

Texas Family Code
Sections 156.101-.103
[as amended by HB 596, eff. Sept. 1, 2001]

Sec. 156.101. GROUNDS FOR MODIFICATION OF ORDER ESTABLISHING
[SOLE MANAGING] CONSERVATORSHIP OR POSSESSION AND ACCESS.

~~[(a)]~~ The court may modify an order or portion of a decree that provides for the appointment of a [designates a sole managing] conservator of a child, that provides the terms and conditions of conservatorship, or that provides for the possession of or access to a child [of any age] if modification would be in the best interest of the child and:

- (1) the circumstances of the child, a [sole managing] conservator, [possessory conservator,] or other party affected by the order have materially and substantially changed since the date of the rendition of the order; [and]
- (2) the child is at least 12 years of age and has filed with the court, in writing, the name of the conservator who is the child's preference to have the exclusive right to determine the primary residence of [the appointment of the new sole managing conservator would be a positive improvement for] the child; or
- (3) the conservator who has the exclusive right to establish the primary residence of the child has voluntarily relinquished the primary care and possession of the child to another person for at least six months.

~~[(b)]~~ The court may modify an order that designates a sole managing conservator of a child 10 years of age or older if:

- ~~[(1) the child has filed with the court in writing the name of the person who is the child's choice for managing conservator; and]~~
- ~~[(2) the court finds that the appointment of the named person is in the best interest of the child.]~~

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Sec. 156.102. MODIFICATION OF EXCLUSIVE RIGHT TO DETERMINE
PRIMARY RESIDENCE OF CHILD [SOLE MANAGING CONSERVATORSHIP]
WITHIN ONE YEAR OF ORDER.

(a) If a suit seeking to modify the designation of the person having the exclusive right to determine the primary residence of a child [sole managing conservatorship] is filed not later than one year after the date of rendition of the order, the person filing the suit shall execute and attach an affidavit as provided by Subsection (b).

(b) The affidavit must contain, along with supporting facts, at least one of the following allegations:

- (1) that the child's present environment may endanger the child's physical health or significantly impair the child's emotional development;
- (2) that the person who has the exclusive right to determine the primary residence of the child [sole managing conservator] is the person seeking or consenting to the modification and the modification is in the best interest of the child; or
- (3) that the person who has the exclusive right to determine the primary residence of the child [child's sole managing conservator] has voluntarily relinquished the

primary [actual] care~~[, control,]~~ and possession of the child for at least [not less than] six months and the modification is in the best interest of the child.

(c) The court shall deny the relief sought and refuse to schedule a hearing for modification under this section unless the court determines, on the basis of the affidavit, that facts adequate to support an allegation listed in Subsection (b) are stated in the affidavit. If the court determines that the facts stated are adequate to support an allegation, the court shall set a time and place for the hearing.

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Sec. 156.103. INCREASED EXPENSES BECAUSE OF CHANGE OF RESIDENCE.

(a) If a change of residence results in increased expenses for a party having possession of or access to a child, the court may render appropriate orders to allocate those increased expenses on a fair and equitable basis, taking into account the cause of the increased expenses and the best interest of the child.

(b) The payment of increased expenses by the party whose residence is changed is rebuttably presumed to be in the best interest of the child.

(c) The court may render an order without regard to whether another change in the terms and conditions for the possession of or access to the child is made. [VOLUNTARY RELINQUISHMENT. The court may modify an order that designates a sole managing conservator if the sole managing conservator has voluntarily relinquished actual care, control, and possession of the child for a period of not less than six months and the modification is in the best interest of the child.]