

Question

Petitioner's actions have resulted in instability for the children, including attempts to deny Respondent access without credible evidence of danger, and have relied on inflammatory rhetoric rather than substantiated facts. Under Texas Family Code § 153.002, the best interest of the child is the primary consideration in determining issues of conservatorship and possession. By pursuing litigation strategies that prioritize personal advantage over the children's stability and well-being, and by making unsupported allegations that disrupt the children's relationship with their father, Petitioner and her counsel have acted in egregious disregard of the children's best interests as mandated by law.

Answer (Texas)

Short response

Texas law requires that the best interest of the child be the paramount consideration in all conservatorship and possession matters, and conduct that creates instability, seeks to deny access without credible evidence, or relies on inflammatory rhetoric rather than substantiated facts is contrary to this mandate. Litigation strategies that disrupt the parent-child relationship or prioritize personal advantage over the child's stability and well-being are legally disfavored and may be sanctioned or rejected by Texas courts.

Summary

The Texas Family Code, particularly § 153.002, establishes that the best interest of the child is the primary consideration in all decisions regarding conservatorship and possession. Texas courts consistently interpret this standard to require stability, evidence-based decision-making, and the preservation of the parent-child relationship, with a strong presumption in favor of frequent and continuing contact with both parents unless credible evidence demonstrates that such contact would endanger the child.

Attempts to deny a parent access without substantiated evidence of danger, or to use inflammatory and unsupported allegations in litigation, are inconsistent with both statutory mandates and judicial precedent. Such conduct undermines the child's stability and well-being, and courts have repeatedly held that these tactics are not only contrary to the child's best interests but may also justify modification of conservatorship or sanctions against the offending party.

Background and Relevant Law

Legislative Framework

The Texas Family Code provides a comprehensive statutory scheme governing conservatorship, possession, and access to children. The central provision is § 153.002, which unequivocally states that the best interest of the child must always be the primary consideration in determining issues of conservatorship and possession or access, regardless of the parties involved, proposition, authority citation ([Tex. Fam. Code § 153.002](#)).

Section 153.001 articulates the public policy of Texas, emphasizing three core objectives: (1) ensuring children have frequent and continuing contact with parents who act in their best interest, (2) providing a safe, stable, and nonviolent environment, and (3) encouraging parents to share in the rights and duties of raising their child after separation or divorce, proposition, authority citation ([Tex. Fam. Code § 153.001](#)).

Section 153.193 further limits the court's ability to restrict or deny a parent's possession or access, providing that any such restriction must not exceed what is required to protect the child's best interest, proposition, authority citation ([Tex. Fam. Code § 153.193](#)). This means that any attempt to deny or limit access must be justified by credible evidence that such action is necessary for the child's welfare.

Section 153.131 establishes a rebuttable presumption that appointing both parents as joint managing conservators is in the child's best interest, unless there is evidence that such an arrangement would significantly impair the child's physical health or emotional development, proposition, authority citation ([Tex. Fam. Code § 153.131](#)).

Section 153.134, while specifically addressing joint managing conservatorship, requires courts to consider whether each parent can prioritize the child's welfare, encourage a positive relationship with the other parent, and minimize disruptions to the child's routine, proposition, authority citation ([Tex. Fam. Code § 153.134](#)).

Finally, Section 107.109 governs child custody evaluations, mandating that any opinion restricting access must be based on a thorough, evidence-based evaluation, including interviews, observations, and collateral information, proposition, authority citation ([Tex. Fam. Code § 107.109](#)).

Case Law

Texas appellate courts have consistently interpreted these statutory provisions to require that conservatorship and possession decisions be grounded in the child's best interest, with a strong emphasis on stability, evidence-based findings, and the preservation of the parent-child relationship.

The Texas Supreme Court in [Lenz v. Lenz, 79 S.W.3d 10 \(Tex. 2002\)](#) reaffirmed that the best interest of the child is the controlling standard, and

that public policy favors frequent and continuing contact with fit parents and a stable environment. Similarly, [In the Interest of V.L.K., 24 S.W.3d 338 \(Tex. 2000\)](#) emphasized the importance of stability and the need to prevent constant litigation, though it was later disapproved in part by [In re C.J.C., 603 S.W.3d 804 \(Tex. 2020\)](#) to the extent it failed to fully recognize the constitutional fit-parent presumption. However, the core best-interest and stability principles remain authoritative.

The “Holley factors,” first articulated in [Holley v. Adams, 544 S.W.2d 367 \(Tex. 1976\)](#) and subsequently codified by statute, provide a non-exhaustive list of considerations for best-interest determinations. These include the child’s desires, emotional and physical needs, danger to the child, parental abilities, stability of the home, and acts or omissions of the parent that may indicate an improper parent-child relationship.

Recent appellate decisions, such as [Zachery v. Zachery, 04-24-00531-CV \(Tex. App. Aug 20, 2025\)](#), [In re R.P. \(Tex. App. Feb 28, 2024\)](#), and [Cox v. Cox \(Tex. App. Oct 10, 2023\)](#), have applied these principles to hold that restrictions on access or modifications to conservatorship must be supported by credible, specific evidence of harm or danger to the child. Unsupported or inflammatory allegations, or litigation strategies that create instability or disrupt the parent-child relationship, are consistently found to be contrary to the child’s best interests.

Other cases, such as [W.G. v. Tex. Dep’t of Family & Protective Servs. \(Tex. App. Jul 7, 2023\)](#), [In re R.M. \(Tex. App. May 21, 2018\)](#), and [In re Interest of B.O. \(Tex. App. Jun 15, 2017\)](#), further reinforce the centrality of stability and the need for evidence-based decision-making, while condemning conduct that injects uncertainty or instability into the child’s life.

Courts have also recognized that attempts to deny access or interfere with the parent-child relationship without credible evidence of danger are legally reprehensible and may justify modification of conservatorship or other remedial action, proposition, authority citation ([Marriage of Chandler, Matter of, 914 S.W.2d 252 \(Tex. App. 1996\)](#); [Gunther v. Gunther, 478 S.W.2d 821 \(Tex. Ct. App. 1972\)](#)).

Analysis

The Best Interest Standard and Its Application

The statutory and case law framework in Texas makes clear that the best interest of the child is the paramount consideration in all conservatorship and possession matters, proposition, authority citation ([Tex. Fam. Code § 153.002](#); [Lenz v. Lenz, 79 S.W.3d 10 \(Tex. 2002\)](#)). This standard is not merely aspirational; it is a binding legal requirement that governs every aspect of judicial decision-making in this context.

The public policy of Texas, as articulated in § 153.001, is to ensure that children have frequent and continuing contact with both parents, provided those parents act in the child’s best interest, and to provide a stable, nonviolent environment. Any conduct or litigation strategy that seeks to

deny access to a parent without credible evidence of danger, or that relies on inflammatory rhetoric rather than substantiated facts, directly undermines these policy goals, proposition, authority citation ([Tex. Fam. Code § 153.001](#)).

Section 153.193 further limits the ability of courts (and, by extension, litigants) to restrict or deny a parent's access to their child. Any such restriction must be narrowly tailored and supported by credible evidence that it is necessary to protect the child's best interest. Attempts to impose greater restrictions than necessary, or to deny access without substantiated evidence of harm, are inconsistent with the statutory mandate and may be grounds for reversal or modification, proposition, authority citation ([Tex. Fam. Code § 153.193; Brandon v. Rudisel, 586 S.W.3d 94 \(Tex. App. 2019\)](#)).

The presumption in favor of joint managing conservatorship, codified in § 153.131, further underscores the legal expectation that both parents will remain actively involved in the child's life unless there is credible evidence that such involvement would significantly impair the child's physical health or emotional development. Litigation strategies that seek to rebut this presumption without substantiated evidence are disfavored and may be rejected by the courts, proposition, authority citation ([Tex. Fam. Code § 153.131; In re C.J.C., 603 S.W.3d 804 \(Tex. 2020\)](#)).

