

SUBJECT: Make-up visits for noncustodial parents denied access to a child

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 5 ayes — Goodman, Staples, McClendon, McReynolds, Williams
0 nays
4 absent — J. Jones, Naishtat, A. Reyna, Smith

WITNESSES: For — Roy Getting, Tarrant County Fathers for Equal Rights; David Shelton, Texas Fathers Alliance; Eric Anderson, Children's Rights Coalition; Ron Forster, Fathers Hotline; Robert L. (Bob) Green, Jr., Primary Nurturing Fathers of Texas and Texas Fathers Alliance; James H. Fryar III, Texas Fathers for Equal Rights; Louis DeCuir; Robert Raesz
Against — None

BACKGROUND : The Family Code authorizes courts to allow a noncustodial parent extra time with a child to make up for any period during which the custodial parent denied court-ordered access to the child.

DIGEST: CSHB 2227 would allow a parent denied court-ordered possession of or access to a child to decide the time of additional possession or access, so long as the extra time was of the same type and duration of possession or access that was denied (including weekends, holidays and summertime) and occurred within one year of the date when the court-ordered possession or access was denied. The provision would apply only if a court decided to order the extra time.

The bill would take effect September 1, 1997, and would apply only to orders for extra time made on or after that date.

SUPPORTERS SAY: CSHB 2227 would put custodial and noncustodial parents on a more even playing field and help prevent visitation conflicts. By establishing a right to designate make-up visitations, the bill would discourage custodial parents from denying noncustodial parents their court-ordered access to a child.

Noncustodial parents could not abuse this right because of the restrictions placed on the make-up visit. The one-year time limit for make-up visits is appropriate; this deadline would motivate noncustodial parents to take prompt action on denied visitation. With prompt action, there would be few, if any, cases where it would not be feasible to make up visitation in one year.

Children would also benefit greatly because the bill would help provide them with the attention and involvement of both parents. Court-ordered visitations are based on the notion that it is in the best interest of the child to maintain a meaningful relationship with the noncustodial as well as the custodial parent.

OPPONENTS
SAY:

The one-year time limit for make-up visits may exacerbate situations involving extensive denial of visitation rights. In such cases it may well be impossible to make up the lost time within a year.

Once they have decided to order make-up visitation, judges should retain the right to decide the time of that visitation rather than entitling the person denied possession or access to make that decision.

OTHER
OPPONENTS
SAY:

CSHB 2227 would not solve the problem of vindictive custodial parents who intentionally deny access to a child in order to punish the noncustodial parent. It is right for a court to have discretion regarding make-up time in an initial incidence where court-ordered access to the child has been denied. However, for subsequent findings, the court should not have discretion but rather should be required to order make-up time for a custodial parent's repeat violations of the visitation order.

NOTES:

The committee substitute reinstated the permissive nature of court orders for make-up visitation and specified that the person denied access could designate make-up visitations of the same type and duration as was denied.