PROPOSED LEGISLATIVE BILL AMENDMENT
FOR SENATE BILL

BY: _____ OF THE SENATE

AND

ADD ALL THE ADDITIONAL SENATOR NAMES

WHO SUPPORT THIS BILL AMENDMENT HERE

S.B. No. _____(to be assigned)

SECTION 1. Section _, Chapter ___, Title __, Subtitle __, Subchapter __ (S.B. _____), Acts of the __th Legislature, Regular Session, ____, is amended to read as follows:

An Act relating to enforcement of custodial rights; amending Chapter ___, Title __, Subtitle __, Subchapter __, Pleadings and Motions, which relates to interference with custodial rights of parent; requiring order to contain certain provisions; updating statutory reference; modifying procedures related to enforcement of custodial rights; providing for attorney fees and court costs under certain circumstances; providing certain form; and providing an effective date.

PURPOSE: The purpose of this bill is to make it less expensive, faster, and easier for parents to enforce their orders regarding parenting time and visitation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: (The following has been written using the Texas statutes to provide this example.)

SECTION 1. AMENDATORY _____, Section _____, [The Senator or House Representative who decides to support this Bill will send this to the appropriate people to put this in here.] is amended to read as follows:

Sec. 157.002. MOTION FOR ENFORCEMENT. (e) For purposes of this section, "temporary order" includes a temporary restraining order, standing order, injunction, Rule 11, and any other temporary order rendered by a court.

(f) Even if the order cannot be enforced through contempt the order may still be enforced.

(g) The Court may write temporary custody orders in order to enact enforcement of prior orders without the necessity of modification proceedings.

Sec. 157.002. CONTENTS OF MOTION. (f) Any parent or conservator who interferes with or denies a parent or conservator their right to custody of a minor child or their right to have the minor child in their possession shall be liable to the party injured in an action at law, suit in equity, or other proceeding for redress, including but not limited to ___U.S.C. 1983 and the Penal Codes of Texas. (See 157.003(b)(1) where it reads "the use of any other civil or criminal proceeding to enforce a final order; or (2) a suit for damages under Chapter 42."

(g)_____ If the court finds that custody and/or possession time denied or otherwise interfered with the court shall enter an order providing for:

(1) Compensating custody and/or possession time for the custody and/or possession time denied or otherwise interfered with, which time shall be of the same type (e.g. holiday, weekday, weekend, summer) or as otherwise agreed by the deprived parent, and shall be at the convenience of the deprived parent;

(2) award of reasonable enforcement costs to the deprived parent, including but not limited to attorney's fees and court costs;

(3) A fine up to $500 for each incident of interference or denial of custody possession time.

And may order one or more of the following:

(C) A Specific enforceable by contempt visitation schedule;

(D) Posting of a bond, either cash or with sufficient sureties, conditioned upon compliance with the order specifying custody and/or possession;

(E) Attendance of one or both parents at counseling or educational sessions which focus on the impact of visitation disputes on children;

(F) Supervised visitation; or

(G) Any other remedy the court considers appropriate, which may include an order which modifies a prior order specifying custody and/or possession, except that the parent whose rights were deprived may not have those rights reduced in any way as a result of filing this action.

(b) Final disposition of a motion filed pursuant to this section shall take place no later than forty-five (45) days after filing of the motion.

(h) Any other remedy the court considers appropriate, which may include an order which temporarily modifies a prior order specifying custody and/or possession time with a termination

date of the temporary order indicating that after exercise of the temporary order the original order goes back into full effect, except that the parent whose rights were deprived may not have those rights reduced in any way as a result of filing this action.

(I) Every order for enforcement shall contain the following language:

WARNINGS TO PARTIES: FAILURE TO OBEY A COURT ORDER FOR CHILD POSSESSION OF OR ACCESS TO A CHILD MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF ANY VIOLATION OF THIS ORDER SHALL BE PUNISHED BY A FINE UP TO $500 PER INCIDENT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO $500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS.

(i) The motion to expedite enforcement of custody/possession time shall contain the following language and the motion form shall be maintained in and distributed by the clerk's office, which shall be substantially in the following form:

IN THE DISTRICT COURT OF _____ COUNTY

STATE OF TEXAS

_____, Petitioner/Plaintiff,

v.

