

CHAPTER 766

H.B. No. 1630

AN ACT

relating to the rights, privileges, duties, and powers of conservators and the establishment or modification of a child support order.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 14.01(a), Family Code, is amended to read as follows:

(a) In any suit affecting the parent-child relationship, the court may appoint a sole managing conservator or may appoint joint managing conservators~~[, and shall order reasonable terms and conditions for the implementation of the managing conservatorship]~~. A managing conservator must be a suitable, competent adult, or a parent, or an authorized agency. If the court finds that the parents are or will be separated, the court shall appoint at least one ~~[joint or sole]~~ managing conservator.

SECTION 2. Section 14.02, Family Code, is amended to read as follows:

Sec. 14.02. RIGHTS, PRIVILEGES, DUTIES, AND POWERS OF A [MANAGING] CONSERVATOR. (a) *If both parents are appointed as conservators of the child, either by agreement between the parties or by court order, the court shall specify the rights, privileges, duties, and powers of a parent that are to be retained by both parents, the rights, privileges, duties, and powers of a parent that are to be exercised jointly, and the rights, privileges, duties, and powers that are to be exercised exclusively by one parent. Each parent retains the right to receive information from the other parent concerning the health, education, and welfare of the child and, to the extent possible, the right to confer with the other parent before making a decision concerning the health, education, and welfare of the child, and the court shall specify these rights in the order.*

(b) *Unless by written findings the court determines it would not be in the best interest of the child [~~Except as provided in Subsection (d) of this section~~], a parent appointed as a [sole managing] conservator of the child retains [all] the following rights, privileges, duties, and powers of a parent [~~to the exclusion of the other parent~~], subject to [~~the rights, privileges, duties, and powers of a possessory conservator as provided in Section 14.04 of this code and to~~] any limitation imposed by court order in allowing access to the child:*

(1) *a parent appointed as a conservator of a child has during the period that the parent has possession of the child:*

(A) *the right to physical possession and to direct the moral and religious training of the child;*

(B) *the duty of care, control, protection, and reasonable discipline of the child;*

(C) *the duty to support the child, including providing the child with clothing, food, shelter, and medical and dental care not involving an invasive procedure; and*

(D) *the power to consent to medical, dental, and surgical treatment during an emergency involving an immediate danger to the health and safety of the child;*

(2) *each parent appointed as a conservator of a child has at all times:*

(A) *the right of access to medical, dental, psychological, and educational records of the child;*

(B) *the right to consult with any physician, dentist, or psychologist of the child;*

(C) *the right to consult with school officials concerning the child's welfare and educational status, including school activities;*

(D) *the right to attend school activities;*

(E) *the right to be designated on any records as a person to be notified in case of an emergency; and*

(F) *the right to manage the estate of the child to the extent the estate has been created by the parent or the parent's family; and*

(3) *a parent appointed as the sole managing conservator of a child exclusively has:*

(A) *the right to the services and earnings of the child;*

(B) *the power to consent to marriage, to enlistment in the armed forces of the United States, to medical, dental, and surgical treatment involving invasive procedures, and to psychiatric and psychological treatment;*

(C) *the power to represent the child in legal action and to make other decisions of substantial legal significance concerning the child, including the right to establish the primary residence of the child, except when a guardian of the child's estate or a guardian or attorney ad litem has been appointed for the child, a power as an agent of the child to act in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government; and*

(D) *the power to receive and give receipt for periodic payments for the support of the child and to hold or disburse these funds for the benefit of the child.*

(c) [(b)] *A managing conservator who is not the parent of the child has the following rights, privileges, duties, and powers, subject to Subsection (b) of this section, to the rights, privileges, duties, and powers of a possessory conservator as provided in Section 14.04 of this code, and to any limitation imposed by court order in allowing access to the child:*

(1) the right to have physical possession, to direct the moral and religious training, and to establish the legal domicile of the child;

(2) the duty of care, control, protection, and reasonable discipline of the child;

(3) the duty to provide the child with clothing, food, shelter, and education;

(4) the right to the services and earnings of the child;

(5) the power to consent to marriage, to enlistment in the armed forces of the United States, and to medical, psychiatric, *psychological*, *dental*, and surgical treatment;

(6) the power to represent the child in legal action and to make other decisions of substantial legal significance concerning the child including, except when a guardian of the child's estate or a guardian or attorney ad litem has been appointed for the child, a power as an agent of the child to act in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government;

(7) the power to receive and give receipt for periodic payments for the support of the child and to hold or disburse these funds for the benefit of the child; and

(8) if the parent-child relationship has been terminated with respect to the parents, or only living parent, or if there is no living parent, the power to consent to the adoption of the child and to make any other decision concerning the child that a parent could make.

