

By: Cook, Rodríguez Ramos

H.B. No. 1914

A BILL TO BE ENTITLED

AN ACT

relating to the modification of a possession order and temporary possession of a child when a conservator of the child is incapacitated.

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

SECTION 1. Subchapter B, Chapter 156, Family Code, is amended by adding Section 156.107 to read as follows:

Sec. 156.107. MODIFICATION ON INCAPACITATION OF CONSERVATOR; TEMPORARY POSSESSION OF CHILD. (a) The temporary or permanent incapacitation of a conservator of a child is a material and substantial change in circumstances and a significant impairment of the child's physical health or emotional development sufficient to justify a temporary order and modification of an existing court order or portion of a decree that provides for the appointment of a conservator or that sets the terms and conditions of conservatorship or for the possession of or access to the child. For purposes of this section, a conservator is incapacitated if the conservator experiences a physical condition, mental condition, or period of incarceration that renders the conservator substantially unable to:

(1) provide food, clothing, or shelter to the child;

(2) care for the child's physical health; or

(3) care for the conservator's physical health.

(b) Except as provided by Subsection (c), if a conservator

of a child becomes incapacitated, the child's other conservator, if another conservator has been appointed for the child, is entitled to exercise the incapacitated conservator's periods of possession of the child to the degree necessary to ensure the health and welfare of the child, starting immediately following the onset of the incapacitation and continuing until the earlier of the date:

(1) the incapacitated conservator is again capable of caring for the child; or

(2) the court, due to the material and substantial change in circumstances caused by the incapacitation, renders an order under this chapter modifying the appointment of the child's conservators or the terms and conditions of conservatorship or for the possession of or access to the child.

(c) A possessory conservator of a child is not entitled to temporary possession under Subsection (b) if the existing order or portion of a decree sought to be modified denied possession of the child by the possessory conservator or imposed restrictions or limitations on the possessory conservator's right to possession of or access to the child in order to prevent significant impairment of the child's physical health or emotional development.

(d) Nothing in this section may be construed to prevent a party with standing to file suit under this title from filing for modification under this chapter in response to a material and substantial change in circumstances.

SECTION 2. Section 156.107, Family Code, as added by this Act, applies only in regard to a conservator who becomes incapacitated on or after the effective date of this Act.

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1       SECTION 3.   This Act takes effect September 1, 2025.