

1-1 By: Rodríguez S.B. No. 1237  
1-2 (In the Senate - Filed March 2, 2017; March 13, 2017, read  
1-3 first time and referred to Committee on State Affairs;  
1-4 April 26, 2017, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 26, 2017,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Huffman	X		
1-10	Hughes	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Estes	X		
1-14	Lucio	X		
1-15	Nelson	X		
1-16	Schwertner	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1237 By: Creighton

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to procedures in a suit for dissolution of a marriage or a  
1-22 suit affecting the parent-child relationship.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 6.709, Family Code, is amended to read as  
1-25 follows:

1-26 Sec. 6.709. TEMPORARY ORDERS DURING APPEAL. (a) In a suit  
1-27 for dissolution of a marriage [~~Not later than the 30th day after the~~  
1-28 ~~date an appeal is perfected~~], on the motion of a party or on the  
1-29 court's own motion, after notice and hearing, the trial court may  
1-30 render a temporary order as considered equitable and necessary for  
1-31 the preservation of the property and for the protection of the  
1-32 parties during an [~~the~~] appeal, including an order directed toward  
1-33 one or both parties [~~to~~]:

1-34 (1) requiring [~~require~~] the support of either spouse;

1-35 (2) requiring [~~require~~] the payment of reasonable and  
1-36 necessary attorney's fees and expenses;

1-37 (3) appointing [~~appoint~~] a receiver for the  
1-38 preservation and protection of the property of the parties; [~~or~~]

1-39 (4) awarding [~~award~~] one spouse exclusive occupancy of  
1-40 the parties' residence pending the appeal;

1-41 (5) enjoining a party from dissipating or transferring  
1-42 the property awarded to the other party in the trial court's  
1-43 property division; or

1-44 (6) suspending the operation of all or part of the  
1-45 property division that is being appealed.

1-46 (b) A temporary order under this section enjoining a party  
1-47 from dissipating or transferring the property awarded to the other  
1-48 party in the trial court's property division:

1-49 (1) may be rendered without:

1-50 (A) the issuance of a bond between the spouses;

1-51 or

1-52 (B) an affidavit or a verified pleading stating  
1-53 specific facts showing that immediate and irreparable injury, loss,  
1-54 or damage will result;

1-55 (2) is not required to:

1-56 (A) define the injury or state why the injury is  
1-57 irreparable; or

1-58 (B) include an order setting the suit for trial  
1-59 on the merits with respect to the ultimate relief sought; and

1-60 (3) may not prohibit a party's use, transfer,

2-1 conveyance, or dissipation of the property awarded to the other  
 2-2 party in the trial court's property division if the use, transfer,  
 2-3 conveyance, or dissipation of the property is for the purpose of  
 2-4 suspending the enforcement of the property division that is the  
 2-5 subject of the appeal.

2-6 (c) A temporary order under this section that suspends the  
 2-7 operation of all or part of the property division that is the  
 2-8 subject of the appeal may not be rendered unless the trial court  
 2-9 takes reasonable steps to ensure that the party awarded property in  
 2-10 the trial court's property division is protected from the other  
 2-11 party's dissipation or transfer of that property.

2-12 (d) In considering a party's request to suspend the  
 2-13 enforcement of the property division, the trial court shall  
 2-14 consider whether:

2-15 (1) any relief granted under Subsection (a) is  
 2-16 adequate to protect the party's interest in the property awarded to  
 2-17 the party; or

2-18 (2) the party who was not awarded the property should  
 2-19 also be required to provide security for the appeal in addition to  
 2-20 any relief granted under Subsection (a).

2-21 (e) If the trial court determines that the party awarded the  
 2-22 property can be adequately protected from the other party's  
 2-23 dissipation of assets during the appeal only if the other party  
 2-24 provides security for the appeal, the trial court shall set the  
 2-25 appropriate amount of security, taking into consideration any  
 2-26 relief granted under Subsection (a) and the amount of security that  
 2-27 the other party would otherwise have to provide by law if relief  
 2-28 under Subsection (a) was not granted.

2-29 (f) In rendering a temporary order under this section that  
 2-30 suspends enforcement of all or part of the property division, the  
 2-31 trial court may grant any relief under Subsection (a), in addition  
 2-32 to requiring the party who was not awarded the property to post  
 2-33 security for that part of the property division to be suspended.  
 2-34 The trial court may require that the party who was not awarded the  
 2-35 property post all or only part of the security that would otherwise  
 2-36 be required by law.