(d) ~~[(e)]~~ A person or authorized agency designated managing conservator of a child in an irrevocable or unrevoked affidavit of relinquishment executed pursuant to Section 15.03 of this code shall have a right to possession of the child superior to the right of the person executing the affidavit, the right to consent to medical and surgical treatment of the child, and the rights, privileges, duties, and powers given by Section 14.04 of this code to a possessory conservator until such time as these rights, privileges, duties, and powers are modified or terminated by court order.

(e) ~~[(d)]~~ The appointment of a managing conservator does not create, rescind, or otherwise alter a right to inherit as established by law or as modified under Chapter 15 of this code.

~~[(e) If both parents are appointed as joint managing conservators of the child as provided by Section 14.021 of this code, either by agreement between the parties or by court order, the court shall specify the rights, privileges, duties, and powers of a parent that are to be retained by both parents to be exercised jointly, and the rights, privileges, duties, and powers that are to be exercised exclusively by one parent. The court shall specify that the parents exchange information concerning the health, education, and welfare of the child, and, if possible, confer before making decisions concerning the health, education, and welfare of the child.]~~

SECTION 3. Section 14.021(a), Family Code, is amended to read as follows:

(a) It is the policy of this state to assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child, *to provide a stable environment for the child*, and to encourage parents to share in the rights and responsibilities of raising their children after the parents have separated or dissolved their marriage.

SECTION 4. Sections 14.032(a), (b), and (c), Family Code, are amended to read as follows:

(a) *Policy and Application.* ~~[Child Three Years of Age or Older.]~~ The guidelines for the possession of a child by a parent named as a Possessory Conservator in this chapter are intended to guide the courts in determining the terms and conditions for possession of a child by a parent named as a possessory conservator in any suit affecting the parent-child relationship. *It is the policy of this state to encourage frequent contact between a child and each parent for periods of possession that optimize the development of a close and continuing relationship between each parent and child. It is preferable for all children in a family to be together during periods of possession. The standard possession order is* ~~[These guidelines are]~~ designed to apply to a child three years of age or older.

(b) *Child Less Than Three Years of Age* ~~[Old]~~. In rendering an order for possession of a child less than three years of age *the court shall make an order appropriate under the circumstances considering the factors listed in Subsection (c) below. The* ~~[old, the court may either render a "standard possession order," as defined in Section 14.033 of this code, or an~~

~~order appropriate under the circumstances considering the age of the child. If a standard possession order is not rendered, the~~ court shall also render a prospective order to take effect on the child's third birthday, which presumptively will be the standard possession order.

(c) Factors. In determining the terms of possession of a child, the court shall be guided by the guidelines and may consider~~[, in varying from or following the guidelines]~~:

- (1) the age, *developmental status*, circumstances, needs, and best interest of the child;
- (2) the circumstances of the managing conservator and of the parent named as a possessory conservator; and
- (3) any other relevant factor.

SECTION 5. Sections 14.033(b)-(j) and (m), Family Code, are amended to read as follows:

(b) Mutual Agreement or Specified Terms for Possession. The court shall expressly state in a standard order that the parties may have possession of the child at any and all times mutually agreed to in advance by the parties and, *in the absence of [failing] mutual agreement*, shall have possession of the child under the specified terms set out in the standard order.

(c) Parents Who Reside 100 Miles or Less Apart. Except as otherwise explicitly provided, if the possessory conservator resides 100 miles or less from the primary residence of the child, the possessory conservator shall have the right to possession of the child as follows:

(1) on weekends *beginning at [from] 6 p.m. on the first, third, and fifth Friday of each month and ending at [until] 6 p.m. on the following Sunday or, at the possessory conservator's election made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, beginning at [from] the time the child's school is regularly dismissed and ending at [day ends, if any, until] 6 p.m. on the following Sunday;* and

(2) on Wednesdays of each week during the regular school term *beginning at [from] 6 p.m. and ending at [until] 8 p.m., or, at the possessory conservator's election made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, beginning at [from] the time the child's school is regularly dismissed and ending at [day ends, if any, until] 8 p.m.*