_____, Respondent, Defendant.

Case No._____

Assigned Judge_____

MOTION FOR EXPEDITED ENFORCEMENT OF CUSTODIAL/POSSESSION TIME AND RIGHTS

The undersigned Parent in the above case moves the Court, pursuant to the provisions of Section _____ Chapter 157 of Title 5 of the Texas Statutes, to enforce custody/possession time and rights which have been denied or otherwise interfered withby the other parent. The Name(s) and Age(s) of the Child(ren) to which my custody/possession time and rights have been denied or interfered with are:

_____

Date of Birth:_____

_____

Date of Birth:_____

_____

The first date of denial or interference with my custody/possession time with the child(ren) was:_____

I attempted to take possession of the child(ren) by:_____

according to my order as stated as follows:_____

The next date of denial or interference with my custody/possession time with the child(ren) was:_____

I attempted to take possession of the child(ren) by:_____

according to my order as stated as follows:_____

The total number of times that my custody/possession time was denied or interfered with was:_____.

I am moving the Court to enforce my final order/temporary order dated_____ and signed by_____ and filed on _____.

I am asking the court for the following remedies including but not limited to: If the court finds that custody and/or possession rights of a parent or custodian have been denied or unreasonably interfered with by the other parent or custodian, the court shall enter an order providing for:

(A) A specific enforceable time schedule compensating custody and/or possession time for the custody and/or possession time denied or otherwise interfered with, which time shall be of the same type (e.g. holiday, weekday, weekend, summer) or as otherwise agreed by the deprived parent, and shall be at the convenience of the deprived parent;

(B) award of reasonable enforcement costs to the deprived parent, including but not limited to attorneys fees, costs of court, and costs for bringing this action;

(C) A Specific enforceable by contempt possession time schedule;

(D) A fine of up to $500 per incident;

And may order one or more of the following:

(D) Posting of a bond, either cash or with sufficient sureties, conditioned upon compliance with the order specifying custody and/or possession;

(E) Attendance of one or both parents at counseling or educational sessions which focus on the impact of visitation disputes on children and costs charged to the violating parent;

(F) Supervised visitation; or

(G) Any other remedy the court considers appropriate, which may include an order which modifies a prior order specifying custody and/or possession, except that the parent whose rights were deprived may not have those rights reduced in any way as a result of filing this action.

(b) Final disposition of a motion filed pursuant to this section shall take place no later than forty-five (45) days after filing of the motion.

I have attached an affidavit stating THE SPECIFIC DETAILS as to how and when my custody/possession time and rights with the child(ren) was denied.

Signed under penalties of perjury this_____day of_____, 20_____.

My Signature:_____

My Full Name:_

_____

My Mailing Address:

_____

My Telephone Numbers:

_____

_____The last four of my social security number:_____

The last four of my driver's license:_____

The last four of the other parent's social security number:_____

The last known address of the other parent:_____

_____

Subscribed and sworn to before me this_____day of_____, 20_____.

_____

Notary Public (or Clerk or Judge)

My Commission Expires:

_____

ORDER TO APPEAR

The State of Texas, to the within-named Respondent: You are hereby directed to appear and answer the foregoing claim and to have with you all books, papers, and witnesses needed by you to establish your defense to the claim. This matter shall be heard at_____(name or address of building, in_____, County of_____, State of Texas, at the hour of_____o'clock of the _____day of_____, 20_____. And you are further notified that in case you do not so appear judgment will be given against you as follows:

For the enforcement or modification of custody as requested by the Petitioner.

And, in addition, for costs of the action (including attorney fees where provided by law), including costs of service of the order.

Dated this_____day of_____, 20_____.

_____

Clerk of the Court (or Judge)

A copy of this order must be mailed by certified mail, return receipt requested to the non-moving party and return of service brought to the hearing.

SECTION 2: This act shall become effective September 15, 2018.

Sec. 157.061 SETTING HEARING. (b) If the motion for enforcement does not request contempt, the court shall set the motion for hearing on the request of a party and the hearing must be set within 10 days of the request.

Sec. 157.062 (c) Notice of hearing on a motion for enforcement of a final order or temporary order providing for child support or possession of or access to a child, any provision of a final order rendered against a party who has already appeared in a suit under this title, or any provision of a temporary order shall be given to the respondent either by personal service of a copy of the motion and notice or through certified mail to the last known address of the respondent as recorded in the court file or by personal service of a copy of the motion and notice not

later than the 3rd day before the date of the hearing. For purposes of this subsection, "temporary order" includes a temporary restraining order, standing order, injunction, Rule 11, and any other temporary order rendered by a court.