

By: Middleton

S.B. No. 849

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to orders providing for the conservatorship of or  
3 possession of and access to a child by the child's parents in a suit  
4 affecting the parent-child relationship.

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

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

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

13 SECTION 2. Section 101.029, Family Code, is redesignated as  
14 Section 101.0016, Family Code, and amended to read as follows:

15 Sec. 101.0016 [~~101.029~~]. ALTERNATIVE [~~STANDARD~~] POSSESSION  
16 ORDER. "Alternative [~~Standard~~] possession order" means an order  
17 that provides a parent with rights of possession of a child in  
18 accordance with the terms and conditions of Subchapter F, Chapter  
19 153.

20 SECTION 3. Section 105.001(g), Family Code, is amended to  
21 read as follows:

22 (g) The rebuttable presumptions established in favor of the  
23 application of the guidelines for a child support order and for the  
24 equal parenting order or the alternative [~~standard~~] possession

1 order, as applicable, under Chapters 153 and 154 apply to temporary  
2 orders. The presumptions do not limit the authority of the court to  
3 render other temporary orders.

4 SECTION 4. Section 153.001(a), Family Code, is amended to  
5 read as follows:

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

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

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

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

15 SECTION 5. Section 153.007(a), Family Code, is amended to  
16 read as follows:

17 (a) To promote the amicable settlement of disputes between  
18 the parties to a suit, the parties may enter into a written agreed  
19 parenting plan containing provisions for conservatorship and  
20 possession of the child and for modification of the parenting plan,  
21 including variations from:

22 (1) equal or nearly equal periods of physical  
23 possession as provided by an equal parenting order under Section  
24 153.135; or

25 (2) the alternative [~~standard~~] possession order under  
26 Subchapter F.

27 SECTION 6. Section 153.072, Family Code, is amended to read

1 as follows:

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

6           SECTION 7. Section [153.131\(b\)](#), Family Code, is amended to  
7 read as follows:

8           (b) It is a rebuttable presumption that the appointment of  
9 the parents of a child as joint managing conservators with rights of  
10 equal or nearly equal periods of physical possession of and access  
11 to the child is in the best interest of the child. A finding of a  
12 history of family violence involving the parents of a child removes  
13 the presumption under this subsection.

14           SECTION 8. Section [153.135](#), Family Code, is amended to read  
15 as follows:

16           Sec. 153.135. EQUAL PARENTING ORDER FOR JOINT MANAGING  
17 CONSERVATORS [~~POSSESSION NOT REQUIRED~~]. (a) Notwithstanding any  
18 other provision of this chapter and except as otherwise provided by  
19 this section, if the court renders an order under Section [153.134](#)  
20 appointing both parents of a child as joint [~~Joint~~] managing  
21 conservators, the court shall render an equal parenting order  
22 providing for [~~conservatorship does not require the award of~~] equal  
23 or nearly equal periods of physical possession of and access to the  
24 child to each of the managing [~~joint~~] conservators unless the court  
25 determines and enters findings of fact on the record specifying  
26 that:

27                     (1) an equal parenting order is unworkable or

1 inappropriate due to the work schedule or other special  
2 circumstances of a managing conservator or the child, or the school  
3 schedule of the child; or

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

6 (b) If the court determines under Subsection (a) that the  
7 equal parenting order is unworkable or inappropriate or not in the  
8 best interest of the child, the court may enter an alternative  
9 possession order under Subchapter F, including an expanded  
10 alternative possession order under Section 153.3171, if  
11 applicable. If the court finds that the alternative possession  
12 order is unworkable or inappropriate, the court may modify the  
13 alternative possession order as provided by Section 153.253. If  
14 the court finds that the alternative possession order is not in the  
15 best interest of the child, the court may render an order that the  
16 court finds to be in the best interest of the child considering the  
17 guidelines established by the alternative possession order and the  
18 factors provided by Section 153.256.

19 (c) The court shall render an order appropriate under the  
20 circumstances for the possession of a child less than three years of  
21 age, as provided by Section 153.254(a), which does not need to  
22 provide equal or nearly equal periods of possession of or access to  
23 a child to both joint managing conservators. The court shall render  
24 a prospective order to take effect on the child's third birthday,  
25 which presumptively will be an equal parenting order.