Judicial Interpretation and the Role of Evidence

Texas courts have consistently held that decisions regarding conservatorship and possession must be based on credible, specific evidence, not on speculation, suspicion, or inflammatory rhetoric. In [In re R.P.](#) (Tex. App. Feb 28, 2024), the court found an abuse of discretion where a parent was denied access absent current evidence of specific actions or omissions demonstrating harm to the child. Similarly, [M. A. R. G. v. Tex. Dep't of Family & Protective Servs.](#) (Tex. App. Dec 11, 2020) emphasized that courts require evidence of specific conduct likely to result in harm, and that mere suspicion or speculation is insufficient.

The Holley factors, as articulated in [Holley v. Adams, 544 S.W.2d 367 \(Tex. 1976\)](#) and routinely applied in subsequent cases, provide a framework for evaluating the best interest of the child. These factors include the child's desires, emotional and physical needs, danger to the child, parental abilities, stability of the home, and acts or omissions of the parent. Notably, the stability of the home and the acts or omissions of the parent that may indicate an improper parent-child relationship are directly implicated when a parent or their counsel pursues litigation strategies that create instability or disrupt the child's relationship with the other parent.

In [Cox v. Cox](#) (Tex. App. Oct 10, 2023), the court addressed a situation where a parent made false allegations of abuse and attempted to interfere with the other parent's relationship with the children. The court found that such conduct undermined stability and the parent-child relationship, justifying modification of conservatorship. This case is directly on point in condemning litigation strategies that rely on unsupported, inflammatory allegations.

Similarly, [W.G. v. Tex. Dep't of Family & Protective Servs.](#) (Tex. App. Jul 7, 2023) and [A. C. v. Tex. Dep't of Family & Protective Servs., 577 S.W.3d 689 \(Tex. App. 2019\)](#) both emphasize that stability and permanence are paramount in the upbringing of children, and that conduct creating uncertainty or instability endangers the child's well-being.

Courts have also recognized that attempts to deny access or interfere with the parent-child relationship without credible evidence of danger are legally reprehensible and may justify modification of conservatorship or other remedial action, proposition, authority citation ([Marriage of Chandler, Matter of, 914 S.W.2d 252 \(Tex. App. 1996\)](#); [Gunther v. Gunther, 478 S.W.2d 821 \(Tex. Ct. App. 1972\)](#)).

Litigation Conduct and the Child's Best Interest

Litigation strategies that prioritize personal advantage over the child's stability and well-being, or that rely on unsupported allegations and inflammatory rhetoric, are inconsistent with the statutory and judicial mandates governing conservatorship and possession. Such conduct not only undermines the child's stability but also disrupts the parent-child relationship, both of which are central to the best-interest analysis.

In [Patterson v. Brist, 236 S.W.3d 238 \(Tex. App. 2006\)](#), the court criticized modification efforts that lacked evidentiary support and created instability, noting that prolonged litigation and unsupported inferences can themselves be sources of instability. Similarly, [In the Interest of V.L.K., 24 S.W.3d 338 \(Tex. 2000\)](#) (though later disapproved in part by [In re C.J.C., 603 S.W.3d 804 \(Tex. 2020\)](#) on the fit-parent presumption) emphasized the importance of stability and the need to prevent constant litigation.

The Texas Supreme Court in [Lenz v. Lenz, 79 S.W.3d 10 \(Tex. 2002\)](#) and the appellate court in [In re A.L.E., 279 S.W.3d 424 \(Tex. App. 2009\)](#) both reaffirmed that the best interest of the child is the controlling standard, and that public policy favors frequent and continuing contact with fit parents and a stable environment.

Attempts to deny access or impose restrictions without credible evidence of danger are not only inconsistent with the statutory mandate but may also be grounds for reversal or modification, as seen in [Brandon v. Rudisel, 586 S.W.3d 94 \(Tex. App. 2019\)](#) and [In re R.P. \(Tex. App. Feb 28, 2024\)](#).

The Role of Evidence and the Limits of Judicial Discretion

Texas courts have broad discretion in determining what is in the child's best interest, but this discretion is not unfettered. It must be exercised within the bounds of the statutory framework and supported by credible evidence. As stated in [In re R.M. \(Tex. App. May 21, 2018\)](#), a trial court abuses its discretion by ruling without supporting evidence.

Section 107.109 of the Family Code further reinforces the requirement for evidence-based decision-making, mandating that any custody evaluation supporting restrictions on access must be grounded in a thorough,

methodologically sound evaluation, including interviews, observations, and collateral information, proposition, authority citation ([Tex. Fam. Code § 107.109](#)).

The appellate court in [In re B.B.M., 291 S.W.3d 463 \(Tex. App. 2009\)](#) emphasized that restricting a parent's role requires more than speculative claims; there must be specific, identifiable conduct likely to harm the child. Mere assertions or suspicions are insufficient.

Parental Presumption and Encouragement of Parent-Child Relationships

The Texas Family Code and judicial precedent establish a strong presumption in favor of joint managing conservatorship and frequent, continuing contact with both parents, unless credible evidence demonstrates that such arrangements would endanger the child, proposition, authority citation ([Tex. Fam. Code § 153.131](#); [In re C.J.C., 603 S.W.3d 804 \(Tex. 2020\)](#)). Courts expect parents to encourage and accept a positive relationship between the child and the other parent, and conduct that undermines this expectation is viewed negatively in the best-interest analysis, proposition, authority citation ([Tex. Fam. Code § 153.134](#); [Child Custody Basics In Texas \(2024\)](#)).

Attempts to deny access or interfere with the parent-child relationship without credible evidence of danger are not only inconsistent with the statutory mandate but may also be grounds for reversal or modification, as seen in [Brandon v. Rudisel, 586 S.W.3d 94 \(Tex. App. 2019\)](#) and [In re R.P. \(Tex. App. Feb 28, 2024\)](#).

Exceptions and Caveats

While the best-interest standard is paramount, there are exceptions where restrictions on access or deviations from joint managing conservatorship are justified. These include situations where credible evidence demonstrates that a parent's involvement would significantly impair the child's physical health or emotional development, or where there is a history of family violence, proposition, authority citation ([Tex. Fam. Code § 153.131](#)).

It is also important to note that while [In the Interest of V.L.K., 24 S.W.3d 338 \(Tex. 2000\)](#) was disapproved in part by [In re C.J.C., 603 S.W.3d 804 \(Tex. 2020\)](#) for failing to fully recognize the constitutional fit-parent presumption, the core principles regarding the best-interest standard and the importance of stability remain authoritative.

Conclusion

Texas law is unequivocal in requiring that the best interest of the child be the primary consideration in all conservatorship and possession matters. Conduct that creates instability, seeks to deny access without credible evidence, or relies on inflammatory rhetoric rather than substantiated facts

is contrary to both statutory mandates and judicial precedent. Litigation strategies that disrupt the parent-child relationship or prioritize personal advantage over the child's stability and well-being are legally disfavored and may be sanctioned or rejected by Texas courts. The law expects parents and their counsel to act in a manner that promotes stability, encourages positive relationships with both parents, and bases all claims and requests on credible, substantiated evidence.

Legal Authorities

[In the Interest of Christopher Walters, 39 S.W.3d 280 \(Tex. App. 2001\)](#)

Texas Court of Appeals

Extract

The best interest of the child is the primary consideration in determining conservatorship and possession of and access to the child. Tex. Fam. Code Ann. § 153.002 (Vernon 1996)." ... "It is somewhat incongruent to find that the best interest of the child requires restrictions on a parent's access, but to allow complete, unsupervised access if the other parent consents." ... "The Texas Family Code establishes a rebuttable presumption that the standard possession order provides reasonable minimum possession of a child and is in the best interest of the child. Tex. Fam. Code Ann. § 153.252 (Vernon 1996)." ... "By its terms, Section 153.193 allows for either a denial of possession or a restriction or limitation on possession or access. ... It must be remembered, however, that the best interest of the child is always the primary consideration in determining issues of possession and access. ... Therefore, a severe restriction or limitation, even one that amounts to a denial of access, is permissible if it is in the best interest of the child.