(d) Weekend Possession Extended by Holiday. Except as otherwise explicitly provided, if a weekend period of possession of the possessory conservator coincides with a school holiday during the regular school term or with a federal, state, or local holiday during the summer months in which school is not in session, the weekend possession shall ~~end at [extend until]~~ 6 p.m. on a Monday holiday or school holiday or shall begin at 6 p.m. Thursday for a Friday holiday or school holiday, as applicable *or, at the possessory conservator's election, made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, shall begin at the time the child's school is regularly dismissed.*

(e) Vacations and Holidays. The following provisions govern possession of the child for vacations and for certain specific holidays and supersede any conflicting weekend or Wednesday periods of possession provided by Subsections (c) and (d) of this section. The possessory conservator and the managing conservator shall have rights of possession of the child as follows:

(1) the possessory conservator shall have possession of the child in even-numbered years *beginning at [from] 6:00 p.m. on the [last school] day the child is dismissed from school for [before] the Christmas school vacation and ending at [begins until] noon on December 26th, and the managing conservator shall have possession for the same period in odd-numbered years;*

(2) the possessory conservator shall have possession of the child in odd-numbered years *beginning at [from] noon on December 26th and ending at [until] 6:00 p.m. on the day before school resumes after that vacation, and the managing conservator shall have possession for the same period in even-numbered years;*

(3) the possessory conservator shall have possession of the child in odd-numbered years, *beginning at [from] 6:00 p.m. on the day the child is dismissed from school [the*

Wednesday] before Thanksgiving and *ending at [until] 6:00 p.m. on the following Sunday, and the managing conservator shall have possession for the same period in even-numbered years;*

(4) the possessory conservator shall have possession in even-numbered years, *beginning at [from] 6:00 p.m. on the [last school] day the child is dismissed from school for [before] the school's spring vacation and ending at [begins until] 6:00 p.m. on the day before school resumes after that vacation, and the managing conservator shall have possession for the same period in odd-numbered years;*

(5) if *any [the] possessory conservator:*

(A) gives the managing conservator written notice by May 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 30 days *beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days prior to school resuming at the end of the summer vacation [between June 1 and August 31], to be exercised in no more than two separate periods of at least seven consecutive days each; or*

(B) does not give the managing conservator written notice by May 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 30 consecutive days beginning at 6 p.m. on July 1 and ending at 6 p.m. on July 31;

(6) if the managing conservator gives the possessory conservator written notice by June 1 ~~[May 15] of each year [or gives the possessory conservator 14 days' written notice on or after May 16 of each year],~~ the managing conservator shall have possession of the child on any one weekend *beginning [from] Friday at 6 p.m. and ending at [to] 6 p.m. on the following Sunday during any one period of possession by the possessory conservator under Subdivision (5) of this subsection, provided that the managing conservator picks up the child from the possessory conservator and returns the child to that same place;*

(7) if the managing conservator gives the possessory conservator written notice by May 15 of each year or gives the possessory conservator 14 days' written notice on or after May 16 of each year, the managing conservator may designate one weekend *beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days prior to school resuming at the end of the summer vacation [between June 1 and August 31], during which an otherwise scheduled weekend period of possession by the possessory conservator will not take place, provided that the weekend so designated does not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child;*

(8) the parent not *otherwise entitled under this standard order to present [in] possession of a child on the child's birthday shall have possession of the child beginning at [from] 6 p.m. and ending at [to] 8 p.m. on that day, provided that [the] said parent [not in possession] picks up the child from the [child's] residence of the conservator entitled to possession and returns the child to that same place;*

(9) if a conservator, the father shall have possession of the child *beginning at 6:00 p.m. on the Friday preceding Father's Day and ending on Father's Day at [from 9 a.m. to] 6 p.m., provided that, if he is not otherwise entitled under this standard order to present [in] possession of the child, he picks up the child from the [child's] residence of the conservator entitled to possession and returns the child to that same place; and*

(10) if a conservator, the mother shall have possession of the child *beginning at 6:00 p.m. on the Friday preceding Mother's Day and ending on Mother's Day at [from 9 a.m. to] 6 p.m., provided that, if she is not otherwise entitled under this standard order to present [in] possession of the child, she picks up the child from the [child's] residence of the conservator entitled to possession and returns the child to that same place.*