26 SECTION 9. The heading to Subchapter E, Chapter 153, Family  
27 Code, is amended to read as follows:

1 SUBCHAPTER E. GUIDELINES FOR THE POSSESSION OF A CHILD BY A PARENT  
2 NAMED AS POSSESSORY CONSERVATOR OR FOR THE MINIMUM POSSESSION FOR A  
3 PARENT NAMED AS JOINT MANAGING CONSERVATOR

4 SECTION 10. Sections 153.251(a) and (d), Family Code, are  
5 amended to read as follows:

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

12 (d) The equal parenting and alternative ~~[standard]~~  
13 possession orders are ~~[order is]~~ designed to apply to a child three  
14 years of age or older.

15 SECTION 11. Section 153.252, Family Code, is amended to  
16 read as follows:

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

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

22 (1) possessory conservator; or

23 (2) joint managing conservator, if the court does not  
24 render an equal parenting order under Section 153.135 ~~[, and~~

25 ~~[-2) is in the best interest of the child].~~

26 SECTION 12. Section 153.253, Family Code, is amended to  
27 read as follows:

1           Sec. 153.253. EQUAL PARENTING OR ALTERNATIVE [~~STANDARD~~]  
2 POSSESSION ORDER INAPPROPRIATE OR UNWORKABLE. The court shall  
3 render an order that grants periods of possession of the child as  
4 similar as possible to those provided by:

5           (1) the equal parenting order if the work schedule or  
6 other special circumstances of a parent who is a joint managing  
7 conservator or the child or the year-round school schedule of the  
8 child make the equal parenting order unworkable or inappropriate;  
9 or

10           (2) in circumstances other than those described by  
11 Subdivision (1), the alternative [~~standard~~] possession order if the  
12 work schedule or other special circumstances of the managing  
13 conservator, the possessory conservator, or the child, or the  
14 year-round school schedule of the child, make the alternative  
15 possession [~~standard~~] order unworkable or inappropriate.

16           SECTION 13. Section 153.254(d), Family Code, is amended to  
17 read as follows:

18           (d) The court shall render a prospective order to take  
19 effect on the child's third birthday, which presumptively will be:

20           (1) if both parents are appointed as joint managing  
21 conservators of the child, the equal parenting order; or

22           (2) in circumstances other than those described by  
23 Subdivision (1), the alternative [~~standard~~] possession order.

24           SECTION 14. Section 153.255, Family Code, is amended to  
25 read as follows:

26           Sec. 153.255. AGREEMENT. The court may render an order for  
27 periods of possession of a child that vary from the equal parenting

1 order or the alternative [~~standard~~] possession order based on the  
2 agreement of the parties.

3 SECTION 15. Section 153.256, Family Code, is amended to  
4 read as follows:

5 Sec. 153.256. FACTORS FOR COURT TO CONSIDER. In ordering  
6 the terms of possession of a child under an order other than an  
7 equal parenting order or an alternative [~~a standard~~] possession  
8 order, the court shall be guided by the guidelines established by  
9 the equal parenting order or the alternative [~~standard~~] possession  
10 order, as applicable, and may consider:

11 (1) the age, developmental status, circumstances,  
12 needs, and best interest of the child;

13 (2) the circumstances of the joint managing  
14 conservators or of the managing conservator and of the parent named  
15 as a possessory conservator; and

16 (3) any other relevant factor.

17 SECTION 16. 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 EQUAL PARENTING [~~STANDARD~~] ORDER.

21 SECTION 17. 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 equal  
25 parenting [~~standard possession~~] order, including a possession  
26 order for a child under three years of age, on request by a party,  
27 the court shall state in writing the specific reasons for the

1 variance from the equal parenting [~~standard~~] order.

2 SECTION 18. The heading to Subchapter F, Chapter 153,  
3 Family Code, is amended to read as follows:

4 SUBCHAPTER F. ALTERNATIVE [~~STANDARD~~] POSSESSION ORDER

5 SECTION 19. Section 153.3101, Family Code, is amended to  
6 read as follows:

7 Sec. 153.3101. REFERENCE TO "SCHOOL" IN ALTERNATIVE  
8 [~~STANDARD~~] POSSESSION ORDER. In an alternative [~~a standard~~]  
9 possession order, "school" means the elementary or secondary school  
10 in which the child is enrolled or, if the child is not enrolled in an  
11 elementary or secondary school, the public school district in which  
12 the child primarily resides.

