

BILL ANALYSIS

H.B. 1849
By: Sanford
Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The enforceability of limitations imposed under a court order or divorce decree after the death of a party to the order or decree has come into question. It has been suggested that any such limitations, such as requiring a parent or guardian to pass a drug test, would not be upheld under current law if the primary caregiver or conservator of the child who requested those limitations were to die. Concerns have been raised regarding the safety of subsequently placing a child in the custody of the parent who had been subject to those limitations without requiring that parent to follow the stipulations laid out in the order or decree. H.B. 1849 seeks to protect a child's best interests by ensuring these types of divorce decrees and related orders are revisited in court upon the death of the conservator and by authorizing a judge to modify a decree or order as the judge deems necessary.

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

H.B. 1849 amends the Family Code to establish that the death of a child's conservator is a material and substantial change of circumstances 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. The bill requires the court, before modifying such an order based on that material and substantial change of circumstances, to consider any term or condition of the order or portion of a decree that denies possession of the child to a parent or imposes restrictions or limitations on the parent's right to possession of or access to the child. The bill requires the court to include those restrictions or limitations in a modification of the order if it finds that the restrictions or limitations continue to be in the child's best interest.

EFFECTIVE DATE

September 1, 2021.