Summary

Texas law makes the child's best interest the paramount consideration in access and conservatorship decisions (§153.002). There is a rebuttable presumption that the standard possession order is in the child's best interest (§153.252), placing the burden on a party seeking deviations or severe restrictions to provide supporting evidence and specific reasons. The opinion criticizes arrangements that effectively deny access based on the other parent's unilateral consent and notes that if safety is a concern, the court should craft specific, evidence-based safeguards (e.g., supervised access) rather than open-ended control by one parent. The court's discussion underscores that restrictions—including those amounting to denial—must be justified by best-interest evidence and structured to avoid unnecessary disruption and future litigation. This supports an argument that attempts to deny or severely restrict the other parent's access without credible evidence, or through litigation tactics prioritizing leverage over stability, contravene the best-interest mandate and the statutory presumption of standard possession.

[Caldwell v. Garfutt, NO. 03-14-00019-CV \(Tex. App. Jan 07, 2016\)](#)

Texas Court of Appeals

Extract

Based on our review of the record and taking into account applicable presumptions under the Family Code, we cannot conclude that the trial court abused its discretion in its granted relief or in making its best interest findings. See ... Tex. Fam. Code §§ 153.004(b)131(b) ('It is a rebuttable presumption that the appointment of the parents of a child as joint managing conservators is in the best interest of the child.'), .134 (listing factors to consider in determining whether appointment of parents as joint managing conservators is in child's best interest), .252(2) ('In a suit, there is a rebuttable presumption that the standard possession order ... is in the best interest of the child.'), .253 (allowing court to render order that does not follow standard possession order when it is shown that standard possession order 'unworkable or inappropriate'); Holley v. Adams, 544 S.W.2d 367, 371-72 (Tex. 1976) (listing non-exclusive factors for making best interest determination). ... In his tenth and eleventh issues, Caldwell argues that the trial court abused its discretion by violating sections 153.001 and 153.193 of the Family Code. See Tex. Fam. Code §§ 153.001 (stating that public policy of state to 'assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child'), .193 ('The terms of an order that denies possession of a child to a parent or imposes restrictions or limitations on a parent's right to possession of or access to a child may not exceed those that are required to protect the best interest of the child.'). For the reasons stated above as to Caldwell's sixth issue in which he challenges the trial court's best interest findings, we overrule his tenth and eleventh issues.

Summary

The passage reinforces that Texas law centers best interest in conservatorship/possession decisions, presumes joint managing conservatorship and standard possession, and restricts limitations on access to what is necessary for protection. This supports arguments that attempts to curtail access without credible evidence, or strategies prioritizing advantage over stability, contravene these principles. It also ties into § 153.002 via the best-interest framework and Holley factors.

[In re Interest of K.A.M.S., 583 S.W.3d 335 \(Tex. App. 2019\)](#)

Texas Court of Appeals

Extract

In addressing Father's arguments, we remain mindful that '[t]he best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to

the child.' Tex. Fam. Code Ann. § 153.002. ... An order restricting a parent's right to possession of or access to a child may not impose restrictions beyond those required to protect the child's best interest. See Tex. Fam. Code Ann. § 153.193. A trial court does not abuse its discretion in restricting a parent's possession when the record contains some evidence to support a finding that such restrictions are in the child's best interest. ... Here, we conclude there was legally- and factually-sufficient evidence of a material and substantial change in circumstances and that the almost eleven-year-old standard possession order was not in the children's best interest. Based on the above standards, the trial court reasonably could have concluded that deviating from a standard possession order and setting up Father's visitation at times mutually agreed in advance by the parties was a minimal restriction necessary to protect the children's best interest. ... Mother was receptive to and encouraged the children's relationship with Father's parents.

Summary

The court reaffirms § 153.002's primacy of best interest in all conservatorship/access decisions. It emphasizes that restrictions on a parent's access must not exceed what is necessary to protect the child (§ 153.193) and must be supported by some evidence. The court also notes deviation from the standard possession order is permissible when supported by best-interest factors (§§ 153.252-.256). The opinion highlights a parent (Mother) facilitating relationships rather than obstructing access, underscoring the legal expectation that parents support the child's relationship with the other parent/extended family. These principles support arguments that litigation or conduct that seeks to deny access without evidentiary support, or that injects instability and inflammatory allegations, contravenes the statutory best-interest mandate and is disfavored.

[Marriage of Chandler, Matter of, 914 S.W.2d 252 \(Tex. App. 1996\)](#)

Texas Court of Appeals

Extract

Similarly, a course of conduct pursued by the manager which hampers the ward's opportunities to favorably associate with the other parent may also suffice. E.g., Guy v. Stubberfield, 666 S.W.2d 176, 179 (Tex.App.--Dallas 1983, no writ) (parent refusing to abide by a custody arrangement previously agreed to); Gunther v. Gunther, 478 S.W.2d 821, 829-30 (Tex.Civ.App.--Houston [14th Dist.] 1972, writ ref'd n.r.e.) (stating that 'it is certainly necessary that children know, love, and be with each of their parents'); McLeod v. McLeod, 9 S.W.2d 141, 142 (Tex.Civ.App.--Eastland 1927, no writ) (denial by parent of child's access to other parent). ... To unjustifiably interfere with the parent/child relationship is reprehensible under the law, especially when motivated by the angst and pain inherent in a divorce.

Summary

The court emphasizes best-interest principles and recognizes that conduct that inhibits a child's ability to know and be with both parents—including refusing to abide by custody arrangements or denying access—can justify modification. The opinion condemns unjustified interference with the parent-child relationship as legally reprehensible. This aligns with the proposition that attempts to deny access without credible danger and reliance on inflammatory, unsubstantiated claims run contrary to the child's best interests and stability under Texas law.

[Holley v. Adams, 544 S.W.2d 367 \(Tex. 1976\)](#)

Texas Supreme Court

Extract

Included among these are the following: (A) the desires of the child; (B) the emotional and physical needs of the child now and in the future; (C) the emotional and physical danger to the child now and in the future; (D) the parental abilities of the individuals seeking custody; (E) the programs available to assist these individuals to promote the best interest of the child; (F) the plans for the child by these individuals or by the agency seeking custody; (G) the stability of the home or proposed placement; (H) the acts or omissions of the parent which may indicate that the existing parent-child relationship is not a proper one; and (I) any excuse for the acts or omissions of the parent. This listing is by no means exhaustive, but does indicate a number of considerations which either have been or would appear to be pertinent.

Summary

The passage articulates core best-interest factors, including stability of the home, emotional/physical needs and dangers, and parental acts or omissions affecting the propriety of the parent-child relationship. These directly support arguments that conduct causing instability, unsupported allegations of danger, and rhetoric over facts are contrary to the child's best interest. While Holley is a termination case, its factors are broadly applied to best-interest analyses across custody matters, aligning with Texas Family Code § 153.002's mandate.

[Brandon v. Rudisel, 586 S.W.3d 94 \(Tex. App. 2019\)](#)

Texas Court of Appeals

Extract

In determining issues of conservatorship and possession and access, the primary consideration is always the best interest of the children. See Tex. Fam. Code Ann. § 153.002 (West 2014) ; Lenz v. Lenz, 79 S.W.3d 10, 14 (Tex. 2002)." ... "Texas courts are to look to the following non-exhaustive list of factors to determine the children's best interests: (1) the desires of the children; (2) the emotional and physical needs of the children now and in the future; (3) the emotional and physical danger to the children now and in the future; (4) the parental abilities of the individuals seeking custody; (5) the programs available to assist these individuals to promote the best interest of the children; (6) the plans for the children by the individuals seeking custody; (7) the stability of the home; (8) the acts or omissions of the parent that may indicate that the existing parent-child relationship is not proper; and (9) any excuse for the acts or omissions of the parent." ... "The record does not support the trial court's implicit finding that this denial of all access did not exceed what was required to protect the children's best interests. See Tex. Fam. Code § 153.193. Accordingly, we sustain Mother's third issue to the extent she challenges the trial court's denying Mother all possession of and access to the children.

Summary

The case reiterates that best interest under § 153.002 controls conservatorship and access decisions and lists the Holley-type factors focusing on stability, parental conduct, and danger. It also holds that denying all access must be supported by evidence and limited to what is necessary to protect the child (§ 153.193). This supports arguments against litigation or relief that disrupts a parent-child relationship without substantiated danger, and underscores that strategies causing instability and seeking extreme restrictions absent sufficient evidence contravene the best-interest mandate.