13 SECTION 20. Section 153.311, Family Code, is amended to  
14 read as follows:

15 Sec. 153.311. MUTUAL AGREEMENT OR SPECIFIED TERMS FOR  
16 POSSESSION. The court shall specify in an alternative [~~a standard~~]  
17 possession order that the parties may have possession of the child  
18 at times mutually agreed to in advance by the parties and, in the  
19 absence of mutual agreement, shall have possession of the child  
20 under the specified terms set out in the alternative [~~standard~~]  
21 possession order.

22 SECTION 21. Section 153.314, Family Code, is amended to  
23 read as follows:

24 Sec. 153.314. HOLIDAY POSSESSION UNAFFECTED BY DISTANCE  
25 PARENTS RESIDE APART. The following provisions govern possession  
26 of the child for certain specific holidays and supersede  
27 conflicting weekend or Thursday periods of possession without



1 regard to the distance the parents reside apart. The possessory  
2 conservator and the managing conservator shall have rights of  
3 possession of the child as follows:

4 (1) the possessory conservator shall have possession  
5 of the child in even-numbered years beginning at 6 p.m. on the day  
6 the child is dismissed from school for the Christmas school  
7 vacation and ending at noon on December 28, and the managing  
8 conservator shall have possession for the same period in  
9 odd-numbered years;

10 (2) the possessory conservator shall have possession  
11 of the child in odd-numbered years beginning at noon on December 28  
12 and ending at 6 p.m. on the day before school resumes after that  
13 vacation, and the managing conservator shall have possession for  
14 the same period in even-numbered years;

15 (3) the possessory conservator shall have possession  
16 of the child in odd-numbered years, beginning at 6 p.m. on the day  
17 the child is dismissed from school before Thanksgiving and ending  
18 at 6 p.m. on the following Sunday, and the managing conservator  
19 shall have possession for the same period in even-numbered years;

20 (4) the parent not otherwise entitled under this  
21 alternative ~~[standard]~~ possession order to present possession of a  
22 child on the child's birthday shall have possession of the child  
23 beginning at 6 p.m. and ending at 8 p.m. on that day, provided that  
24 the parent picks up the child from the residence of the conservator  
25 entitled to possession and returns the child to that same place;

26 (5) if a conservator, the father shall have possession  
27 of the child beginning at 6 p.m. on the Friday preceding Father's

1 Day and ending on Father's Day at 6 p.m., provided that, if he is not  
2 otherwise entitled under this alternative [~~standard~~] possession  
3 order to present possession of the child, he picks up the child from  
4 the residence of the conservator entitled to possession and returns  
5 the child to that same place; and

6 (6) if a conservator, the mother shall have possession  
7 of the child beginning at 6 p.m. on the Friday preceding Mother's  
8 Day and ending on Mother's Day at 6 p.m., provided that, if she is  
9 not otherwise entitled under this alternative [~~standard~~]  
10 possession order to present possession of the child, she picks up  
11 the child from the residence of the conservator entitled to  
12 possession and returns the child to that same place.

13 SECTION 22. Section 153.317(a), Family Code, is amended to  
14 read as follows:

15 (a) If elected by a conservator, the court shall alter the  
16 alternative [~~standard~~] possession order under Sections 153.312,  
17 153.314, and 153.315 to provide for one or more of the following  
18 alternative beginning and ending possession times for the described  
19 periods of possession, unless the court finds that the election is  
20 not in the best interest of the child:

21 (1) for weekend periods of possession under Section  
22 153.312(a)(1) during the regular school term:

23 (A) beginning at the time the child's school is  
24 regularly dismissed;

25 (B) ending at the time the child's school resumes  
26 after the weekend; or

27 (C) beginning at the time described by Paragraph

1 (A) and ending at the time described by Paragraph (B);

2 (2) for Thursday periods of possession under Section  
3 153.312(a)(2):

4 (A) beginning at the time the child's school is  
5 regularly dismissed;