(f) Parents Who Reside Over 100 Miles Apart. Except as otherwise explicitly provided, if the possessory conservator resides more than 100 miles from the residence of the child, the possessory conservator shall have the right to possession of the child as follows:

(1) either regular weekend possession beginning on the first, third, and fifth Friday as provided under the terms of *Subsections* [~~Subsection~~] (c)(1) and (d) of this section, or not more than one weekend per month of the possessory conservator's choice beginning at 6:00 p.m. on the day school recesses for the weekend and ending at 6:00 p.m. on the day before school resumes after the weekend, provided that the possessory conservator gives the managing conservator seven days' written or telephonic notice preceding a designated weekend, and provided that the possessory conservator elects an option for this *alternative period of possession* [~~either before the rendition of the original or modification order or~~] by written notice given to the managing conservator within 90 days after the parties begin to reside more than 100 miles apart, as applicable, and provided that the weekend possessions do not conflict with Subsection (e)(1) through (3) and (e)(8) through (10) of this section;

(2) the terms of Subsections (e)(1) through (3) and (e)(8) through (10) of this section are applicable when the possessory conservator resides more than 100 miles from the residence of the child;

(3) *each year beginning* [~~every spring school vacation from 6:00 p.m.~~] on the day school *for the child is dismissed from school for the school's spring vacation and ending at* [~~recesses until~~] 6:00 p.m. on the day before school resumes after that vacation;

(4) if the possessory conservator:

(A) gives the managing conservator written notice by May 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 42 days *beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days prior to school resuming at the end of the summer vacation* [~~between June 1 and August 31~~], to be exercised in no more than two separate periods of at least seven consecutive days each; or

(B) does not give the managing conservator written notice by May 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 42 consecutive days beginning at 6 p.m. on June 15 and ending at 6 p.m. on July 27;

(5) if the managing conservator gives the possessory conservator written notice by *June 1* [~~May 15~~] of each year [~~or gives the possessory conservator 14 days' notice on or after May 16 of each year,~~] the managing conservator shall have possession of the child on any one weekend *beginning at* [~~from~~] Friday at 6 p.m. *and ending at* [~~to~~] 6 p.m. on the following Sunday during any one period of possession by the possessory conservator under Subdivision (4) of this subsection, provided that if a period of possession by the possessory conservator exceeds 30 days, the managing conservator may have possession of the child under the terms of this subdivision on any two nonconsecutive weekends during that time period, and further provided that the managing conservator picks up the child from the possessory conservator and returns the child to that same place; and

(6) if the managing conservator gives the possessory conservator written notice by May 15 of each year or gives the possessory conservator 30 days' written notice on or after May 16 of each year, the managing conservator may designate 21 days *beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than seven days prior to school resuming at the end of the summer vacation* [~~between June 1 and August 31~~], to be exercised in no more than two separate periods of at least seven consecutive days each, during which the possessory conservator shall not have possession of the child, provided that the period or periods so designated do not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child.

(g) General Terms and Conditions. Except as otherwise explicitly provided, terms and conditions of possession of a child that apply irrespective of the distance between the residence of a parent and the child are as follows:

(1) the managing conservator shall surrender the child to the possessory conservator at the beginning of each period of the possessory conservator's possession at the residence of the managing conservator;

(2) *if the possessory conservator elects to begin a period of possession at the time the child's school is regularly dismissed, the managing conservator shall surrender the child to the possessory conservator at the beginning of each such period of possession at the school in which the child is enrolled;*

(3) the possessory conservator shall be ordered to do one of the following:

(A) the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at the residence of the possessory conservator; or

(B) ~~[in the alternative,]~~ the possessory conservator shall return the child to the residence of the managing conservator at the end of each period of possession, *except that the order shall provide that if the possessory conservator's county of domicile remains the same after the rendition of the order establishing terms and conditions of possession and access, and if the managing conservator's county of domicile should change, effective on the date of the change of domicile by the managing conservator, the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at the residence of the possessory conservator;*

(4) *if the possessory conservator elects to end a period of possession at the time the child's school resumes, the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at the school in which the child is enrolled;*

(5) ~~[(3)]~~ each conservator shall return with the child the personal effects that the child brought at the beginning of the period of possession;

(6) ~~[(4)]~~ either parent may designate any competent adult to pick up and return the child, as applicable; a parent or a designated competent adult shall be present when the child is picked up or returned;

(7) ~~[(5)]~~ a parent shall give notice to the person in possession of the child on each occasion that the parent will be unable to exercise that parent's right of possession for any specified period; repeated failure of a parent to give notice of an inability to exercise possessory rights may be considered as a factor in a modification of those possessory rights;

(8) ~~[(6)]~~ written notice shall be deemed to have been timely made if received or postmarked before or at the time that notice is due; and

(9) ~~[(7)]~~ if a conservator's time of possession of a child ends at the time school resumes and for any reason the child is not or will not be returned to school, the conservator in possession of the child shall immediately notify the school and the other conservator that the child will not be or has not been returned to school.