[In re A.L.E., 279 S.W.3d 424 \(Tex. App. 2009\)](#)

Texas Court of Appeals

Extract

Because a trial court has broad discretion to decide the best interest of a child in family law matters such as custody, visitation, and possession, we review a decision to modify conservatorship for a clear abuse of that discretion." ... "In an effort to ensure stability and continuity for children, Texas law has imposed 'significant hurdles' before a conservatorship order may be modified." ... "The public policy of Texas is to ensure that children enjoy 'frequent and continuing contact with parents who have shown the ability to act' in their child's best interest." ... "However, trial courts are permitted to place conditions on a parent's visitation if necessary for the child's best interest." ... "A trial court may not give one parent the unbridled discretion, unenforceable by contempt, to decide whether the other parent

may have access to, or possession of, her children. ... Thus, when a court places restrictions or conditions on a conservator's possession rights, the court must specifically define those terms in its decree.

Summary

The passages (1) reaffirm that best interest governs conservatorship/ possession decisions; (2) emphasize stability and continuity for children, discouraging actions that create instability; (3) state Texas public policy favoring frequent and continuing contact with fit parents, undermining attempts to deny access absent necessity; and (4) prohibit giving one parent unilateral power to deny the other parent access, supporting arguments against litigation strategies or rhetoric aimed at obstructing contact without substantiated danger. Together, these authorities support criticizing conduct that disrupts the father-child relationship and prioritizes tactical advantage over the children's stability and best interests under § 153.002.

[In re C.J.C., 603 S.W.3d 804 \(Tex. 2020\)](#)

Texas Supreme Court

Extract

Texas jurisprudence underscores this fundamental right, and we too recognize that it gives rise to a 'legal presumption' that it is in a child's best interest to be raised by his or her parents. Although the best interest of the child is the paramount issue in a custody determination, '[t]he presumption is that the best interest of the children' is served 'by awarding them' to a parent. Thus, the fit-parent presumption is 'deeply embedded in Texas law' as part of the determination of a child's best interest." ... "The government may not 'infringe on the fundamental right of parents to make child rearing decisions simply because a state judge believes a 'better decision' could be made.'" ... "The Court thus correctly concludes that a best-interest determination in any proceeding involving a nonparent's request for conservatorship or possession, over the objection of a child's fit parent, must accord that parent the presumption that he is acting in the child's best interest so long as that presumption has not previously been overcome." ... "[U]nless the court finds that appointment of the parent or parents would not be in the best interest of the child because the appointment would significantly impair the child's physical health or emotional development, a parent shall be appointed sole managing conservator or both parents shall be appointed as joint managing conservators of the child.

Summary

Texas law embeds a fit-parent presumption and prioritizes a child's best interest, presuming stability with parents. Courts cannot undermine a fit parent's decisions without proof of significant impairment or overcoming the presumption. Allegations or strategies that disrupt a child's relationship with a fit parent without credible evidence conflict with these principles.

Thus, conduct that denies access or leverages inflammatory, unsupported claims runs contrary to the statutory and constitutional framework protecting children's stability and a fit parent's role.

[Thornton v. Cash, NO. 14-11-01092-CV \(Tex. App. Apr 18, 2013\)](#)

Texas Court of Appeals

Extract

In child custody cases, the primary consideration of any court is the best interest of the child. See Tex. Fam. Code Ann. § 153.002 (West 2008). It is this overarching consideration that distinguishes the present case from those cited by Cash in her motion to dismiss." ... "The presumption that the best interest of the child is served by awarding custody to the parent is deeply embedded in Texas law. In re V.L.K., 24 S.W.3d 338, 341 (Tex. 2000). The parental presumption, codified in Chapter 153 of the Family Code, provides that the trial court must appoint a parent as sole managing conservator or both parents as joint managing conservators unless that appointment would not be in the best interest of the child because it would significantly impair the child's physical health or emotional development. See Tex. Fam. Code Ann. § 153.131(a) (West 2008)." ... "Varney testified that he now sees both of his children less than he has ever seen them before... not only his efforts to work more... but also the amount of time M.V. spends with the Thorntons. Varney testified that he did not believe he would be able to have a full relationship with M.V. if the Thorntons' possession periods remained unchanged." ... "Finally, the Thorntons address the best interest of M.V. We conclude that the trial court had sufficient evidence to support its decision to change the Thorntons' status from joint managing conservators to possessory conservators... 'it is not in the best interest of the child [M.V.], or the child [M.H.V.], that the children continue to be separated...' ... 'These findings were supported by the Thorntons own testimony that they were not interested in M.H.V., as well as both Cash and Varney's testimony that both M.V. and M.H.V. were being negatively affected by M.V.'s time with the Thorntons.'

Summary

Texas courts must prioritize the child's best interest in conservatorship/possession decisions (§ 153.002) and there is a strong parental presumption favoring parents over third parties unless significant impairment is shown. The opinion recognizes harm where litigation/possession arrangements reduced the father's time and impaired his relationship with the child, and where separating siblings negatively affected both children—prompting the court to limit third-party control to protect stability and parent-child relationships. This supports arguments that strategies or allegations that disrupt the child's relationship with a parent and create instability contravene the best-interest mandate.

[In the Interest of E. N. C., No. 03-07-00099-CV \(Tex. App. 3/13/2009\), No. 03-07-00099-CV. \(Tex. App. Mar 13, 2009\)](#)

Texas Court of Appeals

Extract

As mentioned previously, section 153.131 of the family code establishes a presumption in favor of the appointment of a parent as a managing conservator. Tex. Fam. Code Ann. § 153.131; see also id. § 153.002 (West 2008) (explaining that 'best interest of the child shall always be the primary consideration... in determining the issues of conservatorship'). ... In general, there is a presumption that courts should order the standard possession schedule found in the family code, Tex. Fam. Code Ann. § 153.252 (West 2008), but if a court determines that issuing a standard possession order would not be in the child's best interests, the court may restrict possession or access in order to eliminate any potential danger to the child or may completely deny possession and access, *In re Walters*, 39 S.W.3d at 286. ... Further, we note that the best interest of the child is the paramount consideration to be employed in all issues relating to 'possession of and access to' a child, see Tex. Fam. Code Ann. § 153.002 (West 2008), and that courts are given broad discretion to determine what is in a child's best interests, *In re Herd*, 537 S.W.2d 950, 952 (Tex. Civ. App.-Amarillo 1976, writ ref'd n.r.e.), including the ability to craft orders that are dictated by the facts presented during trial, see *White v. Adcock*, 666 S.W.2d 222, 225 (Tex. App.-Houston [14th Dist.] 1984, no writ).

Summary

The case reiterates that § 153.002 makes the child's best interest the paramount consideration for conservatorship and possession, with presumptions favoring parental conservatorship and standard possession (§§ 153.131, 153.252). Courts may restrict or deny access only to eliminate danger and must base deviations on facts proven at trial, not rhetoric. This supports arguing that attempts to deny a parent access without credible evidence of danger, or litigation strategies not grounded in substantiated facts, contravene the statutory best-interest mandate and disrupt stability and parent-child relationships.

[Patterson v. Brist, 236 S.W.3d 238 \(Tex. App. 2006\)](#)

Texas Court of Appeals

Extract

The Family Code's statutory scheme focuses on the children's welfare and best interest. TEX. FAM.CODE ANN. § 153.002 (Vernon 2005); See *Lenz v. Lenz*, 79 S.W.3d 10, 14 (Tex.2002) (reiterating legislature's mandate that best interest of child is primary consideration). Courts have generally considered nine non-exclusive factors set out in *Holley v. Adams* in

determining the best interest of the child. 544 S.W.2d 367 (Tex.1976). ... Texas provides that '[t]he best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession and access to the child.' Id. § 153.002 (Vernon 2002); Lenz v. Lenz, 79 S.W.3d 10, 14 (Tex.2002) (reiterating legislature's mandate that best interest of child is primary consideration); In re C.Q.T.M., 25 S.W.3d 730, 734 (Tex.App.-Waco 2000, pet. denied); Long, 144 S.W.3d at 68; In re Marriage of Bertram, 981 S.W.2d at 822 ('court's primary consideration in determining conservatorship, possession, and access is the best interest of the child'). ... Moreover, this multi-year litigation, plus Brist's past history of failure to support C.A.B. and to provide health care for him, his conviction for criminal contempt, and his current precarious financial situation in attempting to care for 4 children on a reduced income all evince an unstable environment for C.A.B. in general and with respect to litigation and the expenses of litigation and augur future instability and future litigation. Not only was there no evidence at trial from which the trial court could reasonably have drawn the inference that modification would achieve greater stability for C.A.B. (modification factors (G) and (J)) or would prevent litigation (modification factor (K)), all the evidence was to the contrary.

