

House Bill 3414 “Equal Parenting Time Election”

Currently- when parents get divorced or separated

- **SPO** - Texas Family Code 153.252 presumes that the Standard Possession Order (SPO) shall be applied when deciding physical custody of children after a divorce or separation.
 - The SPO allows children 23%-24% time with their non-custodial parent
- **ESPO** - Texas Family Code 153.317 allows non-custodial parents to elect the “Expanded Standard Possession Orders” (ESPO), subject to a judge’s discretion.
 - The ESPO allows children to spend 33%-34% time with their non-custodial parent

House Bill 3414- Equal Possession Time Election

- Would allow non-custodial parents to elect equal possession time¹, subject to a judge’s discretion².
 - (1) Equal Possession Time
 - Week on/ Week off Schedule
 - Alternating 5 and 2 day periods (5-2-2-5 schedule)
 - *Any schedule that allows for approximately equal possession time
 - (2) Subject to a judge’s discretion
 - If a judge finds that equal possession would not be in the child’s best interest, the judge can decline to enter such orders.
 - Family Law judges have wide discretion and refusing to enter equal possession orders, as specified in H.B. 3414, would be well within a judge’s discretion.
- What H.B. 3414 Does
 - Allows parents and judge’s more options when selecting parenting plans
 - Updates Texas’ family code to include a possession order which research says is in the best interest of children
 - Allows Texas to stay current with the trend across the United States that allows children maximum time with non-custodial parents
 - Let’s judges and attorneys know that the Texas legislature approves of equal possession orders as an option
- What H.B. 3414 doesn’t do
 - H.B. 3414 doesn’t mandate or presume that equal possession orders will be applied
 - H.B. 3414 doesn’t require judges to obey a parent’s election, such an election is still subject to the best interest of the child standard.