

1-1 By: Harris S.B. No. 1367  
1-2 (In the Senate - Filed March 7, 2007; March 20, 2007, read  
1-3 first time and referred to Committee on Jurisprudence;  
1-4 May 14, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 4, Nays 0; May 14, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1367 By: Harris

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the use of parenting plans and parenting coordinators  
1-11 in suits affecting the parent-child relationship.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (d), Section 153.007, Family Code, is  
1-14 amended to read as follows:

1-15 (d) If the court finds the agreed parenting plan is not in  
1-16 the child's best interest, the court may request the parties to  
1-17 submit a revised parenting plan. If the parties do not submit a  
1-18 revised parenting plan satisfactory to the court, ~~or~~ the court  
1-19 may, after notice and hearing, ~~render an~~ order a parenting plan  
1-20 that the court finds to be in the best interest of ~~for the~~  
1-21 conservatorship and possession of] the child.

1-22 SECTION 2. Section 153.0071, Family Code, is amended by  
1-23 adding Subsection (g) to read as follows:

1-24 (g) The provisions for confidentiality of alternative  
1-25 dispute resolution procedures under Chapter 154, Civil Practice and  
1-26 Remedies Code, apply equally to the work of a parenting  
1-27 coordinator, as defined by Section 153.601, and to the parties and  
1-28 any other person who participates in the parenting coordination.  
1-29 This subsection does not affect the duty of a person to report abuse  
1-30 or neglect under Section 261.101.

1-31 SECTION 3. Subsection (b), Section 153.133, Family Code, is  
1-32 amended to read as follows:

1-33 (b) The agreed parenting plan may ~~must~~ contain an  
1-34 alternative dispute resolution procedure that the parties agree to  
1-35 use before requesting enforcement or modification of the terms and  
1-36 conditions of the joint conservatorship through litigation, except  
1-37 in an emergency.

1-38 SECTION 4. Subchapter J, Chapter 153, Family Code, is  
1-39 amended by amending Sections 153.601, 153.602, and 153.603 and  
1-40 adding Section 153.6031 to read as follows:

1-41 Sec. 153.601. DEFINITIONS. In this subchapter:

1-42 (1) "Dispute resolution process" means:

1-43 (A) a process of alternative dispute resolution  
1-44 conducted in accordance with Section 153.0071 of this chapter and  
1-45 Chapter 154, Civil Practice and Remedies Code; or

1-46 (B) any other method of voluntary dispute  
1-47 resolution.

1-48 (2) "High-conflict case" means a suit affecting the  
1-49 parent-child relationship in which the court finds that the parties  
1-50 have demonstrated an unusual degree ~~demonstrate a pattern~~ of:

1-51 (A) repetitiously resorting to the adjudicative  
1-52 process ~~repetitious litigation~~;

1-53 (B) anger and distrust; and

1-54 (C) difficulty in communicating about and  
1-55 cooperating in the care of their children~~, or~~

1-56 ~~[(D) other behaviors that in the discretion of~~  
1-57 ~~the court warrant the appointment of a parenting coordinator].~~

1-58 (3) "Parenting coordinator" means an impartial third  
1-59 party appointed by the court on its own motion or on a motion or  
1-60 agreement of the parties to assist parties in resolving ~~issues~~  
1-61 relating to] parenting ~~and other family~~ issues ~~arising from an~~  
1-62 order in a suit affecting the parent-child relationship].

1-63 (4) "Parenting plan" means the provisions of a

2-1 ~~[temporary or final]~~ court order that:

2-2 (A) set [sets] out [the] rights and duties of a  
2-3 parent or a person acting as a parent in relation to the child;

2-4 (B) provide for periods of possession of and  
2-5 access to the child, which may be the terms set out in the standard  
2-6 possession order under Subchapter F and any amendments to the  
2-7 standard possession order agreed to by the parties or found by the  
2-8 court to be in the best interest of the child;

2-9 (C) provide for [of parents in a suit affecting  
2-10 the parent-child relationship and includes provisions relating to  
2-11 conservatorship, possession of and access to a child, and] child  
2-12 support; and

2-13 (D) optimize the development of a close and  
2-14 continuing relationship between each parent and the child [and a  
2-15 dispute resolution process to minimize future disputes].