Summary

The passages confirm that § 153.002 makes the child's best interest the primary consideration in conservatorship and access decisions, and they recognize stability and litigation-induced instability as key considerations. The court criticizes modification efforts lacking evidentiary support that would improve stability and notes that prolonged litigation and unsupported inferences can create or predict instability. This supports arguing that litigation tactics prioritizing advantage over stability, and unsupported allegations disrupting parent-child relationships, contravene the statutory best-interest mandate.

[In re Z.G., No. 02-19-00352-CV \(Tex. App. Apr 01, 2021\)](#)

Texas Court of Appeals

Extract

A child's best interest must always be the court's primary consideration in determining the issues of a parent's possession and access. See id. § 153.002; see also Holley v. Adams, 544 S.W.2d 367, 371-72 (Tex. 1976). Indeed, the state's public policy is to assure that a child will have frequent and continuing contact with parents who have shown the ability to act in his best interest and to provide a safe, stable, and nonviolent environment for him. Tex. Fam. Code Ann. § 153.001(a). Accordingly, the court may limit the rights and duties of a parent appointed as a conservator upon a written finding that such a limitation is in the child's best interest. Id. § 153.072. But an order that imposes restrictions or limitations on a parent's right to possession of or access to his or her child 'may not exceed those that are

required to protect the best interests of the child.' Id. § 153.193. ... While Section 153.193 does not envision a complete denial of access—which is not the case here—even a severe restriction or limitation is permissible if it is in the child's best interest because the child's best interest 'is the primary consideration in determining issues of possession and access.'

Summary

The passages reaffirm that (1) best interest under § 153.002 is the primary consideration; (2) public policy under § 153.001 favors frequent and continuing contact with fit parents to ensure stability; (3) any restriction on access must be narrowly tailored to what is required to protect best interests (§ 153.193); and (4) courts may limit parental rights only upon written best-interest findings (§ 153.072). These principles support arguments against litigation or conduct that seeks to deny or severely restrict access absent substantiated safety concerns, and they underscore that strategies disrupting the parent-child relationship and stability contravene Texas policy and the best-interest mandate.

[In re Interest of B.O., NO. 02-16-00485-CV \(Tex. App. Jun 15, 2017\)](#)

Texas Court of Appeals

Extract

When a trial court determines issues related to conservatorship and possession of and access to a child, its primary consideration must be the child's best interest. Tex. Fam. Code Ann. § 153.002 (West 2014); see id. § 153.001(a)(1) (stating that Texas's public policy is to assure that children will have frequent and continuing contact with parents 'who have shown the ability to act in the best interest of the child'). ... Further, in suits affecting the parent-child relationship, there is a rebuttable presumption that a standard possession order, as outlined in the statute, is in the best interest of the child, but a court may deviate from the terms of the standard order if those terms would be unworkable or inappropriate and against the child's best interest. See Tex. Fam. Code Ann. §§ 153.252-.253 (West 2014). The terms of an order that denies possession of a child to a parent or imposes restrictions or limitations on a parent's right to possession of or access to a child may not exceed those that are required to protect the best interest of the child. Id. § 153.193 (West 2014).

Summary

The court reiterates that best interest under § 153.002 is paramount; Texas policy favors frequent and continuing contact with fit parents; there is a presumption favoring standard possession; and any denial or restriction of access must be narrowly tailored and no more than necessary to protect the child's best interest (§ 153.193). These authorities support arguments against litigation tactics or allegations that seek to curtail a parent's access without credible evidence, and they emphasize that actions undermining

stability and parent-child relationships contravene the statutory best-interest mandate.

[Zachery v. Zachery, 04-24-00531-CV \(Tex. App. Aug 20, 2025\)](#)

Texas Court of Appeals

Extract

The best interests of the children is the primary consideration in determining conservatorship, possession, and access. Tex. Fam. Code §§ 153.002, 153.134; see Lenz v. Lenz, 79 S.W.3d 10, 14 (Tex. 2002). In determining best interests, the trial court should utilize the Holley factors as set forth in Holley v. Adams. 544 S.W.2d 367, 371-72 (Tex. 1976). These factors include (a) the desires of the children; (b) the emotional and physical needs of the children now and in the future; (c) the emotional and physical danger to the children now and in the future; (d) the parental abilities of the individuals seeking custody; (e) the programs available to assist these individuals to promote the best interest of the children; (f) the plans for the children by these individuals; (g) the stability of the home; (h) the acts or omissions of the parent which may indicate that the existing parent-child relationship is not a proper one; and (i) any excuse for the acts or omissions of the parent. Id.

Summary

The passage confirms that best interest is the primary consideration under § 153.002 and that courts evaluate best interest using Holley factors, including stability of the home and parental acts/omissions indicating the relationship is improper, as well as danger considerations. These factors directly bear on conduct that creates instability, unjustified denial of access, and unsupported allegations disrupting a parent-child relationship. Thus, the passage supplies the legal framework to argue that litigation tactics and inflammatory, unsubstantiated accusations that impair stability and access contravene the children's best interests.

[In re Interest of S.K., NUMBER 13-19-00213-CV \(Tex. App. Jun 25, 2020\)](#)

Texas Court of Appeals

Extract

In determining issues of conservatorship and possession and access, the primary consideration is always the best interest of the children. See TEX. FAM. CODE ANN. § 153.002... Trial courts have wide discretion with respect to determining the best interest of a child in conservatorship matters.... When it appoints a managing conservator, the trial court has discretion to appoint possessory conservators and award visitation rights. See TEX. FAM.

CODE ANN. § 153.006(a)... The primary consideration in appointing a possessory conservator is the best interest of the children. See TEX. FAM. CODE ANN. § 153.002; Lenz, 79 S.W.3d at 14. Trial courts have wide latitude in determining a child's best interest.... Those factors include: (1) the desires of the child; (2) the emotional and physical needs of the child now and in the future; (3) the emotional and physical danger to the child now and in the future; ... (7) the stability of the home or proposed placement; (8) the acts or omissions of the parent which may indicate that the existing parent-child relationship is not a proper one; and (9) any excuse for the acts or omissions of the parent. Id. Proof of best interest is not limited to these factors, nor do all factors always apply in every case.

Summary

The passages reaffirm that best interest under § 153.002 is the controlling consideration for conservatorship and possession, and enumerate Holley factors including stability of the home and acts/omissions of a parent affecting the parent-child relationship. These principles support arguing that litigation tactics or unsupported allegations that disrupt a child's relationship with a parent, create instability, or are not grounded in credible danger contravene the best-interest mandate. While the case's facts concern appointing a possessory conservator, the legal standards apply broadly to conduct affecting stability and parent-child relationships.

[Cox v. Cox](#)

Texas Court of Appeals

Extract

Father referenced false reports made by Mother to the Department of Child Protective Services (CPS) accusing him of sexually abusing the children." ... "In determining issues of conservatorship and possession and access, the primary consideration is always the best interest of the children. See id. § 153.002" ... "There was evidence that Mother previously abducted the children, was a potential risk of international abduction, made false allegations that Father sexually abused the children, attempted to interfere with Father's employment, did not have a stable home, and could not lawfully reenter the United States before the children turned eighteen.

Summary

The court reaffirmed that § 153.002 makes the child's best interest the primary consideration. The opinion identifies conduct by Mother—false CPS sexual abuse allegations, prior abduction, instability, interference with Father's employment—that undermines stability and the parent-child relationship, supporting modification. Such conduct aligns with the proposition's assertion that using unsupported, inflammatory accusations to restrict the other parent's access is contrary to the children's best interests. The appellate court treated those actions as rebutting the joint-managing-

conservator presumption and justifying changes to conservatorship, demonstrating that litigation strategies and accusations lacking credible basis can be deemed contrary to the children's best interests.