(h) Means of Travel. In an order providing for the *terms and conditions of possession* ~~[possessory conservatorship]~~ of a child the court may restrict the means of travel of the child by a legal mode of transportation only after a showing of good cause contained in the record and a finding by the court that the restriction is in the best interest of the child. Further, the court shall set forth in its order the specific duties of the conservators to provide appropriate transportation to and from the relevant transportation facilities.

(i) Alternative Possession Times. If a child is enrolled in school, *and the possessory conservator elects before or at the time of the rendition of the original or modification order* ~~[consents, and the court finds that it is in the best interest of the child]~~, the standard order may expressly provide that the possessory conservator's period of possession shall begin or end, or both, at a different time expressly set in the standard order under and within the range of alternative times provided by one or both of the following subdivisions:

(1) instead of a period of possession by a possessory conservator beginning at 6 p.m. on the day school recesses, the period of possession may be set in the standard *possession* order to begin at the time *the child's school is regularly dismissed* ~~[recesses]~~ or at any time between the time *the child's school is regularly dismissed* ~~[recesses]~~ and 6 p.m.; and

(2) instead of a period of possession by a possessory conservator ending at 6 p.m. on the day before school resumes, the period of possession may be set in the standard order to end at the time school resumes or at ~~[any time between]~~ 6 p.m. on the day before school resumes ~~[and the time that school resumes].~~

(j) Application of Alternative Possession Times. The alternative possession times provided by Subsection (i) of this section may be applied to regular weekend possession under Subsections (e)(1) and (f)(1) of this section *and to holiday possession under Subsections (e)(1) through (4) and Subsections (f)(2) and (3) of this section, but Subsection (i)(2) of this section may not be applied to Christmas school vacation under Subsection (e)(1) of this section or Wednesday evening possession under Subsection (c)(2) of this section and Subsection (i)(1) of this section may not be applied to Christmas school vacation under Subsection (e)(2) of this section. Subsection (i)(1) of this section [but] may [not] be applied to Wednesday evening possession under Subsection (c)(2) of this section.*

(m) Unusual Circumstances. If the work schedule or other special circumstances of the managing conservator, the possessory conservator, or the child, *or the year round school schedule of the child* make the standard possession order unworkable or inappropriate, the court shall render an order that grants periods of possession of the child as similar as possible to those provided by the standard order.

SECTION 6. Sections 14.04(a) and (c), Family Code, are amended to read as follows:

(a) A possessory conservator has the following rights, privileges, duties, and powers during the period of possession, subject to *Section 14.02(b) of this code* and any limitations expressed in the decree:

(1) the duty of care, control, protection, and reasonable discipline of the child;

(2) the duty to provide the child with clothing, food, and shelter; and

(3) the power to consent to medical, *dental*, and surgical treatment during an emergency involving an immediate danger to the health and safety of the child.

(c) A possessory conservator has the right of access to medical, dental, *psychological*, and educational records of the child to the same extent as the managing conservator. *The court shall include in the decree appointing a possessory conservator a statement of this right, but the right is not abrogated or diminished if the statement is omitted from the decree. If ordered in the decree appointing a possessory conservator, the [The] custodian of records shall delete all references in the records to the place of residence of the managing conservator of the child prior to their release to the possessory conservator.*

SECTION 7. Sections 14.045(a) and (c), Family Code, are amended to read as follows:

(a) Each decree that provides for the appointment of a conservator who has possession of or access to a child shall include, and in its absence shall be deemed to include, the requirement that each conservator who intends a change of place of residence must give written notice of the intended date of change, new telephone number, and new street address of residence *to the court having jurisdiction of the suit affecting the parent-child relationship in which the order was made and to every other party who has possession of or access to the child.* The notice must be given on or before the *60th [30th]* day before the conservator changes the conservator's place of residence. If the conservator did not know or could not have known of the change of residence or if the required information was not available within the *60-day [30-day]* period, the conservator shall supply the written notice of the change of residence or the related information on or before the fifth day after the date that the conservator knew or should have known of the change or of the related information.

