

# NILSSON LEGAL GROUP, PLLC

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February 10, 2021

To: The Honorable Members of the Texas House of Representatives

Re: House Bill 803

Dear Honorable Members of the Texas House of Representatives:

I write to you today in support of House Bill 803, a bill relating to equal parenting orders in Suits Affecting Parent-Child Relationships. Not only do I write as a family law attorney with eight years' experience, but more importantly, as a father. I ask that you take this proposed bill into serious consideration and recognize the impact that it will have on generations of Texans to come.

As of right now, the Texas Family Code provides that a *presumption* exists in Suits Affecting Parent-Child Relationships that it is in the child's best interest that one parent be named the *primary* managing conservator; meaning that one parent has the exclusive right to designate the primary residence of the child. The Family Code also provides the *presumption* that it is also in the child's best interest that the other parent should have a standard possession and access schedule for the child. Under the standard possession schedule, the child only gets to see their other parent every other weekend, a couple hours on Thursdays (but only during the school year), every other holiday, and for 30 days during the summer. Keep in mind that for most of these other parents, taking 30 days off of work during the summer is usually not an option.

This is what you have deemed to be *presumptively* in the best interest of our children.

Now, technically, these presumptions can be overcome by a standard of clear and convincing evidence, but they very seldom are. As a practicing family law attorney, I can attest that unless the parents have been exercising a 50/50 possession schedule for a substantial period of time prior to going to court, 99 times out of 100 the court is going to lean on the *presumptions* that our representatives in the State Legislature have given them.

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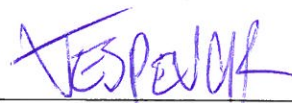
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The Family Code sets forth several other corollary presumptions that flow from the primary parent presumption and the standard possession schedule presumption. One corollary presumption that incentivizes parents fight so hard to get the *primary* designation is the financial assistance it provides, for the Family Code also provides that it is in the best interest of the child that the other parent pay “guideline” child support. Again, as a practicing family law attorney, I can attest that this financial benefit is often a significant motivating factor in getting the *primary* designation and depriving children of spending time with their other parent.

Now, a 50/50 schedule may not work for everyone; in fact, it probably won’t work for most. However, it would work for some. For those families in which a 50/50 schedule would work, they should not have to overcome a presumption that it would not. Equal parenting time should be the presumption.

I urge you to pass HB 803 and make the *presumption* be that children have equal time with both of their parents. If a 50/50 schedule is not feasible, then so be it...courts can look at designating a *primary* and handing out standard possession schedules. But that shouldn’t be the starting point. The starting point should be equal time with each parent. Please do not hesitate to contact my office should you wish to discuss further.

Sincerely,



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J. Spencer Nilsson  
Managing Attorney