[In re R.M., NO. 02-18-00004-CV \(Tex. App. May 21, 2018\)](#)

Texas Court of Appeals

Extract

When a trial court determines issues related to conservatorship and possession of and access to a child, its primary consideration must be the child's best interest. Tex. Fam. Code Ann. § 153.002 (West 2014); see id. § 153.001(a)(1) (stating that Texas's public policy is to assure that children will have frequent and continuing contact with parents 'who have shown the ability to act in the best interest of the child'). Trial courts have broad discretion to determine what is in the child's best interest... A trial court also abuses its discretion by ruling without supporting evidence. Ford Motor Co. v. Garcia, 363 S.W.3d 573, 578 (Tex. 2012). ... Nonexclusive factors... include... (B) the emotional and physical needs of the child now and in the future; (C) the emotional and physical danger to the child now and in the future; ... (G) the stability of the home or proposed placement; (H) the acts or omissions of the parent which may indicate that the existing parent-child relationship is not a proper one; and (I) any excuse for the acts or omissions of the parent. Holley v. Adams, 544 S.W.2d 367, 371-72 (Tex. 1976) ... There is a strong presumption that the best interest of a child is served by appointing a parent as managing conservator... [but] may be rebutted by showing that such an appointment would... 'significantly impair the child's physical health or emotional development.' Tex. Fam. Code Ann. § 153.131... Other considerations may include parental irresponsibility... frequent moves, bad judgment... and an unstable, disorganized, chaotic lifestyle that has and will continue to put the child at risk.

Summary

The passage confirms § 153.002's primacy of best interest and public policy favoring frequent and continuing contact with both parents, undermining unilateral attempts to deny access without evidence of danger. It emphasizes that decisions must be grounded in supporting evidence and that instability, bad judgment, and acts/omissions harming the parent-child relationship are material to best-interest analysis. The Holley factors and references to stability and acts/omissions align with arguments that inflammatory, unsupported allegations and litigation tactics disrupting the father-child relationship contravene the child's best interests.

[In re Marriage of Veldekens, NO. 14-16-00770-CV \(Tex. App. Jun 07, 2018\)](#)

Texas Court of Appeals

Extract

'The best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child.' Tex. Fam. Code § 153.002; In re V.L.K., 24 S.W.3d 338, 342 (Tex. 2000); see also Lenz v. Lenz, 79 S.W.3d 10, 14-16 (Tex. 2002) (discussing factors often relevant in a best-interest analysis); Holley v. Adams, 544 S.W.2d 367, 371-72 (Tex. 1976) (same). It is the public policy of the state to (1) assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child; (2) provide a safe, stable, and nonviolent environment for the child; and (3) encourage parents to share in the rights and duties of raising their child after the parents have separated or dissolved their marriage. Tex. Fam. Code § 153.001. A trial court has broad discretion to decide the best interest of children in matters involving custody, visitation, and possession.

Summary

The opinion reiterates that the best interest of the child is the primary consideration in conservatorship and possession (Tex. Fam. Code § 153.002) and emphasizes state policy to assure frequent and continuing contact with parents and to provide stability (§ 153.001). These principles support arguments that litigation tactics or unsupported allegations that undermine a child's stability or interfere with a child's relationship with a parent run counter to Texas public policy and the statutory best-interest mandate. While the passage does not address "inflammatory rhetoric" specifically, it grounds the proposition that courts should reject strategies that disrupt parent-child contact and stability without credible justification.

[M. A. R. G. v. Tex. Dep't of Family & Protective Servs., NO. 03-20-00413-CV \(Tex. App. Dec 11, 2020\)](#)

Texas Court of Appeals

Extract

The best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child." ... "Suits affecting the parent-child relationship are intensely fact driven, which is why courts have developed best-interest tests that consider and balance numerous factors." ... courts require "evidence of specific actions or omissions of the parent that demonstrate an award of custody to the parent would result in physical or emotional harm to the child"; evidence must do more than raise "suspicion or speculation of possible harm"; the "link between the parent's conduct and harm to the child may not be based on evidence which merely raises a surmise or speculation of possible harm.

Summary

The passages reaffirm § 153.002's primacy of the child's best interest and emphasize decisions must be based on substantiated, specific evidence—not mere suspicion or speculation. They also underscore that disrupting a parent-child relationship requires proof tied to actual harm, aligning with the argument that unsupported, inflammatory allegations and access restrictions that lack credible danger evidence contravene the children's best interests and legal standards.

[In re Interest of A.L.S., 660 S.W.3d 257 \(Tex. App. 2022\)](#)

Texas Court of Appeals

Extract

'As a general rule, conduct that subjects a child to a life of uncertainty and instability endangers the physical and emotional well-being of a child.' In re R.W., 129 S.W.3d 732, 739 (Tex. App.—Fort Worth 2004, pet. denied) (considering whether evidence supported termination under subsection E).

Summary

Creating instability is legally recognized as endangering a child's physical/emotional well-being. While A.L.S. is a termination case, its quoted principle supports arguing that litigation tactics or access-denial without credible danger evidence subject children to instability, undermining their best interests under Texas Family Code § 153.002 in conservatorship/possession disputes.

[W.G. v. Tex. Dep't of Family & Protective Servs.](#)

Texas Court of Appeals

Extract

Stability and permanence are paramount in the upbringing of children, In re M.E.-M.N., 342 S.W.3d 254, 263 (Tex. App.-Fort Worth 2011, pet. denied), and a course of conduct that subjects a child to a life of uncertainty and instability endangers the child's well-being, A.C. v. Texas Dep't of Fam. & Protective Servs., 577 S.W.3d 689, 699 (Tex. App.- Austin 2019, pet. denied) (quoting Jordan v. Dossey, 325 S.W.3d 700, 723 (Tex. App.-Houston [1st Dist.] 2010, pet. denied)). ... We review a trial court's best-interest determination in light of the considerations set out in Holley v. Adams, taking into account ... the stability of the home or proposed placement, conduct by the parent that might show that the parent-child relationship is inappropriate, and any excuses for the parent's conduct. 544 S.W.2d 367, 371-72 (Tex. 1976). ... The link 'between the parent's conduct and harm to the child may

not be based on evidence which merely raises a surmise or speculation of possible harm,' ... and 'the evidence must support the logical inference that some specific, identifiable behavior or conduct of the parent will probably harm the child,' In re B.B.M., 291 S.W.3d 463, 467 (Tex. App.-Dallas 2009, pet. denied).

Summary

The passages establish that stability and permanence are paramount and that conduct causing uncertainty/endangering well-being weighs against a parent in best-interest determinations. They also require more than speculative allegations to justify restricting a parent-child relationship. These principles support arguing that attempts to deny access without credible evidence and reliance on inflammatory rhetoric undermine stability and contravene the best-interest mandate under Tex. Fam. Code § 153.002 and Holley.

[In re I.G., 02-21-00119-CV \(Tex. App. Aug 12, 2021\)](#)

Texas Court of Appeals

Extract

But under the Family Code, an agreement concerning conservatorship and possession of a child must be enforced by the trial court only if the court finds that the agreement is in the child's best interest. See Tex. Fam. Code Ann. § 153.007(a)-(b); ... see also Tex. Fam. Code Ann. § 153.002 ('The best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child.'). ... These nonexclusive factors include ... (3) the emotional and physical danger to the child now and in the future, ... (7) the stability of the home or proposed placement, (8) the acts or omissions of the parent that may indicate that the existing parent-child relationship is not a proper one, and (9) any excuse for the parent's acts or omissions. Holley, 544 S.W.2d at 371-72.

Summary

Texas Family Code § 153.002 makes the child's best interest the primary consideration in conservatorship and access decisions. Courts must evaluate best interest using Holley factors, including stability of the home, danger to the child, and parental acts or omissions undermining a proper parent-child relationship. These principles support arguments that litigation tactics or unsupported allegations that destabilize the children or disrupt the father-child relationship contravene the statutory best-interest mandate and weigh against a party engaging in such conduct.

