was passed, which incorporated parenting plans and parenting coordinators into newly created Subchapter J, Chapter 153 of the Texas Family Code.

Although, H.B.252 went into effect on September 1, 2005, many courts have not implemented the provisions of the new statute. Furthermore, attorneys currently practicing family law have expressed concerns about increased costs to families stemming from the new law, 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 new law.

C.S.H.B.555 responds to these concerns by incorporating amendments discussed by the several family law attorneys as well as proponents of the original legislation.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

Amends Section 153.007(d) of the Family Code, to provide that if the parties do not submit a second agreed parenting plan after a finding that a prior agreed plan was not in the best interest of the child, the court may, after notice and a hearing, order a parenting plan the court finds in the child's best interest.

Amends Section 153.0071 of the Family Code, by adding a new subsection (g) that provides that certain confidentiality provisions in the Civil Practices and Remedies Code, apply to the work of a parenting coordinator, the parties, and any other person who participates in parenting coordination. Provides that persons covered by the confidentiality provisions maintain certain duties to report neglect and abuse under 261.101 of the Family Code.

Amends Section 153.133(b) of the Family Code, to provide that a parenting plan may, but is not required, to contain an alternative dispute resolution agreed to by the parties for certain disputes.

Amends Subchapter J, Chapter 153 of the Family Code by amending Sections 153.601, 153.602, and 153.603 and further adds Section 153.6031 to amend the definition of "dispute resolution process" to include any method of voluntary dispute resolution. Additionally defines "high-conflict case" to mean suits demonstrating "an unusual degree of repetitiously resorting to the adjudicative process" and strikes some cases in the current definition. Defines "parenting coordinator" to allow for the appointment of parenting coordinator on a court's own motion, or on a motion or agreement of the parties. Finally, amends the definition of "parenting plan" to specify those provisions that may be included in such plans.

Section 153.602 is amended to provide that a temporary order does not need to contain provisions for addressing the changing needs of the child nor contain provisions for dispute resolution for future disputes. Provides that the court may not require such plans in temporary orders in any case by local rule or practice. Strikes Subsections (b)-(c) of the existing law to conform to the above.

Section 153.603 is amended to require parenting plans in final orders except in an order that only modifies child support, terminates parental rights, or as covered by Family Code Section 155.001 (b). Further amends Section 153.603 to allow a party to submit a parenting plan to the court if an agreed

plan has not been reached before the 30<sup>th</sup> day before trial on the merits. Provides that nothing in this section precludes the parties from requesting appointment of a parenting coordinator to resolve conflicts. Strikes other provisions as unneeded or contrary to the provisions above.

Section 153.6031 is added to eliminate any requirement of using an alternative dispute process in cases involving an emergency modification of child support, cases alleging significant impairment to the child's physical health, or emotional development and enforcement proceedings.

Amends Section 153.605 to require notice and a hearing for the appointment of a parenting coordinator and a specific judicial finding that the matter is a high-conflict case or for good cause shown the appointment is in the best interest of the child. Section 153.605 is further amended to provide that an objection to the appointment of a parenting coordinator may be made at any time on the basis of family violence.

Amends the heading to Section 153.606 to replace the word "AUTHORITY" with the word "DUTIES."

Amends Section 153.606(a) and (c) to replace the word "authority" with "duties" and additionally adds a duty that the parenting coordinator assist parties in understanding parenting plans and reaching agreements about parenting issues. Also eliminates a parenting coordinator's authority to authorize temporary departures from parenting plans under certain circumstances. Provides that in a pending suit any agreement of the parties made with the assistance of a parenting coordinator must be reduced to writing and signed by the parties and their attorneys, if any, and filed with the court.

Amends Section 153.607(b) to replace the word "may" with the word "shall" to thereby require removal of the parenting coordinator at the request of both parties or for good cause shown.

Amends Section 153.608 of the Family Code to provide that the report of the parenting coordinator shall be limited to a statement of whether the parenting coordination should continue.

Amends Section 153.609(a) and (c) to require notice and hearing for the appointment of a parenting coordinator, but the requirement does not apply to a domestic relations office or a comparable county agency. Eliminates language authorizing the court to appoint an employee of the court as a parenting coordinator.

Repeals Section 153.604 and Sections 153.606(e) and (f) of the Family Code.

#### **EFFECTIVE DATE**

September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B.555 modifies the original H.B.555 by repealing Sections 153.606(e) and (f) instead of amending them, eliminating the description of parenting coordinators as an alternative dispute resolution process, narrowing the role of parenting coordinators, conforming the definition of "parenting plan" more closely to actual practice in family law cases, and eliminating the power of the court to impose one party's proposed parenting plan on the other party in cases of failure to plead a plan, under certain circumstances.