

By: Harris

S.B. No. 820

A BILL TO BE ENTITLED

AN ACT

relating to a court order for the possession of or access to a child under three years of age.

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

SECTION 1. Section 153.254, Family Code, is amended to read as follows:

Sec. 153.254. CHILD LESS THAN THREE YEARS OF AGE. (a) The court shall render an order appropriate under the circumstances for possession of a child less than three years of age. In rendering the order, the court shall consider evidence of all relevant factors, including:

(1) the caregiving provided to the child before and during the current suit;

(2) the effect on the child that may result from separation from either party;

(3) the availability of the parties as caregivers and the willingness of the parties to personally care for the child;

(4) the physical, medical, behavioral, and developmental needs of the child;

(5) the physical, medical, emotional, economic, and social conditions of the parties;

(6) the impact and influence of individuals, other than the parties, who will be present during periods of possession;

(7) the presence of siblings during periods of

1 possession;

2 (8) the child's need to develop healthy attachments to
3 both parents;

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

5 (10) the location and proximity of the residences of
6 the parties;

7 (11) the need for a temporary possession schedule that
8 incrementally shifts to the schedule provided in the prospective
9 order under Subsection (d) based on:

10 (A) the age of the child; or

11 (B) minimal or inconsistent contact with the
12 child by a party;

13 (12) the ability of the parties to share in the
14 responsibilities, rights, and duties of parenting; and

15 (13) any other evidence of the best interest of the
16 child.

17 (b) Notwithstanding the Texas Rules of Civil Procedure, in
18 rendering an order under Subsection (a), the court shall make
19 findings in support of the order if:

20 (1) a party files a written request with the court not
21 later than the 10th day after the date of the hearing; or

22 (2) a party makes an oral request in court during the
23 hearing on the order.

24 (c) The court shall make and enter the findings required by
25 Subsection (b) not later than the 15th day after the date the party
26 makes the request.

27 (d) The court shall render a prospective order to take

1 effect on the child's third birthday, which presumptively will be
2 the standard possession order.

3 SECTION 2. The enactment of this Act does not constitute a
4 material and substantial change of circumstances sufficient to
5 warrant modification of a court order or portion of a decree that
6 provides for the possession of or access to a child rendered before
7 the effective date of this Act.

8 SECTION 3. The change in law made by this Act applies to a
9 suit affecting the parent-child relationship that is pending in a
10 trial court on the effective date of this Act or that is filed on or
11 after the effective date of this Act.

12 SECTION 4. This Act takes effect September 1, 2011.