[In re R.P.](#)

Texas Court of Appeals

Extract

Mom argues that the trial court abused its discretion by not appointing her as a conservator or granting her access to R.P. In support of her argument, she cites Texas Family Code sections 153.193 (requiring minimal restrictions on a parent's possession or access) and 153.002 (requiring the best interest of the child to be the primary consideration in conservatorship, possession, and access determinations). ... We recognize that '[t]he best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child.' Tex. Fam. Code Ann. § 153.002... We conclude that the trial court abused its discretion in denying Mom conservatorship and access to R.P. when the Department offered no current evidence of specific actions or omissions by Mom demonstrating that awarding custody to her would result in physical or emotional harm to R.P.

Summary

The case reaffirms that best interest under § 153.002 governs conservatorship and access; restrictions require substantiated evidence of harm. It criticizes decisions restricting a parent's access absent "current evidence of specific actions or omissions" showing risk of physical or emotional harm. This supports arguing that attempts to curtail the other parent's access without credible evidence contravene the best-interest mandate and create instability, aligning with the proposition that unsupported, inflammatory litigation tactics disregard children's best interests.

[In the Interest of V.L.K., 24 S.W.3d 338 \(Tex. 2000\)](#)

Texas Supreme Court

Extract

A court's primary consideration in any conservatorship case 'shall always be the best interest of the child.' Tex. Fam. Code § 153.002. ... Chapter 153 and Chapter 156 are distinct statutory schemes that involve different issues. Chapter 156 modification suits raise additional policy concerns such as stability for the child and the need to prevent constant litigation in child custody cases.

Summary

The Texas Supreme Court reiterates that § 153.002 makes the child's best interest the primary consideration in any conservatorship case. The Court also emphasizes that modification proceedings implicate the child's stability and the need to prevent constant litigation. These principles support

arguments that litigation tactics causing instability, unnecessary conflict, or interference with a parent-child relationship—without credible evidentiary basis—are contrary to the statutory mandate prioritizing best interests and stability.

[In re B.B.M., 291 S.W.3d 463 \(Tex. App. 2009\)](#)

Texas Court of Appeals

Extract

The evidence cannot merely raise a suspicion or speculation of possible harm. ... Instead, the evidence must support the logical inference that some specific, identifiable behavior or conduct of the parent will probably harm the child." ... "Certain past acts or omissions such as physical abuse, severe neglect, abandonment, drug or alcohol abuse, or immoral behavior may indicate a threat of future harm to a child." ... "Parental rights are not absolute, and the physical and emotional well-being of the child must not be sacrificed to preserve those rights.

Summary

The court emphasizes that restricting a parent's role requires more than speculative claims; there must be specific, identifiable conduct likely to harm the child. Mere assertions that another custodian would be better are inadequate. The opinion reinforces that while parents' rights are important, they yield to the child's physical and emotional well-being. These principles support arguments that attempts to deny a parent access without credible, specific evidence of danger are inconsistent with Texas law and the child's best interest.

[In the Interest of C.Q.T.M., 25 S.W.3d 730 \(Tex. App. 2000\)](#)

Texas Court of Appeals

Extract

Texas courts uniformly recognize that the parental abilities of the parent seeking custody and the stability of her home are factors to be considered in determining what is in the best interest of the child. ... Accordingly, evidence regarding the conduct and abilities of a step-parent can be relevant and admissible in a suit seeking modification of conservatorship. ... Because the evidence in question is relevant to these issues, we believe the general rule prohibiting the admission of res inter alios acts must bow in suits affecting the parent-child relationship, particularly insofar as the best interest of the child is at stake. See Tex. Fam. Code Ann. § 153.002. ... Because the best interest of the child must be the court's primary consideration, Rule 403 'is an extraordinary remedy that must be used sparingly.' ... Nevertheless, the

legislative mandate is clear that '[t]he best interest of the child shall always be the primary consideration of the court.'

Summary

The case reaffirms that the best interest of the child under § 153.002 is the primary consideration in conservatorship matters. Courts assess parental abilities and stability, and they permit relevant evidence—even over typical exclusionary rules and Rule 403 concerns—when evaluating best interest. This supports arguments that litigation tactics or unsupported allegations that harm stability or disrupt a parent-child relationship run counter to the statutory mandate. The opinion's emphasis on stability and admissibility of conduct evidence (including of a new spouse) allows introduction of proof that a parent's destabilizing conduct and rhetoric undermine best interests.

[Gunther v. Gunther, 478 S.W.2d 821 \(Tex. Ct. App. 1972\)](#)

Texas Civil Court of Appeals

Extract

A habeas corpus suit of this kind is in reality a civil suit involving custody with the parents as adverse parties, and the powers of the court to adjudicate custody and visitation are automatically invoked. ... And we recognize the respected rule that in this type of case the trial court's judgment in determining the best interests of the children and in awarding their custody and visitation in accordance with such determination should be reversed only when it appears from the record as a whole that the trial court has erred and abused its discretion under the circumstances. ... For the welfare of the children, it is certainly necessary that children know, love, and be with each of their parents. ... We hold that the deliberate secreting of the children by the father from the mother for the length of time here involved warrants the trial court's actions in changing custody, care and control to the mother, with visitation at reasonable times and places by appellant, Harry Gunther.

Summary

The case confirms that custody/visitation determinations center on the children's best interests and that courts may modify custody when a parent engages in conduct that undermines the child's relationship with the other parent (e.g., deliberate secreting/denial of access). The statement that children should know, love, and be with each parent supports condemning litigation or conduct that disrupts that relationship absent substantiated danger. This aligns with Texas Family Code § 153.002's best-interest mandate and supports characterizing actions that deny access and create instability as contrary to the children's best interests.

[In the Interest of M.E.-M.N., Minor Child., 342 S.W.3d 254 \(Tex. App. 2011\)](#)

Texas Court of Appeals

Extract

"While parental rights are of constitutional magnitude, they are not absolute. Just as it is imperative for courts to recognize the constitutional underpinnings of the parent-child relationship, it is also essential that emotional and physical interests of the child not be sacrificed merely to preserve that right." In re C.H., 89 S.W.3d 17, 26 (Tex. 2002). ... Stability and permanence are paramount in the upbringing of children.

Summary

The quoted language establishes that (1) children's emotional and physical interests control over parental prerogatives when in tension, and (2) stability and permanence are paramount. These principles support arguments that litigation conduct undermining stability and the parent-child relationship—without credible evidentiary basis—disregards the child's best interests as required by Texas law, including § 153.002 in conservatorship contexts.

[Lenz v. Lenz, 79 S.W.3d 10, 45 Tex. Sup. Ct. J. 781 \(Tex. 2002\)](#)

Texas Supreme Court

Extract

The Legislature has made clear that '[t]he best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child.' TEX. FAM.CODE § 153.002... Family Code § 153.001 outlines this framework by pronouncing our public policy for all suits affecting the parent-child relationship: (a) The public policy of this state is to: (1) assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child; ... The factors highlighted by those courts thus may assist us in giving meaning to our best-interest standard in the relocation context, particularly in light of the Legislature's overarching goals of assuring that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child and to provide a safe, stable, and nonviolent environment for the child. See id. § 153.001(a).

Summary

The passages reaffirm that best interest under § 153.002 governs conservatorship and access, and that Texas public policy prioritizes frequent and continuing contact with fit parents and a safe, stable environment (§

153.001). These principles support arguments condemning litigation tactics or allegations that impede a child's relationship with a parent and create instability absent credible safety concerns.

[A. C. v. Tex. Dep't of Family & Protective Servs., 577 S.W.3d 689 \(Tex. App. 2019\)](#)

Texas Court of Appeals

Extract

Further, '[c]onduct that subjects a child to [a] life of uncertainty and instability endangers the child's physical and emotional well-being.' Jordan v. Dossey, 325 S.W.3d 700, 723 (Tex. App.—Houston [1st Dist.] 2010, pet. denied); see In re S.M., 389 S.W.3d 483, 492 (Tex. App.—El Paso 2012, no pet.) ('The endangerment to the child's well-being may be inferred from parental misconduct, including conduct that subjects the child to a life of uncertainty and instability.').