2-16 Sec. 153.602. ~~[REQUIREMENT FOR TEMPORARY]~~ PARENTING PLAN  
2-17 ~~NOT REQUIRED IN TEMPORARY ORDER. [(a)]~~ A temporary order ~~[that~~  
2-18 ~~establishes a conservatorship]~~ in a suit affecting the parent-child  
2-19 ~~relationship rendered in accordance with Section 105.001 is not~~  
2-20 ~~required to include [must incorporate] a temporary parenting plan.~~  
2-21 ~~The court may not require the submission of a temporary parenting~~  
2-22 ~~plan in any case or by local rule or practice [The temporary~~  
2-23 ~~parenting plan must comply with the requirements for a final~~  
2-24 ~~parenting plan under Section 153.603.~~

2-25 ~~[(b) Subject to Subsection (c), if the parties cannot agree~~  
2-26 ~~to a temporary parenting plan, the court may, on the motion of a~~  
2-27 ~~party or on the court's own motion, order the parties to participate~~  
2-28 ~~in a dispute resolution process to establish a temporary parenting~~  
2-29 ~~plan.~~

2-30 ~~[(c) At any time before the court orders the parties to~~  
2-31 ~~participate in a dispute resolution process under Subsection (b), a~~  
2-32 ~~party may file a written objection to the referral of the suit to a~~  
2-33 ~~dispute resolution process on the basis of family violence having~~  
2-34 ~~been committed by another party against the objecting party or a~~  
2-35 ~~child who is the subject of the suit. After an objection is filed,~~  
2-36 ~~the suit may not be referred to a dispute resolution process unless,~~  
2-37 ~~on the request of a party, a hearing is held and the court finds that~~  
2-38 ~~a preponderance of the evidence does not support the objection. If~~  
2-39 ~~the suit is referred to a dispute resolution process, the court~~  
2-40 ~~shall order appropriate measures be taken to ensure the physical~~  
2-41 ~~and emotional safety of the party who filed the objection. The~~  
2-42 ~~order may provide that the parties not be required to have~~  
2-43 ~~face-to-face contact and that the parties be placed in separate~~  
2-44 ~~rooms during the dispute resolution process.~~

2-45 ~~[(d) If a dispute resolution process is not available or is~~  
2-46 ~~not successful, a party may request and the court may order an~~  
2-47 ~~expedited hearing to establish a temporary parenting plan].~~

2-48 Sec. 153.603. REQUIREMENT OF ~~[FINAL]~~ PARENTING PLAN IN  
2-49 FINAL ORDER. (a) Except as provided by Subsection (b), a [A] final  
2-50 order in a suit affecting the parent-child relationship must  
2-51 include [incorporate] a [final] parenting plan. [A final parenting  
2-52 plan must:

2-53 [(1) establish the rights and duties of each parent  
2-54 with respect to the child, consistent with the criteria in this  
2-55 chapter;

2-56 [(2) minimize the child's exposure to harmful parental  
2-57 conflict;

2-58 [(3) provide for the child's changing needs as the  
2-59 child grows and matures, in a way that minimizes the need for  
2-60 further modifications to the final parenting plan; and

2-61 [(4) provide for a dispute resolution process or other  
2-62 voluntary dispute resolution procedures, before court action,  
2-63 unless precluded or limited by Section 153.0071.]

2-64 (b) The following orders are not required to include a  
2-65 parenting plan:

2-66 (1) an order that only modifies child support;

2-67 (2) an order that only terminates parental rights; or

2-68 (3) a final order described by Section 155.001(b) [In  
2-69 providing for a dispute resolution process, the parenting plan must

3-1 ~~state that:~~

3-2 ~~[(1) preference shall be given to carrying out the~~  
3-3 ~~parenting plan; and~~

3-4 ~~[(2) the parties shall use the designated process to~~  
3-5 ~~resolve disputes].~~

3-6 ~~(c) [If the parties cannot reach agreement on a final~~  
3-7 ~~parenting plan, the court, on the motion of a party or on the~~  
3-8 ~~court's own motion, may order appropriate dispute resolution~~  
3-9 ~~proceedings under Section 153.0071 to determine a final parenting~~  
3-10 ~~plan.~~

3-11 ~~[(d)]~~ If the parties have not reached agreement on a final  
3-12 parenting plan on or before the 30th day before the date set for  
3-13 trial on the merits, a ~~[each]~~ party may ~~[shall]~~ file with the court  
3-14 and serve a proposed ~~[final]~~ parenting plan. ~~[Failure by a party to~~  
3-15 ~~comply with this subsection may result in the court's adoption of~~  
3-16 ~~the proposed final parenting plan filed by the opposing party if the~~  
3-17 ~~court finds that plan to be in the best interest of the child.]~~

3-18 (d) This section does not preclude the parties from  
3-19 requesting the appointment of a parenting coordinator to resolve  
3-20 parental conflicts ~~[(e) Each party filing a proposed final~~  
3-21 ~~parenting plan must attach.~~

3-22 ~~[(1) a verified statement of income determined in~~  
3-23 ~~accordance with the child support guidelines and related provisions~~  
3-24 ~~prescribed by Chapter 154; and~~

3-25 ~~[(2) a verified statement that the plan is proposed in~~  
3-26 ~~good faith and is in the best interest of the child].~~

3-27 Sec. 153.6031. EXCEPTION TO DISPUTE RESOLUTION PROCESS  
3-28 REQUIREMENT. A requirement in a parenting plan that a party  
3-29 initiate or participate in a dispute resolution process before  
3-30 filing a court action does not apply to an action:

3-31 (1) to modify the parenting plan in an emergency;

3-32 (2) to modify child support;

3-33 (3) alleging that the child's present circumstances  
3-34 will significantly impair the child's physical health or  
3-35 significantly impair the child's emotional development;

3-36 (4) to enforce; or

3-37 (5) in which the party shows that enforcement of the  
3-38 requirement is precluded or limited by Section 153.0071.

