

By: Morales of Harris, Swanson, Garcia

H.B. No. 120

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the terms and conditions of a standard possession order
3 in a suit affecting the parent-child relationship.

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

5 SECTION 1. Section 153.316, Family Code, is amended to read
6 as follows:

7 Sec. 153.316. GENERAL TERMS AND CONDITIONS. The court
8 shall order the following general terms and conditions of
9 possession of a child to apply without regard to the distance
10 between the residence of a parent and the child:

11 (1) the managing conservator shall surrender the child
12 to the possessory conservator at the beginning of each period of the
13 possessory conservator's possession at the residence of the
14 managing conservator;

15 (2) if the possessory conservator elects to begin a
16 period of possession at the time the child's school is regularly
17 dismissed, the managing conservator shall surrender the child to
18 the possessory conservator at the beginning of each period of
19 possession at:

20 (A) the school in which the child is enrolled; or
21 (B) if the child is not physically attending
22 school:

23 (i) the managing conservator's residence,
24 unless:

1 (a) the exchanging parties agree on a
2 different location, in which event the child must be surrendered at
3 that location; or

4 (b) the court orders an exchange at a
5 specific location, in which event the child must be surrendered at
6 the location designated by the court; or

7 (ii) a location determined by a party who,
8 because of a finding under Section 105.006(c), is not required to
9 disclose the party's address to the other party or is protected from
10 the other party by an order rendered by the court, provided that the
11 location is recorded in the final order for possession of the child;

12 (3) the possessory conservator shall be ordered to do
13 one of the following:

14 (A) the possessory conservator shall surrender
15 the child to the managing conservator at the end of each period of
16 possession at the residence of the possessory conservator; or

17 (B) the possessory conservator shall return the
18 child to the residence of the managing conservator at the end of
19 each period of possession, except that the order shall provide that
20 the possessory conservator shall surrender the child to the
21 managing conservator at the end of each period of possession at the
22 residence of the possessory conservator if:

23 (i) at the time the original order or a
24 modification of an order establishing terms and conditions of
25 possession or access the possessory conservator and the managing
26 conservator lived in the same county, the possessory conservator's
27 county of residence remains the same after the rendition of the

1 order, and the managing conservator's county of residence changes,
2 effective on the date of the change of residence by the managing
3 conservator; or

4 (ii) the possessory conservator and
5 managing conservator lived in the same residence at any time during
6 a six-month period preceding the date on which a suit for
7 dissolution of the marriage was filed and the possessory
8 conservator's county of residence remains the same and the managing
9 conservator's county of residence changes after they no longer live
10 in the same residence, effective on the date the order is rendered;

11 (4) if the possessory conservator elects to end a
12 period of possession at the time the child's school resumes, the
13 possessory conservator shall surrender the child to the managing
14 conservator at the end of each period of possession at:

15 (A) the school in which the child is enrolled; or

16 (B) if the child is not physically attending
17 school:

18 (i) the possessory conservator's residence,
19 unless:

20 (a) the exchanging parties agree on a
21 different location, in which event the child must be surrendered at
22 that location; or

23 (b) the court orders an exchange at a
24 specific location, in which event the child must be surrendered at
25 the location designated by the court; or

26 (ii) a location determined by a party who,
27 because of a finding under Section 105.006(c), is not required to

1 disclose the party's address to the other party or is protected from
2 the other party by an order rendered by the court, provided that the
3 location is recorded in the final order for possession of the child;

4 (5) each conservator shall return with the child the
5 personal effects that the child brought at the beginning of the
6 period of possession;

7 (6) either parent may designate a competent adult to
8 pick up and return the child, as applicable; a parent or a
9 designated competent adult shall be present when the child is
10 picked up or returned;

11 (7) a parent shall give notice to the person in
12 possession of the child on each occasion that the parent will be
13 unable to exercise that parent's right of possession for a
14 specified period;

15 (8) written notice, including notice provided by
16 electronic mail or facsimile, shall be deemed to have been timely
17 made if received or, if applicable, postmarked before or at the time
18 that notice is due; and

19 (9) if a conservator's time of possession of a child
20 ends at the time school is scheduled to resume [~~resumes~~] and [~~for~~
21 ~~any reason~~] the child is not physically attending [~~or will not be~~
22 ~~returned to~~] school, the conservator in possession of the child
23 shall immediately notify [~~the school and~~] the other conservator
24 that the child will not be or has not been returned to school.

25 SECTION 2. Section 153.3171(b), Family Code, is amended to
26 read as follows:

27 (b) Subsection (a) does not apply if:

1 (1) the possessory conservator declines one or more of
2 the alternative beginning and ending possession times under
3 Subsection (a) in a written document filed with the court or through
4 an oral statement made in open court on the record;

5 (2) the court is denying, restricting, or limiting the
6 possessory conservator's possession of or access to the child in
7 the best interest of the child under Section 153.004; ~~[or]~~

8 (3) the court has received information or a request
9 from a party that the court is required to consider that may result
10 in the denial, restriction, or limitation of the possessory
11 conservator's possession of or access to the child in the best
12 interest of the child under Section 153.004; or

13 (4) the court finds that one or more of the alternative
14 beginning and ending possession times under Subsection (a) are not
15 in the best interest of the child, including:

16 (A) because the distances between residences
17 make the possession schedule described by Subsection (a) unworkable
18 or inappropriate considering the circumstances of the parties or
19 the area in which the parties reside;

20 (B) because before the filing of the suit, the
21 possessory conservator did not frequently and continuously
22 exercise the rights and duties of a parent with respect to the
23 child; or

24 (C) for any other reason the court considers
25 relevant.

26 SECTION 3. The change in law made by this Act applies only
27 to a court order providing for possession of or access to a child

1 rendered on or after the effective date of this Act. A court order
2 rendered before the effective date of this Act is governed by the
3 law in effect on the date the order was rendered, and the former law
4 is continued in effect for that purpose.

5 SECTION 4. This Act takes effect September 1, 2023.