Summary

The cited language establishes that parental conduct creating uncertainty and instability is detrimental to a child's physical and emotional well-being. This supports arguments that litigation tactics or unsupported allegations that disrupt a parent-child relationship and create instability run contrary to the child's best interests under Texas Family Code § 153.002.

[Tex. Fam. Code § 153.002 Tex. Fam. Code § 153.002 Best Interest of Child; Rebuttable Presumption In Suit Between Parent and Nonparent](#)

Extract

The best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child.

Summary

Section 153.002(a) mandates that courts must prioritize the child's best interest in all conservatorship and possession/access determinations. Thus, conduct and litigation strategies that create instability, attempt to deny access without credible evidence, or rest on inflammatory rhetoric rather than facts can be framed as contrary to the statutory mandate because they do not further the child's best interests. The passage supplies the governing legal standard to argue that actions undermining stability and parent-child relationships are legally disfavored and should be sanctioned or rejected.

[Tex. Fam. Code § 153.134 Tex. Fam. Code § 153.134 Court-Ordered Joint Conservatorship](#)

Extract

the court may render an order appointing the parents joint managing conservators only if the appointment is in the best interest of the child, considering the following factors: ... the ability of the parents to give first priority to the welfare of the child and reach shared decisions in the child's best interest; whether each parent can encourage and accept a positive relationship between the child and the other parent; ... include provisions to minimize disruption of the child's education, daily routine, and association with friends;

Summary

Section 153.134 requires courts to prioritize the child's best interest and consider whether each parent can put the child's welfare first, encourage a positive relationship with the other parent, and minimize disruptions to the child's routine. Attempts to deny access without credible danger, inflammatory rhetoric, and litigation strategies that undermine the child's relationship with the other parent conflict with these statutory factors and demonstrate disregard for the child's best interests.

[Tex. Fam. Code § 153.193 Tex. Fam. Code § 153.193 Minimal Restriction On Parent's Possession Or Access](#)

Extract

The terms of an order that denies possession of a child to a parent or imposes restrictions or limitations on a parent's right to possession of or access to a child may not exceed those that are required to protect the best interest of the child.

Summary

Section 153.193 limits any denial or restriction of a parent's possession or access to what is necessary to protect the child's best interest. If a party advances restrictions or denials without credible evidence of danger, those efforts exceed what is required to protect the child's best interest, contravene the statutory standard, and tend to create instability by disrupting the parent-child relationship. This aligns with the broader best-interest mandate (in § 153.002) by reinforcing that litigation strategies or allegations that seek greater-than-necessary restrictions are inconsistent with the child's best interests.

[Tex. Fam. Code § 107.109 Tex. Fam. Code § 107.109 Elements of Child Custody Evaluation](#)

Extract

A child custody evaluator may not offer an opinion regarding conservatorship of a child who is the subject of a suit or possession of or access to the child unless each basic element of a child custody evaluation as specified in this section and each additional element ordered by the court, if any, has been completed, unless the failure to complete an element is satisfactorily explained..." ... "The basic elements of a child custody evaluation under this subchapter consist of: a personal interview of each party... interviews... of each child... observation of each child... the obtaining of information from relevant collateral sources, including the review of: (A) relevant school records; (B) relevant physical and mental health records... (C) relevant records of the department... (D) criminal history information... and (E) ... information from any other collateral source that may have relevant information; ... assessment of the relationship between each child... and each party seeking possession of or access..." ... "The court may order additional elements... including... balanced interviews and observations of each child... psychometric testing... [and] the review of any other information that the court determines is relevant.

Summary

Section 107.109 mandates that any custody opinion supporting restrictions on possession/access must be grounded in a completed, methodologically sound evaluation, including interviews, observations, collateral records, and assessment of the parent-child relationship. It prohibits opinions without these substantiating elements and requires disclosure and explanation of any missing elements and their effect on confidence in conclusions. This statutory emphasis on verified, balanced, and collateral-supported information undermines litigation tactics that rely on unsubstantiated allegations or inflammatory rhetoric to deny access. It aligns with § 153.002's best-interest standard by requiring evidence-based assessments before curtailing a parent's access, thereby supporting the argument that attempts to deny access without credible evidence disregard the children's best interests and stability.

[Tex. Fam. Code § 153.001 Tex. Fam. Code § 153.001 Public Policy](#)

Extract

The public policy of this state is to: assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child; provide a safe, stable, and nonviolent environment for the child; and encourage parents to share in the rights and duties of raising their child after the parents have separated or dissolved their marriage.

Summary

Texas public policy requires frequent and continuing contact with parents who act in the child's best interest, a safe and stable environment, and shared parental rights and duties post-separation. Conduct that attempts to deny access without credible danger, uses inflammatory rhetoric, or disrupts the child's relationship with a fit parent undermines these policy goals by reducing contact, destabilizing the child's environment, and discouraging shared parenting.

[Tex. Fam. Code § 153.131 Tex. Fam. Code § 153.131 Presumption that Parent to Be Appointed Managing Conservator](#)

Extract

(a) Subject to the prohibition in Section FAMILY CODE 153.004, unless the court finds that appointment of the parent or parents would not be in the best interest of the child because the appointment would significantly impair the child's physical health or emotional development, a parent shall be appointed sole managing conservator or both parents shall be appointed as joint managing conservators of the child. (b) It is a rebuttable presumption that the appointment of the parents of a child as joint managing conservators is in the best interest of the child. A finding of a history of family violence involving the parents of a child removes the presumption under this subsection.

Summary

§ 153.131 creates a rebuttable presumption favoring joint managing conservatorship between parents, absent findings that such appointment is not in the child's best interest due to significant impairment of physical health or emotional development, or a history of family violence. Attempts to deny a fit parent access without credible evidence of danger run counter to this presumption and the best-interest standard embedded in § 153.131(a)-(b). The statute thus supports arguments that litigation tactics aimed at restricting the other parent's role without substantiated facts are inconsistent with Texas's policy favoring joint conservatorship and the child's stability and well-being.

[Coercive Control in High-Conflict Custody Litigation](#)

Family Law Quarterly - American Bar Association - Gillian R. Chadwick and Stef Sloan - 2023-01-01

Extract

The universal legal standard for child custody determinations is the "best interest of the child." ... [Best interest] factors ... includ[e] ... "the

willingness and ability of each parent to respect and appreciate the bond between the child and the other parent and to allow for a continuing relationship between the child and the other parent.” ... Family law cases involving evidence of abuse may be (and in fact, often are mistakenly) labeled ‘high-conflict.’ Abuse cases may have high-conflict characteristics, but they require a different set of considerations in order to promote safety for the at[-risk parent and child].

Summary

The article confirms that the controlling standard is the child’s best interest and highlights as a best-interest factor a parent’s willingness to support the child’s relationship with the other parent. It also warns that allegations framed as “high-conflict” without substantiated abuse evidence can distort custody decision-making. These points support arguments that denying access without credible danger evidence and using inflammatory rhetoric—rather than substantiated facts—undermines the child’s stability and the statutory best-interest mandate (consistent with Texas Fam. Code § 153.002).

[Child Custody Basics In Texas](#)

Extract

Joint managing conservatorship is presumed to be in a child's best interest. In other words, it is the default. If there is evidence that joint managing conservatorship is not in the child's best interest, a court can decide that one parent should be sole managing conservator. For example, family violence, alcohol or drug abuse, and similar issues weigh against joint managing conservatorship. Other factors a court considers include the child's physical, psychological, or emotional needs; the ability of the parents to give first priority to the welfare of the child; whether parents encourage and accept a positive relationship between the child and the other parent; whether both parents participated in raising the child prior to the suit; geographical proximity; and (if the child is 12 years of age or older) the child's preference.

Summary

Texas presumes joint managing conservatorship as in the child’s best interest. Courts assess whether each parent gives first priority to the child’s welfare and whether each encourages and accepts a positive relationship between the child and the other parent. Attempts to deny access without credible danger or using inflammatory rhetoric instead of facts undermine the best-interest standard and weigh against joint conservatorship. Disrupting the child’s relationship with the other parent and failing to prioritize the child’s welfare align with factors courts consider negatively.

This memo was compiled by Vincent AI based on vLex materials available as of December 07, 2025. [View full answer on vLex](#)