2-37 (g) This section does not prevent a party who was not  
 2-38 awarded the property from exercising that party's right to suspend  
 2-39 the enforcement of the property division as provided by law.

2-40 (h) A motion seeking an original temporary order under this  
 2-41 section:

2-42 (1) may be filed before trial; and

2-43 (2) may not be filed by a party after the date by which  
 2-44 that party is required to file the party's notice of appeal under  
 2-45 the Texas Rules of Appellate Procedure.

2-46 (i) The trial court retains jurisdiction to conduct a  
 2-47 hearing and sign an original temporary order under this section  
 2-48 until the 60th day after the date any eligible party has filed a  
 2-49 notice of appeal from final judgment under the Texas Rules of  
 2-50 Appellate Procedure.

2-51 (j) The trial court retains jurisdiction to modify and  
 2-52 enforce a temporary order under this section unless the appellate  
 2-53 court, on a proper showing, supersedes the trial court's order.

2-54 (k) On the motion of a party or on the court's own motion,  
 2-55 after notice and hearing, the trial court may modify a previous  
 2-56 temporary order rendered under this section if:

2-57 (1) the circumstances of a party have materially and  
 2-58 substantially changed since the rendition of the previous order;  
 2-59 and

2-60 (2) modification is equitable and necessary for the  
 2-61 preservation of the property or for the protection of the parties  
 2-62 during the appeal.

2-63 (l) A party may seek review of the trial court's temporary  
 2-64 order under this section by:

2-65 (1) motion filed in the court of appeals with  
 2-66 jurisdiction or potential jurisdiction over the appeal from the  
 2-67 judgment in the case;

2-68 (2) proper assignment in the party's brief; or

2-69 (3) petition for writ of mandamus.

3-1 (m) A temporary order rendered under this section is not  
 3-2 subject to interlocutory appeal.

3-3 (n) The remedies provided in this section are cumulative of  
 3-4 all other remedies allowed by law.

3-5 SECTION 2. Section 6.711, Family Code, is amended by  
 3-6 amending Subsection (a) and adding Subsection (c) to read as  
 3-7 follows:

3-8 (a) In a suit for dissolution of a marriage in which the  
 3-9 court has rendered a judgment dividing the estate of the parties, on  
 3-10 request by a party, the court shall state in writing its findings of  
 3-11 fact and conclusions of law, including [concerning]

3-12 [~~(1)~~] the characterization and value of all [each  
 3-13 party's] assets, liabilities, claims, and offsets on which disputed  
 3-14 evidence has been presented[~~, and~~

3-15 [~~(2)~~ the value or amount of the community estate's  
 3-16 assets, liabilities, claims, and offsets on which disputed evidence  
 3-17 has been presented].

3-18 (c) The findings of fact and conclusions of law required by  
 3-19 this section are in addition to any other findings or conclusions  
 3-20 required or authorized by law.

3-21 SECTION 3. Section 9.007(c), Family Code, is amended to  
 3-22 read as follows:

3-23 (c) The trial court may not [power of the court to] render an  
 3-24 order [further orders] to assist in the implementation of or to  
 3-25 clarify the property division made or approved in the decree before  
 3-26 the 30th day after the date the final judgment is signed. If a  
 3-27 timely motion for new trial or to vacate, modify, correct, or reform  
 3-28 the decree is filed, the trial court may not render an order to  
 3-29 assist in the implementation of or to clarify the property division  
 3-30 made or approved in the decree before the 30th day after the date  
 3-31 the order overruling the motion is signed or the motion is overruled  
 3-32 by operation of law [is abated while an appellate proceeding is  
 3-33 pending].

3-34 SECTION 4. Section 109.001, Family Code, is amended by  
 3-35 amending Subsections (a) and (b) and adding Subsections (b-1),  
 3-36 (b-2), (b-3), (b-4), (b-5), and (e) to read as follows:

3-37 (a) In a suit affecting the parent-child relationship [Not  
 3-38 later than the 30th day after the date an appeal is perfected], on  
 3-39 the motion of any party or on the court's own motion and after  
 3-40 notice and hearing, the court may make any order necessary to  
 3-41 preserve and protect the safety and welfare of the child during the  
 3-42 pendency of an [the] appeal as the court may deem necessary and  
 3-43 equitable. In addition to other matters, an order may:

3-44 (1) appoint temporary conservators for the child and  
 3-45 provide for possession of the child;

3-46 (2) require the temporary support of the child by a  
 3-47 party;

3-48 (3) enjoin [~~restrain~~] a party from molesting or  
 3-49 disturbing the peace of the child or another party;

3-50 (4) prohibit a person from removing the child beyond a  
 3-51 geographical area identified by the court;

3-52 (5) require payment of reasonable and necessary  
 3-53 attorney's fees and expenses; or

3-54 (6) suspend the operation of the order or judgment  
 3-55 that is being appealed.

