

SUBCHAPTER F. STANDARD POSSESSION ORDER

Sec. 153.311. MUTUAL AGREEMENT OR SPECIFIED TERMS FOR POSSESSION. The court shall specify in a standard possession order that the parties may have possession of the child at times mutually agreed to in advance by the parties and, in the absence of mutual agreement, shall have possession of the child under the specified terms set out in the standard order.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Sec. 153.312. PARENTS WHO RESIDE 100 MILES OR LESS APART. (a) If the possessory conservator resides 100 miles or less from the primary residence of the child, the possessory conservator shall have the right to possession of the child as follows:

(1) on weekends throughout the year beginning at 6 p.m. on the first, third, and fifth Friday of each month and ending at 6 p.m. on the following Sunday except that, at the possessory conservator's election made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, the weekend periods of possession specified by this subdivision that occur during the regular school term shall begin at the time the child's school is regularly dismissed and end at 6 p.m. on the following Sunday; and

(2) on Thursdays of each week during the regular school term beginning at 6 p.m. and ending at 8 p.m., or, at the possessory conservator's election made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, beginning at the time the child's school is regularly dismissed and ending at the time the child's school resumes, unless the court finds that visitation under this subdivision is not in the best interest of the child.

(b) The following provisions govern possession of the child for vacations and certain specific holidays and supersede conflicting weekend or Thursday periods of possession. The possessory conservator and the managing conservator shall have rights of possession of the child as follows:

(1) the possessory conservator shall have possession in even-numbered years, beginning at 6 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6 p.m. on the day before school resumes after that vacation, and the managing conservator shall have possession for the same period in odd-numbered years;

(2) if a possessory conservator:

(A) gives the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 30 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each; or

(B) does not give the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 30 consecutive days beginning at 6 p.m. on July 1 and ending at 6 p.m. on July 31;

(3) if the managing conservator gives the possessory conservator written notice by April 15 of each year, the managing conservator shall have possession of the child on any one weekend beginning Friday at 6 p.m. and ending at 6 p.m. on the following Sunday during one period of possession by the possessory conservator under Subdivision (2), provided that the managing conservator picks up the child from the possessory conservator and returns the child to that same place; and

(4) if the managing conservator gives the possessory conservator written notice by April 15 of each year or gives the possessory conservator 14 days' written notice on or after April 16 of each year, the

managing conservator may designate one weekend beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, during which an otherwise scheduled weekend period of possession by the possessory conservator will not take place, provided that the weekend designated does not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1997, 75th Leg., ch. 802, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 236, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1036, Sec. 13, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 916, Sec. 12, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1041, Sec. 2, eff. June 15, 2007.

Sec. 153.313. PARENTS WHO RESIDE OVER 100 MILES APART. If the possessory conservator resides more than 100 miles from the residence of the child, the possessory conservator shall have the right to possession of the child as follows:

(1) either regular weekend possession beginning on the first, third, and fifth Friday as provided under the terms applicable to parents who reside 100 miles or less apart or not more than one weekend per month of the possessory conservator's choice beginning at 6 p.m. on the day school recesses for the weekend and ending at 6 p.m. on the day before school resumes after the weekend, provided that the possessory conservator gives the managing conservator 14 days' written or telephonic notice preceding a designated weekend, and provided that the possessory conservator elects an option for this alternative period of possession by written notice given to the managing conservator within 90 days after the parties begin to reside more than 100 miles apart, as applicable;

(2) each year beginning on the day the child is dismissed from school for the school's spring vacation and ending at 6 p.m. on the day before school resumes after that vacation;

(3) if the possessory conservator:

(A) gives the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 42 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each; or

(B) does not give the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 42 consecutive days beginning at 6 p.m. on June 15 and ending at 6 p.m. on July 27;

(4) if the managing conservator gives the possessory conservator written notice by April 15 of each year the managing conservator shall have possession of the child on one weekend beginning Friday at 6 p.m. and ending at 6 p.m. on the following Sunday during one period of possession by the possessory conservator under Subdivision (3), provided that if a period of possession by the possessory conservator exceeds 30 days, the managing conservator may have possession of the child under the terms of this subdivision on two nonconsecutive weekends during that time period, and further provided that the managing conservator picks up the child from the possessory conservator and returns the child to that same place; and

(5) if the managing conservator gives the possessory conservator written notice by April 15 of each year, the managing conservator may designate 21 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each, during which the possessory conservator may not have possession of the child, provided that the period or periods so designated do not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 36, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 236, Sec. 2, eff. Sept. 1, 1999.

Sec. 153.314. HOLIDAY POSSESSION UNAFFECTED BY DISTANCE PARENTS RESIDE APART.

The following provisions govern possession of the child for certain specific holidays and supersede conflicting weekend or Thursday periods of possession without regard to the distance the parents reside apart. The possessory conservator and the managing conservator shall have rights of possession of the child as follows:

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

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

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

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

(5) if a conservator, the father shall have possession of the child beginning at 6 p.m. on the Friday preceding Father's Day and ending on Father's Day at 6 p.m., provided that, if he is not otherwise entitled under this standard order to present possession of the child, he picks up the child from the residence of the conservator entitled to possession and returns the child to that same place; and

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

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 2003, 78th Leg., ch. 1036, Sec. 14, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1041, Sec. 3, eff. June 15, 2007.

