

GREEN SHEET REDIGEST

HB 254

2019 Regular Session

Leger

CHILDREN/CUSTODY: Provides relative to an award of custody to a person other than a parent.

DIGEST

Present law (C.C. Art. 133) provides that if an award of custody to either parent would result in substantial harm to the child, the court shall award custody to another person with whom the child has been living in a wholesome and stable environment, or otherwise to any other person able to provide an adequate and stable environment.

Present law requires a court to award custody of a child in accordance with the best interest of the child (C.C. Art. 131) and enumerates factors the court shall consider in determining the child's best interest (C.C. Art. 134).

Proposed law expressly requires the court to consider the factors listed in present law when awarding custody to a person other than a parent.

Proposed law provides that if an award of joint custody is made to a parent and nonparent, an individual may petition the court to have the custody award modified.

Proposed law further provides that the individual seeking modification shall have the burden of proof of establishing by clear and convincing evidence all of the following:

- (1) A material change in circumstances has occurred.
- (2) Modification is in the best interest of the child.
- (3) The benefit of the change in custody outweigh the damages that will be done to the child.

Proposed law further provides that the court shall consider the parent's paramount right to custody as a factor in the best interest determination under the proposed law.

(Amends C.C. Art. 133)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Add that a considered decree shall not include a consent decree that is reviewed by the court and remains unmodified after a final judgment.

The House Floor Amendments to the engrossed bill:

1. Remove the distinction between considered and nonconsidered decrees with regard to the burden of proof in seeking modification of custody awarded.
2. Provide that if an award of joint custody is made to a parent and nonparent, any individual may petition the court to have the custody award modified; provide a burden of proof; and require the court to consider a parent's right to custody.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the reengrossed bill

1. Revised language regarding factors and burden of proof for individual seeking modification of custody award.