6 (B) ending at the time the child's school resumes  
7 on Friday; or

8 (C) beginning at the time described by Paragraph  
9 (A) and ending at the time described by Paragraph (B);

10 (3) for spring vacation periods of possession under  
11 Section 153.312(b)(1), beginning at the time the child's school is  
12 dismissed for those vacations;

13 (4) for Christmas school vacation periods of  
14 possession under Section 153.314(1), beginning at the time the  
15 child's school is dismissed for the vacation;

16 (5) for Thanksgiving holiday periods of possession  
17 under Section 153.314(3), beginning at the time the child's school  
18 is dismissed for the holiday;

19 (6) for Father's Day periods of possession under  
20 Section 153.314(5), ending at 8 a.m. on the Monday after Father's  
21 Day weekend;

22 (7) for Mother's Day periods of possession under  
23 Section 153.314(6):

24 (A) beginning at the time the child's school is  
25 regularly dismissed on the Friday preceding Mother's Day;

26 (B) ending at the time the child's school resumes  
27 after Mother's Day; or

1 (C) beginning at the time described by Paragraph  
2 (A) and ending at the time described by Paragraph (B);

3 (8) for weekend periods of possession that are  
4 extended under Section 153.315(b) by a student holiday or teacher  
5 in-service day that falls on a Friday, beginning at the time the  
6 child's school is regularly dismissed on Thursday; or

7 (9) for weekend periods of possession that are  
8 extended under Section 153.315(a) by a student holiday or teacher  
9 in-service day that falls on a Monday, ending at 8 a.m. Tuesday.

10 SECTION 23. Section 153.3171(a), Family Code, as amended by  
11 Chapters 896 (H.B. 3203) and 967 (S.B. 1936), Acts of the 87th  
12 Legislature, Regular Session, 2021, is reenacted and amended to  
13 read as follows:

14 (a) Except as provided by Subsection (b), if the possessory  
15 conservator resides not more than 50 miles from the primary  
16 residence of the child, the court shall alter the alternative  
17 ~~[standard]~~ possession order under Sections 153.312, 153.314, and  
18 153.315 to provide that the conservator has the right to possession  
19 of the child as if the conservator had made the elections for  
20 alternative beginning and ending possession times under Sections  
21 153.317(a)(1)(C), (2)(C), (3), (4), (5), (6), (7)(C), (8), and (9).

22 SECTION 24. Section 153.601(4), Family Code, is amended to  
23 read as follows:

24 (4) "Parenting plan" means the provisions of a final  
25 court order that:

26 (A) set out rights and duties of a parent or a  
27 person acting as a parent in relation to the child;

1 (B) provide for periods of possession of and  
2 access to the child, which may be the terms set out in the equal  
3 parenting order under Section 153.135 or the alternative [~~standard~~]  
4 possession order under Subchapter F, and any amendments to the  
5 [~~standard possession~~] order agreed to by the parties or found by the  
6 court to be in the best interest of the child;

7 (C) provide for child support; and

8 (D) optimize the development of a close and  
9 continuing relationship between each parent and the child.

10 SECTION 25. The heading to Section 231.1211, Family Code,  
11 is amended to read as follows:

12 Sec. 231.1211. INFORMATIONAL MATERIALS ON EQUAL PARENTING  
13 ORDER AND ALTERNATIVE [~~STANDARD~~] POSSESSION ORDER.

14 SECTION 26. Section 231.1211(a), Family Code, is amended to  
15 read as follows:

16 (a) The Title IV-D agency shall create informational  
17 materials that describe the equal parenting order under Section  
18 153.135 and the possession schedule under the alternative  
19 [~~standard~~] possession order under Subchapter F, Chapter 153,  
20 including any modified [~~alternate~~] schedules or elections  
21 available to conservators.

22 SECTION 27. The enactment of this Act does not constitute a  
23 material and substantial change of circumstances sufficient to  
24 warrant modification of a court order or portion of a decree that  
25 provides for the possession of or access to a child rendered before  
26 the effective date of this Act.

27 SECTION 28. The change in law made by this Act applies to a

1 suit affecting the parent-child relationship that is pending in a  
2 trial court on the effective date of this Act or that is filed on or  
3 after the effective date of this Act.

4 SECTION 29. This Act takes effect September 1, 2025.