

By: Cook

H.B. No. 3379

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to orders for the conservatorship of, possession of or  
3 access to, or support of a child in a suit affecting the  
4 parent-child relationship.

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

6 SECTION 1. Section 153.001(a), Family Code, is amended to  
7 read as follows:

8 (a) The public policy of this state is to:

9 (1) assure that children will have frequent and  
10 continuing contact with parents who have shown the ability to act in  
11 the best interest of the child;

12 (2) provide a safe, stable, and nonviolent environment  
13 for the child; ~~and~~

14 (3) encourage parents to share equally in the rights  
15 and duties of raising their child after the parents have separated  
16 or dissolved their marriage; and

17 (4) if parents reside in reasonable proximity to each  
18 other, allocate rights of equal or nearly equal periods of physical  
19 possession of and access to the child.

20 SECTION 2. Section 153.002, Family Code, is amended to read  
21 as follows:

22 Sec. 153.002. BEST INTEREST OF CHILD. (a) The best  
23 interest of the child shall always be the primary consideration of  
24 the court in determining the issues of conservatorship and

1 possession of and access to the child.

2 (b) In determining the best interest of the child, in  
3 addition to any other factors the court is required to consider  
4 under this chapter or other law, the court shall consider the  
5 following factors:

6 (1) the child's wishes as to conservatorship,  
7 possession, or access;

8 (2) the child's current and future emotional and  
9 physical needs;

10 (3) any current or future emotional or physical danger  
11 to the child;

12 (4) the parenting abilities of the party seeking  
13 conservatorship or possession of or access to the child;

14 (5) the programs available to assist the party seeking  
15 conservatorship or possession of or access to the child;

16 (6) the plans for the child of any person seeking  
17 conservatorship or possession of or access to the child;

18 (7) the stability of any proposed placement;

19 (8) any act or omission by a parent seeking  
20 conservatorship or possession of or access to the child that may  
21 indicate the parent does not act in the best interest of the child;

22 (9) any explanation for the parent's act or omission  
23 described by Subdivision (8); and

24 (10) any other factor the court considers relevant to  
25 the determination.

26 SECTION 3. Section [153.007](#)(a), Family Code, is amended to  
27 read as follows:

1 (a) To promote the amicable settlement of disputes between  
2 the parties to a suit, the parties may enter into a written agreed  
3 parenting plan containing provisions for conservatorship and  
4 possession of the child and for modification of the parenting plan,  
5 including variations from the equal parenting order under  
6 Subchapter F-1 or the standard possession order under Subchapter F.

7 SECTION 4. Section 153.134, Family Code, is amended by  
8 adding Subsection (c) to read as follows:

9 (c) Notwithstanding any other provision of this chapter and  
10 except as otherwise provided by this subsection, if the court  
11 renders an order appointing the parents as joint managing  
12 conservators under this section and the parents reside 20 miles or  
13 less apart, the court shall render an equal parenting order under  
14 Subchapter F-1 providing for equal or nearly equal periods of  
15 physical possession of the child, unless the court determines and  
16 enters a finding of fact on the record specifying that equal or  
17 nearly equal periods of physical possession are not in the best  
18 interest of the child, in which case the court may enter:

19 (1) a standard possession order as provided by  
20 Subchapter F, including an expanded standard possession order under  
21 Section 153.3171, if applicable; or

22 (2) if the court finds that the standard possession  
23 order is not in the best interest of the child, another order for  
24 possession of the child that the court determines is in the best  
25 interest of the child.

26 SECTION 5. Section 153.251(a), Family Code, is amended to  
27 read as follows:

1 (a) The guidelines established in the standard possession  
2 order are intended to guide the courts in ordering the terms and  
3 conditions for possession of a child by a parent named as a  
4 possessory conservator, or as the minimum possession for a joint  
5 managing conservator if the court does not render an equal  
6 parenting order under Subchapter F-1.

7 SECTION 6. Section 153.252, Family Code, is amended to read  
8 as follows:

9 Sec. 153.252. REBUTTABLE PRESUMPTION. (a) Except as  
10 provided by Subsection (b), in [In] a suit, there is a rebuttable  
11 presumption that the standard possession order in Subchapter F:

12 (1) provides reasonable minimum possession of a child  
13 for a parent named as a possessory conservator or joint managing  
14 conservator; and

15 (2) is in the best interest of the child.

16 (b) If the court renders an order appointing the parents as  
17 joint managing conservators and the parents reside 20 miles or less  
18 apart, there is a rebuttable presumption that the equal parenting  
19 order under Subchapter F-1 is in the best interest of the child. If  
20 the court finds that the equal parenting order under Subchapter F-1  
21 is not in the best interest of the child, the presumption provided  
22 by Subsection (a) applies.

