

CHAPTER 739

H.B. No. 144

AN ACT

relating to modification of an order in a suit affecting the parent-child relationship.

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

SECTION 1. 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 portion of a decree that:

(1) designates a managing conservator if:

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

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

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

(D) the managing conservator has voluntarily relinquished possession and control of the child for a period of more than 12 months and the modification is in the best interest of 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* [~~entry~~], except that a support order may be modified only as to obligations accruing subsequent to 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 the rendition* [~~entry~~] 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 interests 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.

(d) If the motion is filed for the purpose of changing the designation of the managing conservator and is filed within one year after the date of *the rendition* [~~issuance~~] 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 at least one of the following allegations 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 managing conservator is the person seeking the modification or consents to the modification, and the modification is in the best interest of the child.

SECTION 2. Section 14.08, Family Code, is amended by adding Subsection (h) to read as follows:

(h) A notice of assignment filed pursuant to Section 76.003, Human Resources Code, does not constitute a modification of an order to pay child support pursuant to this title, and the provisions of this section shall not apply to notices filed pursuant to Section 76.003, Human Resources Code.

SECTION 3. This Act takes effect September 1, 1987.

SECTION 4. 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 March 31, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 144 on May 26, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 21, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 20, 1987.

Effective Sept. 1, 1987.