3-56 (b) A temporary order under this section enjoining a party  
 3-57 from molesting or disturbing the peace of the child or another  
 3-58 party:

3-59 (1) may be rendered without:  
 3-60 (A) the issuance of a bond between the spouses;

3-61 or  
 3-62 (B) an affidavit or a verified pleading stating  
 3-63 specific facts showing that immediate and irreparable injury, loss,  
 3-64 or damage will result; and

3-65 (2) is not required to:  
 3-66 (A) define the injury or state why the injury is  
 3-67 irreparable; or

3-68 (B) include an order setting the suit for trial  
 3-69 on the merits with respect to the ultimate relief sought.

4-1 (b-1) A motion seeking an original temporary order under  
4-2 this section:

- 4-3 (1) may be filed before trial; and
- 4-4 (2) may not be filed by a party after the date by which  
4-5 that party is required to file the party's notice of appeal under  
4-6 the Texas Rules of Appellate Procedure.

4-7 (b-2) The trial court retains jurisdiction to conduct a  
4-8 hearing and sign a temporary order under this section until the 60th  
4-9 day after the date any eligible party has filed a notice of appeal  
4-10 from final judgment under the Texas Rules of Appellate Procedure.

4-11 (b-3) The trial court retains jurisdiction to modify and  
4-12 enforce a temporary order [its orders rendered] under this section  
4-13 unless the appellate court, on a proper showing, supersedes the  
4-14 court's order.

4-15 (b-4) On the motion of a party or on the court's own motion,  
4-16 after notice and hearing, the trial court may modify a previous  
4-17 temporary order rendered under this section if:

- 4-18 (1) the circumstances of a party have materially and  
4-19 substantially changed since the rendition of the previous order;  
4-20 and

- 4-21 (2) modification is equitable and necessary for the  
4-22 safety and welfare of the child.

4-23 (b-5) A party may seek review of the trial court's temporary  
4-24 order under this section by:

- 4-25 (1) petition for writ of mandamus; or
- 4-26 (2) proper assignment in the party's brief.

4-27 (e) The remedies provided in this section are cumulative of  
4-28 all other remedies allowed by law.

4-29 SECTION 5. The heading to Section 109.002, Family Code, is  
4-30 amended to read as follows:

4-31 Sec. 109.002. APPELLATE REVIEW [APPEAL].

4-32 SECTION 6. Section 109.002, Family Code, is amended by  
4-33 amending Subsection (a) and adding Subsection (a-1) to read as  
4-34 follows:

4-35 (a) An appeal from a final order rendered in a suit, when  
4-36 allowed under this section or under other provisions of law, shall  
4-37 be as in civil cases generally under the Texas Rules of Appellate  
4-38 Procedure, except that an appeal from a final order rendered under  
4-39 Subchapter D, Chapter 152, must comply with Section 152.314.

4-40 (a-1) An appeal in a suit in which termination of the  
4-41 parent-child relationship is ordered [~~in issue~~] shall be given  
4-42 precedence over other civil cases by the appellate courts, [~~and~~]  
4-43 shall be accelerated, and shall follow [~~by~~] the [~~appellate courts.~~  
4-44 ~~The~~] procedures for an accelerated appeal under the Texas Rules of  
4-45 Appellate Procedure [~~apply to an appeal in which the termination of~~  
4-46 ~~the parent-child relationship is in issue~~].

4-47 SECTION 7. Section 109.003, Family Code, is amended to read  
4-48 as follows:

4-49 Sec. 109.003. PAYMENT FOR COURT REPORTER'S RECORD  
4-50 [~~STATEMENT OF FACTS~~]. (a) If the party requesting a court  
4-51 reporter's record [~~statement of facts~~] in an appeal of a suit has  
4-52 filed an affidavit stating the party's inability to pay costs as  
4-53 provided by Rule 20, Texas Rules of Appellate Procedure, and the  
4-54 affidavit is approved by the trial court, the trial court may order  
4-55 the county in which the trial was held to pay the costs of preparing  
4-56 the court reporter's record [~~statement of facts~~].