23 SECTION 7. Chapter 153, Family Code, is amended by adding  
24 Subchapter F-1 to read as follows:

25 SUBCHAPTER F-1. EQUAL PARENTING ORDER FOR JOINT MANAGING  
26 CONSERVATORS WHO RESIDE 20 MILES OR LESS APART

27 Sec. 153.351. AUTHORITY TO RENDER EQUAL PARENTING ORDER.

1 Notwithstanding any other provision of this chapter, a court shall  
2 enter an equal parenting order under this subchapter providing for  
3 equal or nearly equal periods of possession of a child in accordance  
4 with this subchapter if the court:

5 (1) appoints the parents as joint managing  
6 conservators under Section 153.134;

7 (2) determines the parents reside 20 miles or less  
8 apart; and

9 (3) determines that the order would be in the best  
10 interest of the child.

11 Sec. 153.352. DESIGNATION OF CONSERVATORS UNDER EQUAL  
12 PARENTING ORDER. For purposes of this subchapter, the court shall  
13 designate the joint managing conservator with the exclusive right  
14 to designate the child's primary residence as "conservator A" and  
15 the other joint managing conservator as "conservator B."

16 Sec. 153.353. REFERENCE TO "SCHOOL" IN EQUAL PARENTING  
17 ORDER. (a) In an equal parenting order, "school" means the  
18 elementary or secondary school in which the child is enrolled or, if  
19 the child is not enrolled in an elementary or secondary school, the  
20 public school district in which the child primarily resides.

21 (b) In this subchapter, if a period of possession in an  
22 equal parenting order begins or ends at the time the child's school  
23 regularly resumes, and the child is not attending school on that  
24 day, the period of possession shall begin or end at 8:00 a.m.

25 Sec. 153.354. MUTUAL AGREEMENT OR SPECIFIED TERMS FOR  
26 POSSESSION. The court shall specify in an equal parenting order  
27 that the parties may have possession of the child at times mutually

1 agreed to in advance by the parties and, in the absence of mutual  
2 agreement, shall have possession of the child under the specified  
3 terms set out in the equal parenting order.

4 Sec. 153.355. POSSESSION SCHEDULE UNDER EQUAL PARENTING  
5 ORDER. Unless an alternative possession schedule is ordered under  
6 Section 153.356, in an equal parenting order:

7 (1) conservator B shall have the right to possession  
8 of the child as follows:

9 (A) on weekends throughout the year beginning at  
10 the time school regularly resumes on the first and third Friday of  
11 each month and ending at the time school regularly resumes on the  
12 following Monday; and

13 (B) on Wednesdays and Thursdays of each week  
14 beginning at the time school regularly resumes on Wednesday and  
15 ending at the time school regularly resumes on Friday;

16 (2) conservator A shall have the right to possession  
17 of the child as follows:

18 (A) on weekends throughout the year beginning at  
19 the time school regularly resumes on the second and fourth Friday of  
20 each month and ending at the time school regularly resumes on the  
21 following Monday; and

22 (B) on Mondays and Tuesdays of each week  
23 beginning at the time school regularly resumes on Monday and ending  
24 at the time school regularly resumes on Wednesday; and

25 (3) for weekends that begin at the time school  
26 regularly resumes on the fifth Friday of a month and end at the time  
27 school regularly resumes on the following Monday, the conservators

1 shall alternate weekends of possession throughout the year on a  
2 schedule that begins as follows:

3 (A) conservator B shall have the right to  
4 possession of the child on the first such weekend of the year in  
5 even-numbered years; and

6 (B) conservator A shall have the right to  
7 possession of the child on the first such weekend of the year in  
8 odd-numbered years.

9 Sec. 153.356. ALTERNATIVE SCHEDULE UNDER EQUAL PARENTING  
10 ORDER. (a) As an alternative to the possession schedule under  
11 Section 153.355, the court in an equal parenting order may  
12 designate an alternative possession schedule as provided in this  
13 section.

14 (b) Under an alternative possession schedule:

15 (1) conservator B shall have the right to possession  
16 of the child beginning at the time school regularly resumes on the  
17 first and third Friday of each month and ending at the time school  
18 regularly resumes on the following Friday;

19 (2) conservator A shall have the right to possession  
20 of the child beginning at the time school regularly resumes on the  
21 second and fourth Friday of each month and ending at the time school  
22 regularly resumes on the following Friday; and

23 (3) for weeks that begin at the time school regularly  
24 resumes on the fifth Friday of a month and end at the time school  
25 regularly resumes on the following Friday, the conservators shall  
26 alternate weeks of possession throughout the year on a schedule  
27 that begins as follows:

1           (A) conservator B shall have the right to  
2 possession of the child on the first such week of the year in  
3 even-numbered years; and

4           (B) conservator A shall have the right to  
5 possession of the child on the first such week of the year in  
6 odd-numbered years.

7           Sec. 153.357. VACATION AND HOLIDAY POSSESSION SCHEDULE  
8 UNDER EQUAL PARENTING ORDER. (a) This section governs possession  
9 of the child for certain vacations and holidays and supersedes the  
10 periods of possession described by Section 153.355 or 153.356.

