

By: Cook

H.B. No. 853

A BILL TO BE ENTITLED

AN ACT

relating to orders for possession of and access to a child in a suit affecting the parent-child relationship.

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

SECTION 1. Section 153.253, Family Code, is amended to read as follows:

Sec. 153.253. STANDARD POSSESSION ORDER INAPPROPRIATE OR UNWORKABLE. The court shall render an order that grants periods of possession of the child as similar as possible to those provided by the standard possession order if the work schedule or other special circumstances of the managing conservator, the possessory conservator, or the child, or the year-round school schedule of the child, make the standard possession order unworkable or inappropriate.

SECTION 2. Section 153.254, Family Code, is amended by amending Subsection (a) and adding Subsections (b) and (c) to read as follows:

(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 preexisting parent-child relationship, including whether there has been minimal or inconsistent contact with the child and the child's siblings, if applicable [~~caregiving~~]

1 ~~provided to the child before and during the current suit];~~

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

4 [~~3~~] the personal availability of the parties as  
5 caregivers ~~[and the willingness of the parties to personally care~~  
6 ~~for the child];~~

7 (3) [~~4~~] the present and immediate physical,  
8 medical, behavioral, or ~~[and]~~ developmental needs of the child;

9 (4) any [~~5~~ ~~the~~] physical, medical, behavioral  
10 ~~[emotional]~~, economic, or ~~[and]~~ social conditions of the parties;

11 (5) [~~6~~] the impact and influence of each individual  
12 residing in a residence with a party to the suit or having  
13 considerable interaction with the child ~~[individuals, other than~~  
14 ~~the parties, who will be present]~~ during a party's periods of  
15 possession;

16 (6) the present and proposed environments in which  
17 possession and access has occurred or is to occur;

18 (7) the presence or absence of siblings during periods  
19 of possession;

20 (8) the child's need to develop healthy attachments to  
21 each party, if possible ~~[both parents];~~

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

23 (10) the location and proximity of the residences of  
24 the parties;

25 (11) the need for a graduated ~~[temporary]~~ possession  
26 schedule when there has been ~~[that incrementally shifts to the~~  
27 ~~schedule provided in the prospective order under Subsection (d)~~

1 ~~based on:~~

2                   ~~[(A) the age of the child, or~~

3                   ~~[(B)]~~ minimal or inconsistent contact with the  
4 child ~~[by a party]~~;

5                   (12) the ability of the parties to share in the  
6 responsibilities, rights, and duties of caring for the child  
7 ~~[parenting]~~; and

8                   (13) any other issue consistent with ~~[evidence of]~~ the  
9 best interest of the child, taking into consideration the  
10 circumstances of the parties.

11                   (b) The court shall render an order for periods of  
12 possession of a child less than three years of age based on the  
13 agreement of the parties, unless the court determines the agreement  
14 is not in the best interest of the child.

15                   (c) Section 153.258 applies to an order rendered under this  
16 section.

17                   SECTION 3. The heading to Section 153.258, Family Code, is  
18 amended to read as follows:

19                   Sec. 153.258. REQUEST FOR FINDINGS WHEN ORDER VARIES FROM  
20 STANDARD POSSESSION ORDER.

21                   SECTION 4. Section 153.258(a), Family Code, is amended to  
22 read as follows:

23                   (a) In all cases in which possession of a child by a parent  
24 is contested and the possession of the child varies from the  
25 standard possession order, including a possession order for a child  
26 under three years of age, on request by a party, the court shall  
27 state in writing the specific reasons for the variance from the

1 standard possession order.

2           SECTION 5. The changes in law made by this Act to Section  
3 153.254, Family Code, apply only to a suit affecting the  
4 parent-child relationship that is filed on or after the effective  
5 date of this Act. A suit filed before the effective date of this Act  
6 is governed by the law in effect on the date the suit is filed, and  
7 the former law is continued in effect for that purpose.

8           SECTION 6. This Act takes effect September 1, 2021.