3-39 SECTION 5. Section 153.605, Family Code, is amended to read  
3-40 as follows:

3-41 Sec. 153.605. APPOINTMENT OF PARENTING COORDINATOR.

3-42 (a) In a suit affecting the parent-child relationship, the court  
3-43 may, on its own motion or on a motion or agreement of the parties,  
3-44 appoint a parenting coordinator to assist the parties in resolving  
3-45 ~~[issues related to] parenting [or other family] issues [in the~~  
3-46 ~~suit].~~

3-47 (b) The court may not appoint a parenting coordinator ~~[if~~  
3-48 ~~any party objects]~~ unless, after notice and hearing, the court  
3-49 makes a specific finding ~~[findings]~~ that:

3-50 (1) the case is ~~[or is likely to become]~~ a  
3-51 high-conflict case; or

3-52 (2) there is good cause shown for the appointment of a  
3-53 parenting coordinator and the appointment is in the best interest  
3-54 of any minor child in the suit.

3-55 (c) Notwithstanding any other provision of this subchapter,  
3-56 a party may at any time ~~[prior to the appointment of a parenting~~  
3-57 ~~coordinator]~~ file a written objection to the appointment of a  
3-58 parenting coordinator on the basis of family violence having been  
3-59 committed by another party against the objecting party or a child  
3-60 who is the subject of the suit. After an objection is filed, a  
3-61 parenting coordinator may not be appointed unless, on the request  
3-62 of a party, a hearing is held and the court finds that a  
3-63 preponderance of the evidence does not support the objection. If a  
3-64 parenting coordinator is appointed, the court shall order  
3-65 appropriate measures be taken to ensure the physical and emotional  
3-66 safety of the party who filed the objection. The order may provide  
3-67 that the parties not be required to have face-to-face contact and  
3-68 that the parties be placed in separate rooms during the parenting  
3-69 coordination.

SECTION 6. The heading to Section 153.606, Family Code, is amended to read as follows:

Sec. 153.606. DUTIES [AUTHORITY] OF PARENTING COORDINATOR.

SECTION 7. Subsections (a) and (c), Section 153.606, Family Code, are amended to read as follows:

(a) The duties [authority] of a parenting coordinator must be specified in the order appointing the parenting coordinator. The duties of the parenting coordinator are [and] limited to matters that will aid the parties in:

- (1) identifying disputed issues;
- (2) reducing misunderstandings;
- (3) clarifying priorities;
- (4) exploring possibilities for problem solving;
- (5) developing methods of collaboration in parenting;
- (6) understanding parenting plans and reaching agreements about parenting issues to be included in a parenting plan [developing a parenting plan]; and
- (7) complying with the court's order regarding conservatorship or possession of and access to the child.

(c) The parenting coordinator may not modify any order, judgment, or decree [but may 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]. If a suit is pending, any [Any] agreement made by the parties with the assistance of [and] the parenting coordinator must [may] be reduced to writing, signed by the parties and their attorneys, if any, and filed with [presented to] the court [for approval].

SECTION 8. Subsection (b), Section 153.607, Family Code, is amended to read as follows:

- (b) The court shall [may] remove the parenting coordinator:
  - (1) on the request and agreement of both parties; or
  - (2) on the motion of a party, if good cause is shown.

SECTION 9. Section 153.608, Family Code, is amended to read as follows:

Sec. 153.608. REPORT OF PARENTING COORDINATOR. A parenting coordinator shall submit a written report to the court and to the parties as often as ordered by the court. The [In the] report must be limited to a statement of [the parenting coordinator may give only an opinion regarding] whether the parenting coordination [is succeeding and] should continue.

SECTION 10. Subsections (a) and (c), Section 153.609, Family Code, are amended to read as follows:

(a) A court may not appoint a parenting coordinator, other than a domestic relations office or a comparable county agency appointed under [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 fees of the parenting coordinator.

(c) Public funds may not be used to pay the fees of a parenting coordinator. Notwithstanding this prohibition, a court may appoint [an employee of the court,] the domestic relations office [r] or a comparable county agency to act as a parenting coordinator if personnel are available to serve that function.

SECTION 11. The following are repealed:

- (1) Section 153.604, Family Code; and
- (2) Subsections (e) and (f), Section 153.606, Family Code.

SECTION 12. The changes in law made by this Act apply to a suit affecting the parent-child relationship that is pending in a trial court on the effective date of this Act or that is filed on or after the effective date of this Act.

SECTION 13. This Act takes effect September 1, 2007.

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