11           (b) Under an equal parenting order:

12           (1) conservator B shall have possession of the child  
13 in even-numbered years beginning at the time the child's school  
14 resumes on the day the child is dismissed from school for the  
15 school's spring vacation and ending at the time the child's school  
16 resumes after that vacation;

17           (2) conservator A shall have possession of the child  
18 in odd-numbered years beginning at the time the child's school  
19 resumes on the day the child is dismissed from school for the  
20 school's spring vacation and ending at the time the child's school  
21 resumes after that vacation;

22           (3) the conservators shall alternate 14-day periods of  
23 possession for eight weeks during the period the child's school is  
24 dismissed for summer vacation, regardless of whether the child  
25 participates in summer school, on a schedule that begins as  
26 follows:

27           (A) in even-numbered years, conservator B shall

1 have the right to possession of the child:

2 (i) beginning when school regularly resumes  
3 the day school is dismissed for summer vacation if school is  
4 dismissed for summer vacation on a Friday, otherwise at 8:00 a.m.  
5 the first Friday of the period the child's school is dismissed for  
6 summer vacation; and

7 (ii) ending at 8 a.m. the second Friday  
8 after the period of possession begins; and

9 (B) in odd-numbered years, conservator A shall  
10 have the right to possession of the child:

11 (i) beginning when school regularly resumes  
12 the day school is dismissed for summer vacation if school is  
13 dismissed for summer vacation on a Friday, otherwise at 8:00 a.m.  
14 the first Friday of the period the child's school is dismissed for  
15 summer vacation; and

16 (ii) ending at 8 a.m. the second Friday  
17 after the period of possession begins; and

18 (4) the conservators shall have rights of possession  
19 of the child during holiday periods as follows:

20 (A) conservator B shall have possession of the  
21 child in even-numbered years beginning at 4 p.m. on the day the  
22 child is dismissed from school for the Christmas school vacation  
23 and ending at noon on December 28, and conservator A shall have  
24 possession for the same period in odd-numbered years;

25 (B) conservator B shall have possession of the  
26 child in odd-numbered years beginning at noon on December 28 and  
27 ending at 4 p.m. on the day before school resumes after that

1 vacation, and conservator A shall have possession for the same  
2 period in even-numbered years;

3 (C) conservator B shall have possession of the  
4 child in odd-numbered years beginning at 4 p.m. on the day the child  
5 is dismissed from school before Thanksgiving and ending at 4 p.m. on  
6 the following Sunday, and conservator A shall have possession for  
7 the same period in even-numbered years;

8 (D) the parent not otherwise entitled under this  
9 equal order to present possession of a child on the child's birthday  
10 shall have possession of the child beginning at 6 p.m. and ending at  
11 8 p.m. on that day, provided that the parent picks up the child from  
12 the residence of the conservator entitled to possession and returns  
13 the child to that same place;

14 (E) the father shall have possession of the child  
15 beginning at 6 p.m. on the Friday preceding Father's Day and ending  
16 on Father's Day at 6 p.m., provided that, if he is not otherwise  
17 entitled under this equal parenting order to present possession of  
18 the child, he picks up the child from the residence of the  
19 conservator entitled to possession and returns the child to that  
20 same place; and

21 (F) the mother shall have possession of the child  
22 beginning at 6 p.m. on the Friday preceding Mother's Day and ending  
23 on Mother's Day at 6 p.m., provided that, if she is not otherwise  
24 entitled under this equal parenting order to present possession of  
25 the child, she picks up the child from the residence of the  
26 conservator entitled to possession and returns the child to that  
27 same place.

1 SECTION 8. Section 154.122, Family Code, is amended by  
2 adding Subsection (c) to read as follows:

3 (c) An order for child support rendered for a child who is  
4 the subject of an equal parenting order under Subchapter F-1,  
5 Chapter 153, is presumed to be reasonable and in the best interest  
6 of the child if the order for child support conforms to Section  
7 154.1265.

8 SECTION 9. Subchapter C, Chapter 154, Family Code, is  
9 amended by adding Section 154.1265 to read as follows:

10 Sec. 154.1265. APPLICATION OF GUIDELINES FOR CHILD SUBJECT  
11 TO EQUAL PARENTING ORDER. (a) In ordering child support for a  
12 child who is the subject of an equal parenting order under  
13 Subchapter F-1, Chapter 153, the court shall determine the amount  
14 of the child support obligation as provided by this section.

15 (b) The court shall first apply the child support guidelines  
16 with respect to each parent without regard to the other and then  
17 subtract the amount of child support determined under the  
18 guidelines for the parent who would be obligated to pay the lesser  
19 of the two amounts from the amount of child support determined for  
20 the parent who would be obligated to pay the greater amount. The  
21 net amount is presumed to be a reasonable amount of child support.

22 (c) The court shall render an order requiring the parent  
23 determined under Subsection (b) to owe the greater amount to pay as  
24 periodic child support the net amount to the other parent.

25 (d) A child support order conforming to the requirements of  
26 this section is presumed to be in the best interest of the child.

27 SECTION 10. The enactment of this Act does not constitute a

1 material and substantial change of circumstances sufficient to  
2 warrant modification of a court order or portion of a decree that  
3 provides for the possession of or access to a child rendered before  
4 the effective date of this Act.

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

9         SECTION 12. This Act takes effect September 1, 2023.