(c) The notice required by this section may be *given to a party [served]* by delivery of a copy of the notice to the party *[to be served]* either in person or by registered or certified mail, return receipt requested, to the last known address of the party *[to be served]*. *The notice required by this section may be given to the court by delivery of a copy of the notice either in person to the clerk of the court or by registered or certified mail addressed to the clerk of the court.*

SECTION 8. Section 14.053, Family Code, is amended by amending Subsections (b) and (d) and adding Subsection (l) to read as follows:

(b) Net Resources Defined. "Net resources," for the purpose of determining child support liability, are 100 percent of all wage and salary income and other compensation for personal services (including commissions, overtime pay, tips, and bonuses), interest, dividends, royalty income, self-employment income (as described in Subsection (c) of this section), net rental income (defined as rent after deducting operating expenses and mortgage payments, but not

including noncash items such as depreciation), and all other income actually being received, including but not limited to severance pay, retirement benefits, pensions, trust income, annuities, capital gains, social security benefits, unemployment benefits, disability and workers' compensation benefits, interest income from notes but not including return of principal or capital, ~~and/or~~ accounts receivable regardless of the source, gifts and prizes, spousal maintenance, and alimony, less (subtracting) 100 percent of social security taxes, federal income tax withholding for a single person claiming one personal exemption and the standard deduction, union dues, and expenses for health insurance coverage for the obligor's child. Benefits paid pursuant to aid for families with dependent children and any other child support received from any source shall be disregarded in calculating net resources.

(d) Health Insurance. The guidelines for a court order for the support of a child in this chapter assume that the court will order the obligor to provide health insurance coverage for the child subject of the suit in addition to the amount of child support calculated pursuant to these guidelines. If the court finds and sets forth in the order setting child support that the obligee will maintain health insurance coverage at the obligee's expense for the child, the court may increase the amount of child support to be paid by the obligor in an amount not exceeding the total expense to the obligee for maintaining health insurance coverage. *As additional child support the court shall allocate between the parties, according to the parties' circumstances, the reasonable and necessary health care expenses of a child that are not reimbursed by health insurance.*

(l) Retroactive Support. The guidelines for the support of a child in this chapter are intended to guide the court in determining the amount of retroactive child support that may be ordered under this chapter or Chapter 13 of this code. In ordering retroactive child support, the court shall consider the net resources of the obligor during the relevant time period.

SECTION 9. Sections 14.055(a), (b), and (c), Family Code, are amended to read as follows:

(a) Rebuttable Presumption. The guidelines for the support of a child in this chapter are specifically designed to apply to situations in which the obligor's monthly net resources are \$6,000 [~~\$4,000~~] or less. In any suit affecting the parent-child relationship, there is a rebuttable presumption that an order containing the amount of periodic child support payments established by the schedule provided in this section is reasonable and that the order is in the best interest of the child. A court may determine that the application of the guidelines would be unjust or inappropriate under the circumstances.

(b) Schedule: \$6,000 [~~\$4,000~~] or Less Monthly Net Resources. In rendering an order of child support under circumstances in which the obligor's monthly net resources are \$6,000 [~~\$4,000~~] or less, the court shall presumptively apply the following schedule:

**CHILD SUPPORT GUIDELINES
BASED ON THE MONTHLY NET RESOURCES OF THE OBLIGOR**

1 child	20% of Obligor's Net Resources
2 children	25% of Obligor's Net Resources
3 children	30% of Obligor's Net Resources
4 children	35% of Obligor's Net Resources
5[+] children	40% of Obligor's Net Resources [Not less than the amount for 4 children]
6 + children	Not less than the amount for 5 children

(c) More Than \$6,000 [~~\$4,000~~] Monthly Net Resources. In situations in which the obligor's net resources exceed \$6,000 [~~\$4,000~~] per month, the court shall presumptively apply the percentage guidelines in Subsection (b) of this section to the first \$6,000 [~~\$4,000~~] of the obligor's net resources. Without further reference to the percentage recommended by these guidelines, the court may order additional amounts of child support as *appropriate* [~~proven~~], depending on the *income of the parties and the proven* needs of the child [~~at the time of the order~~]. *The proper calculation of a child support order that exceeds the presumptive amount established for the first \$6,000 of the obligor's net resources requires that the entire amount of*

the presumptive award be subtracted from the proven total needs of the child. After the presumptive award is subtracted, the court shall allocate between the parties the responsibility to meet the additional needs of the child according to the circumstances of the parties. However, in no event may the obligor be required to pay more than an amount equal to 100 percent of the proven needs of the child as child support.