4-57 (b) Nothing in this section shall be construed to permit an  
4-58 official court reporter to be paid more than once for the  
4-59 preparation of the court reporter's record [~~statement of facts~~].

4-60 SECTION 8. Section 152.314, Family Code, is amended to read  
4-61 as follows:

4-62 Sec. 152.314. ACCELERATED APPEALS. An appeal may be taken  
4-63 from a final order in a proceeding under this subchapter in  
4-64 accordance with accelerated [~~expedited~~] appellate procedures in  
4-65 other civil cases. Unless the court enters a temporary emergency  
4-66 order under Section 152.204, the enforcing court may not stay an  
4-67 order enforcing a child custody determination pending appeal.

4-68 SECTION 9. Section 153.258, Family Code, is amended to read  
4-69 as follows:

5-1 Sec. 153.258. REQUEST FOR FINDINGS WHEN ORDER VARIES FROM  
5-2 STANDARD ORDER. (a) In [~~Without regard to Rules 296 through 299,~~  
5-3 ~~Texas Rules of Civil Procedure, in~~] all cases in which possession of  
5-4 a child by a parent is contested and the possession of the child  
5-5 varies from the standard possession order, including a possession  
5-6 order for a child under three years of age, on [written] request by  
5-7 a party [made or filed with the court not later than 10 days after  
5-8 the date of the hearing or on oral request made in open court during  
5-9 the hearing], the court shall state in writing [the order] the  
5-10 specific reasons for the variance from the standard order.

5-11 (b) A request for findings of fact under this section must  
5-12 conform to the Texas Rules of Civil Procedure.

5-13 SECTION 10. Section 154.130, Family Code, is amended by  
5-14 amending Subsection (a) and adding Subsection (c) to read as  
5-15 follows:

5-16 (a) Without regard to Rules 296 through 299, Texas Rules of  
5-17 Civil Procedure, in rendering an order of child support, the court  
5-18 shall make the findings required by Subsection (b) if:

5-19 (1) a party files a written request with the court  
5-20 before the final order is signed, but not later than 20 [10] days  
5-21 after the date of rendition of the order [the hearing];

5-22 (2) a party makes an oral request in open court during  
5-23 the hearing; or

5-24 (3) the amount of child support ordered by the court  
5-25 varies from the amount computed by applying the percentage  
5-26 guidelines under Section 154.125 or 154.129, as applicable.

5-27 (c) Findings under Subsection (b)(2) are required only if  
5-28 evidence of the monthly net resources of the obligee has been  
5-29 offered.

5-30 SECTION 11. Section 156.005, Family Code, is amended to  
5-31 read as follows:

5-32 Sec. 156.005. FRIVOLOUS FILING OF SUIT FOR MODIFICATION.  
5-33 Notwithstanding Rules 296 through 299, Texas Rules of Civil  
5-34 Procedure, if [If] the court finds that a suit for modification is  
5-35 filed frivolously or is designed to harass a party, the court shall  
5-36 state that finding in the order and assess [tax] attorney's fees as  
5-37 costs against the offending party.

5-38 SECTION 12. The following sections of the Family Code are  
5-39 repealed:

- 5-40 (1) Sections 153.254(b) and (c); and
- 5-41 (2) Section 154.130(a-1).

5-42 SECTION 13. Notwithstanding Section 6.709, Family Code, as  
5-43 amended by this Act, if any eligible parties have filed a notice of  
5-44 appeal from a final judgment under the Texas Rules of Appellate  
5-45 Procedure before September 1, 2017, any party to the appeal may file  
5-46 a motion in the trial court for an original temporary order under  
5-47 Section 6.709, Family Code, as it existed immediately before the  
5-48 effective date of this Act, and the trial court has jurisdiction to  
5-49 conduct a hearing and sign an original temporary order under that  
5-50 section until October 30, 2017.

5-51 SECTION 14. Except as provided by Section 13 of this Act,  
5-52 the changes in law made by this Act apply only to an order that is  
5-53 rendered on or after the effective date of this Act. An order  
5-54 rendered before the effective date of this Act is governed by the  
5-55 law in effect immediately before that date, and the former law is  
5-56 continued in effect for that purpose.

5-57 SECTION 15. This Act takes effect September 1, 2017.

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