

## **BILL ANALYSIS**

Senate Research Center

H.B. 853  
By: Cook; Ramos (Hughes)  
State Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Despite often difficult circumstances, advocates suggest that encouraging consistent contact between a child and each parent during periods of possession helps to develop healthy, continuing relationships between parents and their children. A key factor in encouraging healthy attachments to the parties in a suit affecting the parent-child relationship is adequate consideration of sibling relationships in determining orders for possession of and access to young children. H.B. 853 seeks to address this issue by revising the factors to be considered by a court in a suit affecting the parent-child relationship when rendering an order for possession of a child less than three years of age and by authorizing the court to render an order for periods of possession of such a child based on the parties' agreement if it is in the child's best interest.

H.B. 853 amends current law relating to orders for possession of and access to a child in a suit affecting the parent-child relationship.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 153.253, Family Code, as follows:

Sec. 153.253. STANDARD POSSESSION ORDER INAPPROPRIATE OR UNWORKABLE. Requires the court to 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, rather than the standard order, unworkable or inappropriate.

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

(a) Requires the court to render an order appropriate under the circumstances for possession of a child less than three years of age. Requires the court, in rendering the order, to 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, rather than caregiving provided to the child before and during the current suit;
- (2) the personal availability of the parties as caregivers, rather than availability of the parties and the willingness of the parties to personally care for the child;
- (3) the present and immediate physical, medical, behavioral, or developmental needs of the child;

- (4) any physical, medical, behavioral, rather than emotional, economic, or social conditions of the parties;
- (5) the impact and influence of each individual residing in a residence with a party to the suit or having considerable interaction with the child during a party's period of possession, rather than individuals, other than the parties, who will be present, during a party's periods of possession;
- (6) the present and proposed environments in which possession and access has occurred or is to occur;
- (7) the presence or absence of siblings during periods of possession;
- (8) the child's need to develop healthy attachments to each party if possible, rather than both parents;
- (9) the child's need for continuity of routine;
- (10) the location and proximity of the residences of the parties;
- (11) the need for a graduated possession schedule when there has been minimal or inconsistent contact with the child;
- (12) the ability of the parties to share in the responsibilities, rights, and duties of caring for the child, rather than responsibilities, rights, and duties of parenting; and
- (13) any other issue consistent with, rather than any other evidence of, the best interest of the child, taking into consideration the circumstances of the parties.

Deletes text requiring the court, in rendering the order, to consider evidence of all relevant factors, including the effect on the child that may result from separation from either party and the need for a temporary possession schedule that incrementally shifts to the schedule provided in the prospective order under Subsection (d) based on the age of the child. Makes nonsubstantive changes.

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

(c) Provides that Section 153.258 applies to an order rendered under Section 153.254 (Child Less Than Three Years of Age).

SECTION 3. Amends the heading to Section 153.258, Family Code, to read as follows:

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

SECTION 4. Amends Section 153.258(a), Family Code, as follows:

(a) Requires the court, in all cases in which possession of a child by a parent is contested and the possession of the child varies from the standard possession order, including a possession order for a child under three years of age, on request by a party, to state in writing the specific reasons for the variance from the standard possession order, rather than from the standard order.

SECTION 5. Makes application of Section 153.254, Family Code, as amended by this Act, prospective.

SECTION 6. Effective date: September 1, 2021.