88R22986 MLH-D

By:  Morales of Harris, Swanson H.B. No. 120

Substitute the following for H.B. No. 120:

By:  Wu C.S.H.B. No. 120

A BILL TO BE ENTITLED

AN ACT

relating to the terms and conditions of a standard possession order in a suit affecting the parent-child relationship.

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

SECTION 1.  Section 153.316, Family Code, is amended to read as follows:

Sec. 153.316.  GENERAL TERMS AND CONDITIONS. The court shall order the following general terms and conditions of possession of a child to apply without regard to the distance between the residence of a parent and the child:

(1)  the managing conservator shall surrender the child to the possessory conservator at the beginning of each period of the possessory conservator's possession at the residence of the managing conservator;

(2)  if the possessory conservator elects to begin a period of possession at the time the child's school is regularly dismissed, the managing conservator shall surrender the child to the possessory conservator at the beginning of each period of possession at:

(A)  the school in which the child is enrolled; or

(B)  if the child is not physically attending school:

(i)  the managing conservator's residence, unless:

(a)  the exchanging parties agree on a different location, in which event the child must be surrendered at that location; or

(b)  the court orders an exchange at a specific location, in which event the child must be surrendered at the location designated by the court; or

(ii)  a location determined by a party who, because of a finding under Section 105.006(c), is not required to disclose the party's address to the other party or is protected from the other party by an order rendered by the court, provided that the location is recorded in the final order for possession of the child;

(3)  the possessory conservator shall be ordered to do one of the following:

(A)  the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at the residence of the possessory conservator; or

(B)  the possessory conservator shall return the child to the residence of the managing conservator at the end of each period of possession, except that the order shall provide that the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at the residence of the possessory conservator if:

(i)  at the time the original order or a modification of an order establishing terms and conditions of possession or access the possessory conservator and the managing conservator lived in the same county, the possessory conservator's county of residence remains the same after the rendition of the order, and the managing conservator's county of residence changes, effective on the date of the change of residence by the managing conservator; or

(ii)  the possessory conservator and managing conservator lived in the same residence at any time during a six-month period preceding the date on which a suit for dissolution of the marriage was filed and the possessory conservator's county of residence remains the same and the managing conservator's county of residence changes after they no longer live in the same residence, effective on the date the order is rendered;

(4)  if the possessory conservator elects to end a period of possession at the time the child's school resumes, the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at:

(A)  the school in which the child is enrolled; or

(B)  if the child is not physically attending school:

(i)  the possessory conservator's residence, unless:

(a)  the exchanging parties agree on a different location, in which event the child must be surrendered at that location; or

(b)  the court orders an exchange at a specific location, in which event the child must be surrendered at the location designated by the court; or

(ii)  a location determined by a party who, because of a finding under Section 105.006(c), is not required to disclose the party's address to the other party or is protected from the other party by an order rendered by the court, provided that the location is recorded in the final order for possession of the child;

(5)  each conservator shall return with the child the personal effects that the child brought at the beginning of the period of possession;

(6)  either parent may designate a competent adult to pick up and return the child, as applicable; a parent or a designated competent adult shall be present when the child is picked up or returned;

(7)  a parent shall give notice to the person in possession of the child on each occasion that the parent will be unable to exercise that parent's right of possession for a specified period;

(8)  written notice, including notice provided by electronic mail or facsimile, shall be deemed to have been timely made if received or, if applicable, postmarked before or at the time that notice is due; and

(9)  if a conservator's time of possession of a child ends at the time school is scheduled to resume [~~resumes~~] and [~~for any reason~~] the child is not physically attending [~~or will not be returned to~~] school, the conservator in possession of the child shall immediately notify [~~the school and~~] the other conservator that the child will not be or has not been returned to school.

SECTION 2.  Section 153.3171(b), Family Code, is amended to read as follows:

(b)  Subsection (a) does not apply if:

(1)  the possessory conservator declines one or more of the alternative beginning and ending possession times under Subsection (a) in a written document filed with the court or through an oral statement made in open court on the record;

(2)  the court is denying, restricting, or limiting the possessory conservator's possession of or access to the child in the best interest of the child under Section 153.004; [~~or~~]

(3)  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 best interest of the child under Section 153.004; or

(4)  the court finds that one or more of the alternative beginning and ending possession times under Subsection (a) are not in the best interest of the child, including:

(A)  because the distances between residences make the possession schedule described by Subsection (a) unworkable or inappropriate considering the circumstances of the parties or the area in which the parties reside;

(B)  because before the filing of the suit, the possessory conservator did not frequently and continuously exercise the rights and duties of a parent with respect to the child; or

(C)  for any other reason the court considers relevant.

SECTION 3.  The change in law made by this Act applies only to a court order providing for possession of or access to a child rendered on or after the effective date of this Act. A court order rendered before the effective date of this Act is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

SECTION 4.  This Act takes effect September 1, 2023.