

By: Middleton

S.B. No. 1702

A BILL TO BE ENTITLED

AN ACT

relating to orders providing for the conservatorship of or possession of and access to a child by the child's parents in a suit affecting the parent-child relationship.

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

SECTION 1. Chapter 101, Family Code, is amended by adding Section 101.0122 to read as follows:

Sec. 101.0122. EQUAL PARENTING ORDER. "Equal parenting order" means an order that provides both parents of a child who are joint managing conservators with rights of equal or nearly equal periods of physical possession of and access to the child in accordance with Section 153.135.

SECTION 2. Section 153.001(a), Family Code, is amended to read as follows:

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

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

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

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

SECTION 3. Section 153.007(a), Family Code, is amended to

1 read as follows:

2 (a) To promote the amicable settlement of disputes between
3 the parties to a suit, the parties may enter into a written agreed
4 parenting plan containing provisions for conservatorship and
5 possession of the child and for modification of the parenting plan,
6 including variations from equal or nearly equal periods of physical
7 possession as provided by an equal parenting order under Section
8 153.135 or from the standard possession order under Subchapter F.

9 SECTION 4. Section 153.072, Family Code, is amended to read
10 as follows:

11 Sec. 153.072. WRITTEN FINDING REQUIRED TO LIMIT PARENTAL
12 RIGHTS AND DUTIES. The court may limit the rights and duties of a
13 parent appointed as a conservator only if the court makes a written
14 finding that the limitation is in the best interest of the child.

15 SECTION 5. Section 153.131(b), Family Code, is amended to
16 read as follows:

17 (b) It is a rebuttable presumption that the appointment of
18 the parents of a child as joint managing conservators with equal
19 rights to possession of and access to the child is in the best
20 interest of the child. A finding of a history of family violence
21 involving the parents of a child removes the presumption under this
22 subsection.

23 SECTION 6. Section 153.135, Family Code, is amended to read
24 as follows:

25 Sec. 153.135. EQUAL PARENTING ORDER FOR JOINT MANAGING
26 CONSERVATORS [~~POSSESSION NOT REQUIRED~~]. (a) Notwithstanding any
27 other provision of this chapter and except as otherwise provided by

this section, if the court renders an order under Section 153.134 appointing both parents of a child as joint [Joint] managing conservators, the court shall render an equal parenting order providing for [conservatorship does not require the award of] equal or nearly equal periods of physical possession of and access to the child to each of the managing [joint] conservators unless the court determines and enters findings of fact on the record specifying that:

(1) an equal parenting order is unworkable or inappropriate due to the work schedule or other special circumstances of a managing conservator or the child, or the school schedule of the child; or

(2) equal or nearly equal periods of physical possession and access are not in the best interest of the child.

(b) If the court determines under Subsection (a) that the equal parenting order is unworkable or inappropriate or not in the best interest of the child, the court may enter a standard possession order under Subchapter F, including an expanded standard possession order under Section 153.3171, if applicable. If the court finds that the standard possession order is unworkable or inappropriate, the court may modify the standard possession order as provided by Section 153.253. If the court finds that the standard possession order is not in the best interest of the child, the court may render an order that the court finds to be in the best interest of the child as provided by Section 153.256.

(c) The court shall render an order appropriate under the circumstances for the possession of a child less than three years of

1 age, as provided by Section 153.254(a), which does not need to
2 provide equal or nearly equal periods of possession of or access to
3 a child to both joint managing conservators. The court shall render
4 a prospective order to take effect on the child's third birthday,
5 which presumptively will be an equal parenting order.

6 SECTION 7. Section 153.251(a), Family Code, is amended to
7 read as follows:

8 (a) The guidelines established in the standard possession
9 order are intended to guide the courts in ordering the terms and
10 conditions for possession of a child by a parent named as a
11 possessory conservator, or as the minimum possession for a joint
12 managing conservator if the court does not render an equal
13 parenting order under Section 153.135.

14 SECTION 8. Section 153.252, Family Code, is amended to read
15 as follows:

16 Sec. 153.252. REBUTTABLE PRESUMPTION. In a suit, there is a
17 rebuttable presumption that the standard possession order in
18 Subchapter F[+]

19 [~~(1)~~] provides reasonable minimum possession of a
20 child for a parent named as a:

21 (1) possessory conservator; or
22 (2) joint managing conservator, if the court does not
23 render an equal parenting order under Section 153.135[, ~~and~~

24 [~~(2) is in the best interest of the child~~].

25 SECTION 9. The enactment of this Act does not constitute a
26 material and substantial change of circumstances sufficient to
27 warrant modification of a court order or portion of a decree that

1 provides for the possession of or access to a child rendered before
2 the effective date of this Act.

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

7 SECTION 11. This Act takes effect September 1, 2023.