

## **BILL ANALYSIS**

C.S.H.B. 1391  
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Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

A nonparent seeking to become legally responsible for a child by being appointed as the child's managing conservator has to follow a specific judicial process. Concerned parties believe the process could be strengthened by ensuring that a person receiving such an appointment is informed of actions that can be taken by the person in regard to a child under the person's care. C.S.H.B. 1391 seeks to provide this information to a nonparent managing conservator.

### **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. 1391 amends the Family Code to require the Department of Family and Protective Services, in a suit in which the court appoints a nonparent as managing conservator of a child, to provide the nonparent with an explanation of the differences between appointment as a managing conservator of a child and adoption of a child, including specific statements informing the nonparent that the nonparent's appointment conveys only the rights specified by the court order or applicable laws instead of the complete rights of a parent conveyed by adoption; that a parent may be entitled to request visitation with the child or petition the court to appoint the parent as the child's managing conservator, notwithstanding the nonparent's appointment as managing conservator; and that the nonparent's appointment as the child's managing conservator will not result in the eligibility of the nonparent and child for postadoption benefits. The bill requires the court order appointing the nonparent as managing conservator in such a suit to include, in addition to the rights and duties of a nonparent appointed as sole managing conservator, provisions addressing the authority of the nonparent to authorize immunization of the child or any other medical treatment that requires parental consent; to obtain and maintain health insurance coverage for the child and automobile insurance coverage for the child, if appropriate; to enroll the child in a day-care program or school, including prekindergarten; to authorize the child to participate in school-related or extracurricular or social activities, including athletic activities; to authorize the child to obtain a learner's permit, driver's license, or state-issued identification card; to authorize employment of the child; to apply for and receive public benefits for or on behalf of the child; and to obtain legal services and execute contracts or other legal documents for the child.

C.S.H.B. 1391 requires a court to require evidence that the nonparent was informed of the rights and duties of a nonparent appointed as managing conservator of a child before the court renders

an order appointing the nonparent as managing conservator of a child.

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1391 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

SECTION 1. Subchapter G, Chapter 153, Family Code, is amended by adding Sections 153.3722 and 153.3723 to read as follows:

Sec. 153.3722. REQUIREMENTS FOR APPOINTMENT OF NONPARENT AS MANAGING CONSERVATOR. (a) In a suit in which the court appoints a nonparent as managing conservator of a child:

(1) the court must provide the nonparent with an explanation of the differences between appointment as a managing conservator of a child and adoption of a child, including specific statements informing the nonparent that:

(A) the nonparent's appointment conveys only the rights specified by the court or applicable laws instead of the complete rights of a parent conveyed by adoption;

(B) a parent may be entitled to request visitation with the child or appointment of the parent as managing conservator, notwithstanding the nonparent's appointment; and

(C) the nonparent's appointment will not result in the eligibility of the nonparent and child for postadoption benefits; and

(2) the court order appointing the nonparent as managing conservator must include provisions that address the authority of the nonparent to:

(A) authorize medical, dental, psychological, or surgical treatment and immunization of the child or any other treatment that requires parental consent;

(B) obtain and maintain health insurance coverage for the child and automobile insurance coverage for the child, if appropriate;

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Subchapter E, Chapter 263, Family Code, is amended by adding Section 263.408 to read as follows:

Sec. 263.408. REQUIREMENTS FOR APPOINTMENT OF NONPARENT AS MANAGING CONSERVATOR. (a) In a suit in which the court appoints a nonparent as managing conservator of a child:

(1) the department must provide the nonparent with an explanation of the differences between appointment as a managing conservator of a child and adoption of a child, including specific statements informing the nonparent that:

(A) the nonparent's appointment conveys only the rights specified by the court or applicable laws instead of the complete rights of a parent conveyed by adoption;

(B) a parent may be entitled to request visitation with the child or petition the court to appoint the parent as the child's managing conservator, notwithstanding the nonparent's appointment as managing conservator; and

(C) the nonparent's appointment as the child's managing conservator will not result in the eligibility of the nonparent and child for postadoption benefits; and

(2) in addition to the rights and duties provided under Section 153.371, the court order appointing the nonparent as managing conservator must include provisions that address the authority of the nonparent to:

(A) authorize immunization of the child or any other medical treatment that requires parental consent;

(B) obtain and maintain health insurance coverage for the child and automobile insurance coverage for the child, if appropriate;

(C) enroll the child in a day-care program or preschool;  
(D) authorize the child to participate in school-related or extracurricular or social activities, including athletic activities;  
(E) authorize the child to obtain a learner's permit, driver's license, or state-issued identification card;  
(F) authorize employment of the child;  
(G) apply for and receive public benefits for or on behalf of the child; and  
(H) obtain legal services for the child and execute contracts or other legal documents for the child.  
(b) If a nonparent does not appear in person before the court, the court, before entering an order appointing the nonparent as managing conservator of a child, shall require evidence that the nonparent was informed of the rights and duties of a nonparent appointed as managing conservator of a child.

Sec. 153.3723. ELIGIBILITY OF NONPARENT MANAGING CONSERVATOR FOR POSTADOPTION BENEFITS. The appointment of a nonparent as managing conservator for a child may not be used as the basis for denying postadoption benefits if the nonparent subsequently adopts the child and meets the applicable benefits eligibility criteria.

SECTION 2. Section 153.3722, Family Code, as added by this Act, applies to a suit affecting the parent-child relationship that is pending in a trial court on or filed on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2015.

(C) enroll the child in a day-care program or school, including prekindergarten;  
(D) authorize the child to participate in school-related or extracurricular or social activities, including athletic activities;  
(E) authorize the child to obtain a learner's permit, driver's license, or state-issued identification card;  
(F) authorize employment of the child;  
(G) apply for and receive public benefits for or on behalf of the child; and  
(H) obtain legal services for the child and execute contracts or other legal documents for the child.  
(b) The court must require evidence that the nonparent was informed of the rights and duties of a nonparent appointed as managing conservator of a child before the court renders an order appointing the nonparent as managing conservator of a child.

No equivalent provision.

SECTION 2. Substantially the same as introduced version.

SECTION 3. Same as introduced version.