

BILL ANALYSIS

C.S.H.B. 120
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Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been reported, including by a constituent from House District 145, that school closures resulting from the COVID-19 pandemic have caused concern for some custodial parents whose standard court order for possession of a child provides for the pick-up or drop-off of a child at the child's school. Since such orders do not directly address situations in which a child is attending home school or attending school virtually, there are concerns about the location at which the child should be returned to the applicable conservator. C.S.H.B. 120 seeks to address these concerns about the location where a child is required to be surrendered to a managing or possessory conservator by revising the terms and conditions of a standard possession order and revising the applicability of requirements relating to the alteration of such an order with respect to a child's best interest.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 120 amends the Family Code to include the following among the general terms and conditions of a standard possession order in a suit affecting the parent-child relationship:

- if the possessory conservator elects to begin a period of possession at the time the child's school is regularly dismissed and the child is not physically attending school, the managing conservator is required to surrender the child to the possessory conservator at the beginning of each period of possession at one of the following locations:
 - the managing conservator's residence, unless the exchanging parties agree on a different location or the court orders an exchange at a specific location; or
 - a location determined by a party who is not required to disclose the party's address to the other party or is protected from the other party by a court order, provided that the location is recorded in the final order for possession of the child; and
- if the possessory conservator elects to end a period of possession at the time the child's school resumes and the child is not physically attending school, the possessory conservator is required to surrender the child to the managing conservator at the end of each period of possession at one of the following locations:
 - the possessory conservator's residence, unless the exchanging parties agree on a different location or the court orders an exchange at a specific location; or

- a location determined by a party who is not required to disclose the party's address to the other party or is protected from the other party by a court order, provided that the location is recorded in the final order for possession of the child.

C.S.H.B. 120 also replaces an existing term and condition regarding the notification that must be provided if the child is not or will not be returned to school at the end of a conservator's time of possession with one specifying that if a conservator's time of possession ends at the time school is scheduled to resume and the child is not physically attending school, the conservator in possession of the child is required to immediately notify the other conservator that the child will not be or has not been returned to school.

C.S.H.B. 120 establishes that court requirements for the alteration of a standard possession order for a possessory conservator who resides not more than 50 miles from the child's primary residence do not apply if the court has received information or a request from a party that the court is required to consider that may result in the denial, restriction, or limitation of the possessory conservator's possession of or access to the child in the child's best interest under statutory provisions relating to history of domestic violence or sexual abuse.

C.S.H.B. 120 applies only to a court order providing for possession of or access to a child rendered on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 120 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While both the introduced and substitute provide alternate locations other than a school for a managing or possessory conservator to surrender a child if the child is not physically attending school, the introduced included a location agreed to by all parties as such a location, whereas the substitute instead provides for the exchanging parties to agree on a different location or for the court to order an exchange at a specific location. Furthermore, while both the introduced and substitute include a location determined by a party who is not required to disclose the party's address to the other party or who is protected from the other party by an order rendered by the court as such a location, the substitute conditions the parties using this location on the location being recorded in the final order for possession of the child. The introduced did not include this condition.

The substitute includes a provision absent from the introduced establishing that court requirements for the alteration of a standard possession order for a possessory conservator who resides 50 miles or less from the child's primary residence do not apply if the court has received specified information or a request from a party that the court is required to consider with respect to the best interest of the child.