

1-1 By: Cook, Ramos (Senate Sponsor - Hughes) H.B. No. 853
1-2 (In the Senate - Received from the House April 28, 2021;
1-3 May 10, 2021, read first time and referred to Committee on State
1-4 Affairs; May 18, 2021, reported favorably by the following vote:
1-5 Yeas 9, Nays 0; May 18, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Hughes	X		
1-9	Birdwell	X		
1-10	Campbell	X		
1-11	Hall	X		
1-12	Lucio	X		
1-13	Nelson	X		
1-14	Powell	X		
1-15	Schwertner	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to orders for possession of and access to a child in a suit
1-20 affecting the parent-child relationship.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 153.253, Family Code, is amended to read
1-23 as follows:

1-24 Sec. 153.253. STANDARD POSSESSION ORDER INAPPROPRIATE OR
1-25 UNWORKABLE. The court shall render an order that grants periods of
1-26 possession of the child as similar as possible to those provided by
1-27 the standard possession order if the work schedule or other special
1-28 circumstances of the managing conservator, the possessory
1-29 conservator, or the child, or the year-round school schedule of the
1-30 child, make the standard possession order unworkable or
1-31 inappropriate.

1-32 SECTION 2. Section 153.254, Family Code, is amended by
1-33 amending Subsection (a) and adding Subsections (b) and (c) to read
1-34 as follows:

1-35 (a) The court shall render an order appropriate under the
1-36 circumstances for possession of a child less than three years of
1-37 age. In rendering the order, the court shall consider evidence of
1-38 all relevant factors, including:

1-39 (1) the preexisting parent-child relationship,
1-40 including whether there has been minimal or inconsistent contact
1-41 with the child and the child's siblings, if applicable [caregiving
1-42 provided to the child before and during the current suit];

1-43 (2) ~~[the effect on the child that may result from~~
1-44 ~~separation from either party;~~

1-45 ~~[(3)] the personal availability of the parties as~~
1-46 ~~caregivers [and the willingness of the parties to personally care~~
1-47 ~~for the child];~~

1-48 (3) ~~[(4)]~~ the present and immediate physical,
1-49 medical, behavioral, or ~~[and]~~ developmental needs of the child;

1-50 (4) any ~~[(5) the]~~ physical, medical, behavioral
1-51 ~~[emotional], economic, or [and]~~ social conditions of the parties;

1-52 (5) ~~[(6)]~~ the impact and influence of each individual
1-53 residing in a residence with a party to the suit or having
1-54 considerable interaction with the child [individuals, other than
1-55 the parties, who will be present] during a party's periods of
1-56 possession;

1-57 (6) the present and proposed environments in which
1-58 possession and access has occurred or is to occur;

1-59 (7) the presence or absence of siblings during periods
1-60 of possession;

1-61 (8) the child's need to develop healthy attachments to

2-1 each party, if possible ~~[both parents]~~;
2-2 (9) the child's need for continuity of routine;
2-3 (10) the location and proximity of the residences of
2-4 the parties;
2-5 (11) the need for a graduated ~~[temporary]~~ possession
2-6 schedule when there has been ~~[that incrementally shifts to the~~
2-7 ~~schedule provided in the prospective order under Subsection (d)~~
2-8 ~~based on:~~
2-9 ~~[(A) the age of the child, or~~
2-10 ~~[(B)] minimal or inconsistent contact with the~~
2-11 ~~child [by a party];~~
2-12 (12) the ability of the parties to share in the
2-13 responsibilities, rights, and duties of caring for the child
2-14 ~~[parenting]; and~~
2-15 (13) any other issue consistent with ~~[evidence of]~~ the
2-16 best interest of the child, taking into consideration the
2-17 circumstances of the parties.
2-18 (b) The court shall render an order for periods of
2-19 possession of a child less than three years of age based on the
2-20 agreement of the parties, unless the court determines the agreement
2-21 is not in the best interest of the child.
2-22 (c) Section 153.258 applies to an order rendered under this
2-23 section.
2-24 SECTION 3. The heading to Section 153.258, Family Code, is
2-25 amended to read as follows:
2-26 Sec. 153.258. REQUEST FOR FINDINGS WHEN ORDER VARIES FROM
2-27 STANDARD POSSESSION ORDER.
2-28 SECTION 4. Section 153.258(a), Family Code, is amended to
2-29 read as follows:
2-30 (a) In all cases in which possession of a child by a parent
2-31 is contested and the possession of the child varies from the
2-32 standard possession order, including a possession order for a child
2-33 under three years of age, on request by a party, the court shall
2-34 state in writing the specific reasons for the variance from the
2-35 standard possession order.
2-36 SECTION 5. The changes in law made by this Act to Section
2-37 153.254, Family Code, apply only to a suit affecting the
2-38 parent-child relationship that is filed on or after the effective
2-39 date of this Act. A suit filed before the effective date of this Act
2-40 is governed by the law in effect on the date the suit is filed, and
2-41 the former law is continued in effect for that purpose.
2-42 SECTION 6. This Act takes effect September 1, 2021.

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