

1-1 By: Harris S.B. No. 820
1-2 (In the Senate - Filed February 21, 2011; March 1, 2011,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 April 6, 2011, reported favorably by the following vote: Yeas 5,
1-5 Nays 0; April 6, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to a court order for the possession of or access to a child
1-9 under three years of age.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 153.254, Family Code, is amended to read
1-12 as follows:

1-13 Sec. 153.254. CHILD LESS THAN THREE YEARS OF AGE. (a) The
1-14 court shall render an order appropriate under the circumstances for
1-15 possession of a child less than three years of age. In rendering
1-16 the order, the court shall consider evidence of all relevant
1-17 factors, including:

1-18 (1) the caregiving provided to the child before and
1-19 during the current suit;

1-20 (2) the effect on the child that may result from
1-21 separation from either party;

1-22 (3) the availability of the parties as caregivers and
1-23 the willingness of the parties to personally care for the child;

1-24 (4) the physical, medical, behavioral, and
1-25 developmental needs of the child;

1-26 (5) the physical, medical, emotional, economic, and
1-27 social conditions of the parties;

1-28 (6) the impact and influence of individuals, other
1-29 than the parties, who will be present during periods of possession;

1-30 (7) the presence of siblings during periods of
1-31 possession;

1-32 (8) the child's need to develop healthy attachments to
1-33 both parents;

1-34 (9) the child's need for continuity of routine;

1-35 (10) the location and proximity of the residences of
1-36 the parties;

1-37 (11) the need for a temporary possession schedule that
1-38 incrementally shifts to the schedule provided in the prospective
1-39 order under Subsection (d) based on:

1-40 (A) the age of the child; or

1-41 (B) minimal or inconsistent contact with the
1-42 child by a party;

1-43 (12) the ability of the parties to share in the
1-44 responsibilities, rights, and duties of parenting; and

1-45 (13) any other evidence of the best interest of the
1-46 child.

1-47 (b) Notwithstanding the Texas Rules of Civil Procedure, in
1-48 rendering an order under Subsection (a), the court shall make
1-49 findings in support of the order if:

1-50 (1) a party files a written request with the court not
1-51 later than the 10th day after the date of the hearing; or

1-52 (2) a party makes an oral request in court during the
1-53 hearing on the order.

1-54 (c) The court shall make and enter the findings required by
1-55 Subsection (b) not later than the 15th day after the date the party
1-56 makes the request.

1-57 (d) The court shall render a prospective order to take
1-58 effect on the child's third birthday, which presumptively will be
1-59 the standard possession order.

1-60 SECTION 2. The enactment of this Act does not constitute a
1-61 material and substantial change of circumstances sufficient to
1-62 warrant modification of a court order or portion of a decree that
1-63 provides for the possession of or access to a child rendered before
1-64 the effective date of this Act.

2-1 SECTION 3. The change in law made by this Act applies to a
2-2 suit affecting the parent-child relationship that is pending in a
2-3 trial court on the effective date of this Act or that is filed on or
2-4 after the effective date of this Act.

2-5 SECTION 4. This Act takes effect September 1, 2011.

2-6

* * * * *