

SUBJECT: Modification of orders in suits affecting the parent-child relationship

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 6 ayes — Goodman, A. Reyna, P. King, Menendez, Morrison, Naishtat
0 nays
3 absent — E. Reyna, Nixon, Tillery

WITNESSES: For — None
Against — None
On — Tom Stansbury, State Bar of Texas, Family Law Section

BACKGROUND: Family Code, ch. 156 governs modifications of orders establishing sole and joint managing conservatorships, possession of or access to a child, and child support in suits affecting the parent-child relationship.

DIGEST: CSHB 596 would replace references throughout Family Code, ch. 156 to sole and joint managing conservators with references to conservators or persons with the exclusive right to determine a child's primary residence. It would allow a court to modify an order or any part of a decree that would provide for the appointment, terms, and conditions of a conservator if the conservator with exclusive right to establish the child's primary residence voluntarily had relinquished care and possession of the child for at least six months.

If a change of residence resulted in increased expenses for the care and possession of a child, the court could order the allocation of the expenses to the conservator on a fair and equitable basis, if the court deemed that action to be in the child's best interest.

A conservator's conviction for sexual abuse or indecency with a child would be sufficient grounds to justify a temporary order and modification of an existing order appointing a conservator. The bill would make it a Class B

misdemeanor (punishable by up to 180 days in jail and/or a maximum fine of \$2,000) to file a motion to modify an order on these grounds, knowing that the conservator had not been convicted or received deferred adjudication for the offense.

CSHB 596 also would repeal provisions relating to voluntary relinquishment, joint managing conservatorship, change of circumstance, and possession of or access to a child.

This bill would take effect September 1, 2001.

NOTES:

The committee substitute modified the filed version by adding the provision that a court could modify an order or part of a decree appointing a child's conservator if modification would be in the child's best interests and if the current conservator had relinquished primary care and possession to another person for at least six months. It also added the provision relating to allocation of increased expenses for care and possession.