

By: Ramos

H.B. No. 5221

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain beginning and ending times of possession under  
3 a standard possession order in a suit affecting the parent-child  
4 relationship.

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

6 SECTION 1. Section 153.312(a), Family Code, is amended to  
7 read as follows:

8 (a) If the possessory conservator resides 100 miles or less  
9 from the primary residence of the child, the possessory conservator  
10 shall have the right to possession of the child as follows:

11 (1) on weekends throughout the year beginning at 6  
12 p.m. on the first, third, and fifth Friday of each month and ending  
13 at 6 p.m. on the following Sunday; and

14 (2) on Thursdays of each week during the regular  
15 school term beginning at the time the child's school is regularly  
16 dismissed [~~6 p.m.~~] and ending on Friday at the time the child's  
17 school typically resumes [~~8 p.m.~~], unless the court finds that  
18 overnight possession [~~visitation~~] under this subdivision is not in  
19 the best interest of the child.

20 SECTION 2. Section 153.316, Family Code, is amended to read  
21 as follows:

22 Sec. 153.316. GENERAL TERMS AND CONDITIONS. The court  
23 shall order the following general terms and conditions of  
24 possession of a child to apply without regard to the distance

1 between the residence of a parent and the child:

2 (1) the managing conservator shall surrender the child  
3 to the possessory conservator at the beginning of each period of the  
4 possessory conservator's possession at the residence of the  
5 managing conservator;

6 (2) if the possessory conservator's [~~conservator~~  
7 ~~elects to begin a~~] period of possession begins at the time the  
8 child's school is regularly dismissed, the managing conservator  
9 shall surrender the child to the possessory conservator at the  
10 beginning of each period of possession at the school in which the  
11 child is enrolled;

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's [~~conservator~~  
12 ~~elects to end a~~] period of possession ends at the time the child's  
13 school resumes, the possessory conservator shall surrender the  
14 child to the managing conservator at the end of each period of  
15 possession at the school in which the child is enrolled;

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

19 (6) either parent may designate a competent adult to  
20 pick up and return the child, as applicable; a parent or a  
21 designated competent adult shall be present when the child is  
22 picked up or returned;

23 (7) a parent shall give notice to the person in  
24 possession of the child on each occasion that the parent will be  
25 unable to exercise that parent's right of possession for a  
26 specified period;

27 (8) written notice, including notice provided by

1 electronic mail or facsimile, shall be deemed to have been timely  
2 made if received or, if applicable, postmarked before or at the time  
3 that notice is due; and

4 (9) if a conservator's time of possession of a child  
5 ends at the time school resumes and for any reason the child is not  
6 or will not be returned to school, the conservator in possession of  
7 the child shall immediately notify the school and the other  
8 conservator that the child will not be or has not been returned to  
9 school.

10 SECTION 3. Section 153.317(a), Family Code, is amended to  
11 read as follows:

12 (a) If elected by a conservator, the court shall alter the  
13 standard possession order under Sections 153.312, 153.314, and  
14 153.315 to provide for one or more of the following alternative  
15 beginning and ending possession times for the described periods of  
16 possession, unless the court finds that the election is not in the  
17 best interest of the child:

18 (1) for weekend periods of possession under Section  
19 153.312(a)(1) during the regular school term:

20 (A) beginning at the time the child's school is  
21 regularly dismissed;

22 (B) ending at the time the child's school resumes  
23 after the weekend; or

24 (C) beginning at the time described by Paragraph  
25 (A) and ending at the time described by Paragraph (B);

26 (2) ~~[for Thursday periods of possession under Section~~  
27 ~~153.312(a)(2)].~~

1                   ~~[(A) beginning at the time the child's school is~~  
2 ~~regularly dismissed,~~

3                   ~~[(B) ending at the time the child's school~~  
4 ~~resumes on Friday; or~~

5                   ~~[(C) beginning at the time described by Paragraph~~  
6 ~~(A) and ending at the time described by Paragraph (B);~~

7                   ~~(3)~~ for spring vacation periods of possession under  
8 Section 153.312(b)(1), beginning at the time the child's school is  
9 dismissed for those vacations;

10                  (3) ~~(4)~~ for Christmas school vacation periods of  
11 possession under Section 153.314(1), beginning at the time the  
12 child's school is dismissed for the vacation;

13                  (4) ~~(5)~~ for Thanksgiving holiday periods of  
14 possession under Section 153.314(3), beginning at the time the  
15 child's school is dismissed for the holiday;

16                  (5) ~~(6)~~ for Father's Day periods of possession under  
17 Section 153.314(5), ending at 8 a.m. on the Monday after Father's  
18 Day weekend;

19                  (6) ~~(7)~~ for Mother's Day periods of possession under  
20 Section 153.314(6):

21                   (A) beginning at the time the child's school is  
22 regularly dismissed on the Friday preceding Mother's Day;

23                   (B) ending at the time the child's school resumes  
24 after Mother's Day; or

25                   (C) beginning at the time described by Paragraph  
26 (A) and ending at the time described by Paragraph (B);

27                  (7) ~~(8)~~ for weekend periods of possession that are

1 extended under Section 153.315(b) by a student holiday or teacher  
2 in-service day that falls on a Friday, beginning at the time the  
3 child's school is regularly dismissed on Thursday; or

4 (8) [~~(9)~~] for weekend periods of possession that are  
5 extended under Section 153.315(a) by a student holiday or teacher  
6 in-service day that falls on a Monday, ending at 8 a.m. Tuesday.

7 SECTION 4. Section 153.3171(a), Family Code, as added by  
8 Chapter 896 (H.B. 3203), Acts of the 87th Legislature, Regular  
9 Session, 2021, is amended to read as follows:

10 (a) Except as provided by Subsection (b), if the possessory  
11 conservator resides not more than 50 miles from the primary  
12 residence of the child, the court shall alter the standard  
13 possession order under Sections 153.312, 153.314, and 153.315 to  
14 provide that the conservator has the right to possession of the  
15 child as if the conservator had made the elections for alternative  
16 beginning and ending possession times under Sections  
17 153.317(a)(1)(C), (2) [~~(2)(C)~~], (3), (4), (5), (6)(C) [~~(6)~~], (7)  
18 [~~(7)(C)~~], and (8).

19 SECTION 5. Section 153.3171(a), Family Code, as added by  
20 Chapter 967 (S.B. 1936), Acts of the 87th Legislature, Regular  
21 Session, 2021, is repealed.

22 SECTION 6. The change in law made by this Act does not  
23 constitute a material and substantial change of circumstances under  
24 Section 156.401, Family Code, sufficient to warrant modification of  
25 a court order or a portion of a decree that provides for the support  
26 of a child rendered before the effective date of this Act.

27 SECTION 7. The change in law made by this Act applies to a

1 suit affecting the parent-child relationship that is pending in a  
2 trial court on the effective date of this Act or that is filed on or  
3 after the effective date of this Act.

4 SECTION 8. This Act takes effect September 1, 2023.