SECTION 10. Sections 14.08(c) and (d), Family Code, are amended to read as follows (c) After a hearing, the court may modify an order or a portion of a decree that:

(1) designates a sole managing conservator if:

(A) the circumstances of the child, sole managing conservator, possessory conservator, or other party affected by the order or decree have materially and substantially changed since the date of the rendition of the order or decree to be modified; and

(B) the retention of the present sole managing conservator would be injurious to the welfare of the child; and

(C) the appointment of the new sole managing conservator would be a positive improvement for the child; or

(2) provides for the support of a child if the circumstances of the child or a person affected by the order or portion of the decree to be modified have materially and substantially changed since the date of its rendition, except that a support order may be modified only as to obligations accruing after the earlier of the date of service of citation or an appearance on the motion to modify; or

(3) sets the terms and conditions for possession of or access to a child, or prescribes the relative rights, privileges, duties, and powers of conservators if:

(A) the circumstances of the child or a person affected by the order or portion of the decree to be modified have materially and substantially changed since the date of rendition of the order or decree; or

(B) the order or portion of the decree to be modified has become unworkable or inappropriate under existing circumstances; or

(C) the notice required by Section 14.031 of this code was not given, or there was a change in a conservator's residence to a place outside the jurisdiction of the court. If a change of residence results in increased expenses for any party having possession of or access to a child, the court may enter appropriate orders to allocate those increased costs on a fair and equitable basis, taking into account the cause of the increased costs and the best interest of the child. *The payment of increased costs by the party whose residence is changed is rebuttably presumed to be in the best interest of the child.* Such an order may be entered without regard to whether any other change in the terms and conditions of possession of or access to the child is made; or

(4) designates a sole managing conservator if the sole managing conservator has voluntarily relinquished possession and control of the child for a period of more than six months and the modification is in the best interest of the child; or

(5) designates a sole managing conservator if a parent of the child requests appointment as a joint managing conservator, and the court finds that:

(A) the circumstances of the child or the sole managing conservator have materially and substantially changed since the rendition of the order or decree to be modified

(B) retention of a sole managing conservatorship would be detrimental to the welfare of the child; and

(C) the appointment of the parent as a joint managing conservator would be a positive improvement for and in the best interest of the child.

(d) If the motion is filed for the purpose of changing the designation of the sole managing conservator and is filed within one year after the date of the rendition of the order or decree to be modified, there shall be attached to the motion an affidavit executed by the person making the motion. The affidavit must contain, *along with supporting facts*, at least one of the following allegations ~~that [along with the supportive facts]:~~

(1) ~~[that]~~ the child's present environment may endanger his physical health or significantly impair his emotional development; ~~[or]~~

(2) [~~that~~] the sole managing conservator is the person seeking the modification or consents to the modification, and the modification is in the best interest of the child; *or*

(3) *the child's sole managing conservator has voluntarily relinquished the actual care, control, and possession of the child for more than six months and the modification is in the best interest of the child.*

SECTION 11. (a) This Act takes effect September 1, 1993.

(b) This Act applies to an original or modified order in a suit affecting the parent-child relationship under Title 2, Family Code, made on or after that date. The change made by this Act to Section 14.08(d), Family Code, applies only to a proceeding under that section in which a hearing has not been held before the effective date of this Act.

(c) The enactment of the amendments made by this Act does not affect the validity or obligations, terms, and conditions of an order in a suit affecting the parent-child relationship made before the effective date of this Act, and this Act does not constitute a change of circumstances under Section 14.08, Family Code.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 4, 1993, by a non-record vote; the House refused to concur in Senate amendments to H.B. No. 1630 on May 24, 1993, and requested the appointment of a conference committee to consider the differences between the two houses; and the House adopted the conference committee report on H.B. No. 1630 on May 29, 1993, by a non-record vote; passed by the Senate, with amendments, on May 21, 1993, by a viva-voce vote; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 1630 on May 29, 1993, by a viva-voce vote.

Approved June 18, 1993.

Effective Sept. 1, 1993.