

By: Cook

H.B. No. 853

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to possession of and access to a child less than three  
3 years of age.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 153.254, Family Code, is amended by  
6 amending Subsection (a) and adding Subsections (b) and (c) to read  
7 as follows:

8 (a) The court shall render an order appropriate under the  
9 circumstances for possession of a child less than three years of  
10 age. In rendering the order, the court shall consider evidence of  
11 all relevant factors, including:

12 (1) the pre-existing parent-child relationship,  
13 including whether there has been minimal or inconsistent contact  
14 with the child and the child 's siblings, if applicable [~~caregiving~~  
15 ~~provided to the child before and during the current suit~~];

16 (2) [~~the effect on the child that may result from~~  
17 ~~separation from either party,~~

18 [~~(3)~~] the personal availability of the parties as  
19 caregivers [~~and the willingness of the parties to personally care~~  
20 ~~for the child~~];

21 (3) [~~(4)~~] the present and immediate physical,  
22 medical, behavioral, or [~~and~~] developmental needs of the child;

23 (4) any [~~(5) the~~] physical, medical, behavioral  
24 [~~emotional~~], economic, or [~~and~~] social conditions of the parties;

1           (5) ~~[(6)]~~ the impact and influence of each individual  
2 residing in a residence with a party to the suit or having  
3 considerable interaction with the child ~~[individuals, other than~~  
4 ~~the parties, who will be present]~~ during a party's periods of  
5 possession;

6           (6) the present and proposed environments in which  
7 possession and access has occurred or is to occur;

8           (7) the presence or absence of siblings during periods  
9 of possession;

10          (8) the child 's need to develop healthy attachments to  
11 each party, if possible ~~[both parents];~~

12          (9) the child 's need for continuity of routine;

13          (10) the location and proximity of the residences of  
14 the parties;

15          (11) the need for a graduated ~~[temporary]~~ possession  
16 schedule when there has been ~~[that incrementally shifts to the~~  
17 ~~schedule provided in the prospective order under Subsection (d)~~  
18 ~~based on:~~

19                   ~~[(A) the age of the child; or~~

20                   ~~[(B)]~~ minimal or inconsistent contact with the  
21 child ~~[by a party];~~

22          (12) the ability of the parties to share in the  
23 responsibilities, rights, and duties of caring for the child  
24 ~~[parenting];~~ and

25          (13) any other issue consistent with ~~[evidence of]~~ the  
26 best interest of the child, taking into consideration the  
27 circumstances of the parties.

1        (b) The court may render an order for periods of possession  
2 of a child less than three years of age based on the agreement of the  
3 parties if the agreement is in the best interest of the child.

4        (c) Section 153.258 applies to an order rendered under this  
5 section.

6        SECTION 2. The changes in law made by this Act to Section  
7 153.254, Family Code, apply only to a suit affecting the  
8 parent-child relationship that is filed on or after the effective  
9 date of this Act. A suit filed before the effective date of this Act  
10 is governed by the law in effect on the date the suit is filed, and  
11 the former law is continued in effect for that purpose.

12        SECTION 3. This Act takes effect September 1, 2021.