



February 1, 2017

To: **MEMBERS OF THE 85TH LEGISLATURE**

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Subj: **FIRST: DO NO HARM (BEWARE OF NICE LABELS)**

Some folks may want you to sign onto Rep. James White's House Bill 453, which they call the "50/50," "Equal Parenting" or "Shared Parenting" bill.

The Texas Family Law Foundation, consisting of some 800 family law specialists from all across Texas, opposes H.B. 453, for a number of reasons:

**STOP, LOOK AND LISTEN BEFORE YOU CROSS THIS STREET:
This seemingly simple bill would literally affect hundreds of thousands of
Texans and courts in every county--and not for the better.**

Some parents, often the men, think current law discriminates against them by making them the "non-primary" parent and giving them less time than they should have with their kids. They want "50/50" time, which they call "equal parenting."

Under current law, if a parent exercises all their rights under the statute, that parent will have possession of the child on **at least** 49% of the days in each year. That's **3.5 days less** than half of the days in a year.

H.B. 453 says courts cannot award a parent **more than 5 days more** than the other. So, the parent **could actually get fewer days** under the bill than under current law.

Under current law, depending on the days of the week when certain holidays take place, in some years the non-primary parent can get 200 days—i.e., more than 50%.

Bottom Line: H.B. 453 **could actually reduce** the number of days a non-primary parent can get.

Under current law, a court can already order exactly 50% of the time to each parent. A court can change the statutory schedule for that purpose, if the court finds it's in the best interest of the child.

Under current law, parents who agree on a parenting schedule can submit it to the court and the court must accept it, unless the court finds it would not be in the best interest of the child. Courts rarely disturb parental agreements like this.

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Under current law, it's when parents cannot agree on a schedule that courts make the decision. Those who are complaining could not agree on a parenting plan with "The Ex." The Family Code focuses on *the needs of kids* when parents cannot agree.

Under current law, if a non-primary parent has substantially fewer days of possession than the other parent, it means a court has found that it is in the best interest of the child not to provide approximately equal time. Such issues as lack of parenting abilities, conditions in that parent's home, drug or alcohol abuse, family violence, undesirable roommates of that parent, work schedules that are not conducive to parenting and other factors that may affect the child.

Under current law, children under 3 years of age are helped with special rules to tailor a parenting schedule. The Legislature provides 13 factors based on the needs of a young child. *H.B. 453 treats an infant the same as a 14 year-old.*

Under current law, child support is not determined by how many days each parent sees the child, nor should it be. Many who want the law to provide exactly equal times of possession believe they would not have to pay child support. This often has more to do with not wanting to make payments to "The Ex" than concern for the child. *The child's needs for support from both parents should be paramount.*

Current law reduces litigation. When two good parents can't agree, courts have solutions in current law worked out over decades of experience. H.B. 453 requires proof that equal time is *not* in the child's best interest. Because equal possession times often don't fit the ways people live, under H.B. 453 they will more frequently have disputes that the court can only resolve after taking evidence in a trial.

H.B. 453 would increase litigation and spend money on lawyers instead of children. Good for lawyers billing by the hour, but not so much for kids, adults or courts.

Current law prohibits gender-based discrimination and requires that each parent's time be maximized. *Texas law ensures greater equality than even the laws of other states cited by the supporters of H.B. 453 as "shared parenting" states.*

If H.B. 453 were to become law, people with existing custody orders who still can't co-parent amicably with their exes will flood into courts trying to get a redo. H.B. 453 purports to prevent this, but constitutionally cannot do so.

For these reasons, we respectfully ask that you oppose H.B. 453.

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