

By: Hughes

S.B. No. 2365

A BILL TO BE ENTITLED

AN ACT

relating to the protection of parental rights.

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

SECTION 1. Section 151.001(a), Family Code, is amended to read as follows:

(a) A parent of a child has the following rights and duties:

(1) the right to:

(A) have physical possession of the child;

(B) [~~to~~] direct the nurture, upbringing, moral and religious training, and health care of the child; and

(C) [~~to~~] designate the residence of the child;

(2) the duty of care, control, protection, and reasonable discipline of the child;

(3) the duty to support the child, including providing the child with clothing, food, shelter, medical and dental care, and education;

(4) the duty, except when a guardian of the child's estate has been appointed, to manage the estate of the child, including the right as an agent of the child to act in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government;

(5) except as provided by Section 264.0111, the right to the services and earnings of the child;

(6) the right to consent to the child's [~~marriage~~]

1 enlistment in the armed forces of the United States, medical and  
2 dental care, and psychiatric, psychological, and surgical  
3 treatment;

4 (7) the right to represent the child in legal action  
5 and to make other decisions of substantial legal significance  
6 concerning the child;

7 (8) the right to receive and give receipt for payments  
8 for the support of the child and to hold or disburse funds for the  
9 benefit of the child;

10 (9) the right to inherit from and through the child;

11 (10) the right to make decisions concerning the  
12 child's education; and

13 (11) any other right or duty existing between a parent  
14 and child by virtue of law.

15 SECTION 2. Chapter 151, Family Code, is amended by adding  
16 Section 151.004 to read as follows:

17 Sec. 151.004. PROTECTION OF PARENTAL RIGHTS. (a) The  
18 liberty of a parent regarding the care, custody, and control of the  
19 parent's child is a fundamental right that resides first in the  
20 parent.

21 (b) It is presumed that:

22 (1) a parent is a fit parent; and

23 (2) a fit parent acts in the best interest of the  
24 child.

25 (c) For purposes of Subsection (b), a parent may be  
26 determined to not be a fit parent only by clear and convincing  
27 evidence that the parent does not adequately care for the parent's

1 child.

2 (d) The state, or an agency or political subdivision of the  
3 state, may not restrict or interfere with a parent's fundamental  
4 right to make decisions in the raising of the parent's child unless  
5 the state, agency, or political subdivision demonstrates that the  
6 action of the state, agency, or political subdivision:

7 (1) is in furtherance of a compelling governmental  
8 interest; and

9 (2) is narrowly tailored to accomplish that interest.

10 (e) A court may not restrict or interfere with the  
11 fundamental right of a parent solely because the court believes a  
12 better decision could be made. A court may restrict or interfere  
13 with the fundamental right of a parent only if the court:

14 (1) first overcomes the presumptions described by  
15 Subsection (b); and

16 (2) finds that:

17 (A) the parent is not a fit parent; or

18 (B) the infringement is necessary to prevent a  
19 significant impairment of the child's physical health or emotional  
20 well-being.

21 (f) This section does not limit the right of the state or an  
22 agency or political subdivision of the state, in accordance with  
23 the United States Constitution and applicable state and federal  
24 law, to investigate or take action based on a report of child abuse  
25 or neglect allegedly committed by a person responsible for a  
26 child's care, custody, or welfare.

27 SECTION 3. Section [153.002](#), Family Code, is amended to read

1 as follows:

2           Sec. 153.002. BEST INTEREST OF CHILD. (a) The best  
3 interest of the child shall always be the primary consideration of  
4 the court in determining the issues of conservatorship and  
5 possession of and access to the child.

6           (b) It is presumed that:

7                   (1) a parent is a fit parent; and

8                   (2) a fit parent acts in the best interest of the  
9 child.

10           (c) For purposes of Subsection (b), a parent may be  
11 determined to not be a fit parent only by clear and convincing  
12 evidence that the parent does not adequately care for the parent's  
13 child.

14           SECTION 4. The changes in law made by this Act apply only to  
15 a suit affecting the parent-child relationship pending in a trial  
16 court on the effective date of this Act or filed on or after that  
17 date. A suit affecting the parent-child relationship in which a  
18 final order is rendered before the effective date of this Act is  
19 governed by the law in effect on the date the order was rendered,  
20 and the former law is continued in effect for that purpose.

21           SECTION 5. This Act takes effect September 1, 2019.