Sec. 153.315. WEEKEND POSSESSION EXTENDED BY HOLIDAY. (a) If a weekend period of possession of the possessory conservator coincides with a school holiday during the regular school term or with a federal, state, or local holiday during the summer months in which school is not in session, the weekend possession shall end at 6 p.m. on a Monday holiday or school holiday or shall begin at 6 p.m. Thursday for a Friday holiday or school holiday, as applicable.

(b) At the possessory conservator's election, made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, periods of possession extended by a holiday may begin at the time the child's school is regularly dismissed.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Sec. 153.316. GENERAL TERMS AND CONDITIONS. The court shall order the following general terms and conditions of possession of a child to apply without regard to the distance between the residence of a parent and the child:

(1) the managing conservator shall surrender the child to the possessory conservator at the beginning of each period of the possessory conservator's possession at the residence of the managing conservator;

(2) if the possessory conservator elects to begin a period of possession at the time the child's school is regularly dismissed, the managing conservator shall surrender the child to the possessory conservator at the beginning of each period of possession at the school in which the child is enrolled;

(3) the possessory conservator shall be ordered to do one of the following:

(A) the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at the residence of the possessory conservator; or

(B) the possessory conservator shall return the child to the residence of the managing conservator at the end of each period of possession, except that the order shall provide that the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at the residence of the possessory conservator if:

(i) at the time the original order or a modification of an order establishing terms and conditions of possession or access the possessory conservator and the managing conservator lived in the same county, the possessory conservator's county of residence remains the same after the rendition of the order, and the managing conservator's county of residence changes, effective on the date of the change of residence by the managing conservator; or

(ii) the possessory conservator and managing conservator lived in the same residence at any time during a six-month period preceding the date on which a suit for dissolution of the marriage was filed and the possessory conservator's county of residence remains the same and the managing conservator's county of residence changes after they no longer live in the same residence, effective on the date the order is rendered;

(4) if the possessory conservator elects to end a period of possession at the time the child's school resumes, the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at the school in which the child is enrolled;

(5) each conservator shall return with the child the personal effects that the child brought at the beginning of the period of possession;

(6) either parent may designate a competent adult to pick up and return the child, as applicable; a parent or a designated competent adult shall be present when the child is picked up or returned;

(7) a parent shall give notice to the person in possession of the child on each occasion that the parent will be unable to exercise that parent's right of possession for a specified period;

(8) written notice shall be deemed to have been timely made if received or postmarked before or at the time that notice is due; and

(9) if a conservator's time of possession of a child ends at the time school resumes and for any reason the child is not or will not be returned to school, the conservator in possession of the child shall immediately notify the school and the other conservator that the child will not be or has not been returned to school.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 37, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 9, Sec. 1, eff. Sept. 1, 1997.

Sec. 153.3161. POSSESSION DURING MILITARY DEPLOYMENT. (a) In this section, "military deployment" means military duty ordered for a period of more than six months during which the person ordered to duty:

(1) is not provided the option of being accompanied by the person's child; and

(2) is serving in a location where access to the person's child is not reasonably possible.

(b) In addition to the general terms and conditions of possession required by Section 153.316, if a possessory conservator or a joint managing conservator of the child without the exclusive right to designate the primary residence of the child is currently a member of the armed forces of the state or the United States or is reasonably expected to join those forces, the court shall:

(1) permit that conservator to designate a person who may exercise possession of the child on behalf of that conservator during any period that the conservator is deployed under a military deployment; and

(2) if the conservator elects to designate a person under Subdivision (1), provide in the order for possession of the child by the designated person under those circumstances, subject to the court's determination that the possession is in the best interest of the child.

(c) If the court determines that the possession is in the best interest of the child, the court shall provide in the order that during periods of military deployment:

(1) the designated person has the right to possession of the child for the periods and in the manner in which the deployed conservator would be entitled to exercise possession if not deployed;

(2) the child's other parent and the designated person are subject to the requirements of Section 153.316, with the designated person considered for purposes of that section to be the possessory conservator;

(3) the designated person has the rights and duties of a nonparent possessory conservator under Section 153.376(a) during the period that the person has possession of the child; and

(4) the designated person is subject to any provision in a court order restricting or prohibiting access to the child by any specified individual.

(d) After the military deployment is concluded, and the deployed parent returns to that parent's usual residence, the designated person's right to possession under this section terminates and the rights of all affected parties are governed by the terms of any court order applicable when a parent is not deployed.

Added by Acts 2005, 79th Leg., Ch. 916, Sec. 13, eff. June 18, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 972, Sec. 8, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1041, Sec. 4, eff. June 15, 2007.

Sec. 153.317. ALTERNATIVE POSSESSION TIMES. If a child is enrolled in school and the possessory conservator elects before or at the time of the rendition of the original or modification order, the standard order must expressly provide that the possessory conservator's period of possession shall begin or end, or both, at a different time expressly set in the standard order under and within the range of alternative times provided by one or both of the following subdivisions:

(1) instead of a period of possession by a possessory conservator beginning at 6 p.m. on the day school recesses, the period of possession may be set in the standard possession order to begin at the time the child's school is regularly dismissed or at any time between the time the child's school is regularly dismissed and 6 p.m.; and

(2) except for Thursday evening possession, instead of a period of possession by a possessory conservator ending at 6 p.m. on the day before school resumes, the period of possession may be set in the standard order to end at the time school resumes.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1997, 75th Leg., ch. 9, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1036, Sec. 15, eff. Sept. 1, 2003.