

Jury Trial Bill – Amendment of Family Code § 105.002(c)

See Accompanying Bill Analysis for Narrative Explanation.

The proposed legislation has not previously been submitted to the legislature.

The proposed legislation has been submitted to all sections and committees of the State bar of Texas as required by §8.01.06(D) of the Legislative Policy of the State Bar of Texas. If comments are received, I will forward them to the State Bar.

Respectfully submitted,

Family Law Section, State Bar of Texas

By: /s/ Jack W. Marr

Its: Co-Chair Legislative Committee

ANALYSIS

Jury Trials in Family Law Cases **Applicable Statutes: Texas Family Code Section 105.002(c)**

Purpose: Under the Texas Family Code, a party is entitled to a verdict by a jury on the determination of joint managing conservatorship or sole managing conservatorship. A trial court may not contravene the jury's verdict. If the jury designates a parent to be a joint managing conservator then the jury may impose a geographic restriction. However, the statute is silent on a jury's ability to impose a geographic restriction on a sole managing conservator. Some trial courts will impose a restriction after the jury verdict; however, some trial courts find that the court lacks the authority to impose a restriction after the jury verdict. This bill clarifies that a jury may impose a geographic restriction when a parent has been designated a joint managing conservator or a sole managing conservator.

Policy: There is not a uniform policy on a court's ability to impose a geographic restriction after a jury designates a parent a sole managing conservator. Some courts have determined that they have the authority to impose a restriction after a jury verdict based on Section 153.132 that states, "Unless limited by court order... [the rights and duties of a sole managing conservator]." Other courts have determined that Section 105.002(c)(1) prevents the trial court from including a geographic restriction after a jury verdict. Section 105.002(c)(1) states, "A party is entitled to a verdict by the jury and the court may not contravene a jury verdict on the issue of...(A) the appointment of a sole managing conservator." Therefore, it is important for the bill to clean up the statute and clarify that a jury may impose a geographic restriction for joint managing conservators *and* sole managing conservators. Proposed date September 1, 2021.