



FAMILY LAW BILLS THAT DID NOT PASS THE 85TH TEXAS LEGISLATURE (2017)

SECTION 1. BILLS THAT RECEIVED TFLF OPPOSITION

It is important to note that stopping very bad bills may be the most important job that the Texas Family Law Foundation (“TFLF” or the “Foundation”) performs during a legislative session.

The following bills represent some of the legislation that the Foundation either proudly worked to get killed or assisted in their legislative suicides. The list is not exhaustive but represents a bulk of the significant potential changes to the Family Code, and Texas family law practice, against which the Foundation successfully expended substantial resources.

For privacy reasons, individual members of the Foundation who assisted the lobby team are not named. But you know who you are and we are forever grateful.

CLICK the “Text” heading to read the bill. The last bill version listed represents the bill’s final version. Example: Where there is a “filed” version and a “House Committee Report” version displayed, the “House Committee Report” will contain the last version of the bill. The “History” tab, which immediately appears, will list the bill’s author/sponsor/co-authors.

[HB 93 by Krause](#)

Say good-bye to no-fault divorce in Texas? Yes, this bill would have ended no-fault divorce. Although by the time it was voted out of the House committee, it allowed no-fault divorce *if both parties consented*, it is very frightening how many legislators do not remember the days when spouses had to either defame the other spouse, beat them, or cheat on them to be granted a divorce in Texas. The bill was voted out of committee by a party-line vote. Pay attention to the co-authorship listed on the bill. The legislators who co-authored this bill range from seasoned attorneys to brand-new, young legislators (some of whom are also attorneys). The bill was very late arriving to the Calendars Committee and eventually died due to lack of time. Moreover, countless Foundation members worked to oppose this bill. But we have every reason to believe this bill will be filed again next session.

So, are you ready for Texas to return to the era of the 1970s?

[HB 65 by Krause](#)

This bill would have extended the waiting period for divorce on the grounds of insupportability from 60 days to 180 days if the couple had children who were

minors or disabled. As you can see from the bill history, the bill was voted unanimously out of its House committee and had several co-authors. With the help of numerous Foundation members, we were able to keep the bill in the Calendars committee and it never made it to the House floor. But had the bill made it to the House floor, it is possible, based on the co-authorship that the bill would have passed in some form. This is not the first time we have seen this bill filed and fully expect it to be filed again next session.

[HB 453 by White](#)

Sometimes lobbyists are fortunate enough to have the opposition kill their own bill. But this fortune often comes at a price, or at least, it is not always pleasant. This bill, known as the “50/50” or “equal parenting” bill would have created a presumption that a 50/50 child custody order is in the best interest of the child and thus, removed significant judicial discretion in deciding custody arrangements. As you know, 50/50 may often be in the best interest of the child, but the parents *must get along*. The bill was brought to its author by persons associated with the **Texas Father’s Rights Movement, Texans for Parental Equality, and Americans for Parental Equality**.

By the end of February, the lobby team received death threats on Facebook, as well as an alarming phone call from a man who did not identify himself. We filed a report with the DPS, but that did not stop the groups from defaming us all over the Capitol and beyond, appearing at every committee hearing to testify on bills that had nothing to do with their issues, and harassing legislators and staff. By May, the men’s rights activists

(MRAs) had managed to kill their own bill and demonstrate why a 50/50 parenting order would not have worked in their individual cases. However, it is worth noting that these groups have created the impression a national movement and Texas is not immune. Interestingly, many of them also support ending no-fault divorce. There is little doubt that some of these MRAs may have been treated unfairly in their divorces, but the vast majority of them simply cannot stand paying child support to “The Ex.” This issue is not going away any time soon.

[HB 1899 by Sanford & SB 816 by Campbell](#)

It is difficult to not rank these bills (they are companions) in the *top tier of the worst bills of the session!* The bill(s) would have done away with decades of family law jurisprudence by making the wishes of a “fit” parent the paramount concern over the best interest of the child. It may be the first bill ever filed that summarily dismisses what a child desires in SAPCR cases. The bill would pit two parents against each other by litigating which one of them *is* or *is not* a fit parent rather than considering, to any degree, the child’s wishes. Although the MRAs did not bring the bill to the Legislature, they quickly figured out how much fun it would be to drag their exes through litigation using this standard rather than the current standard. The bill received a hearing in both chambers but was left pending in the Senate committee. **Senator Joan Huffman of Houston**, Chair of the State Affairs committee, which oversees family law legislation, did a fantastic job of undressing and exposing the absurd consequences of this bill through cross-examination of the

witnesses advocating for the bill. The bill was voted out of the House committee too late in the session to pass. We may see this one again.

[HB 1361 by White](#)

We would be remiss if we did not mention what a great legislator, **State Representative James White, of Woodville**, is to work with on family law issues, or any other legislative matter. HB 1361, a **Texas Homeschool Coalition** bill would have required an automatic dismissal of certain SAPCRs after one year of a temporary order being in place. It also mandated the automatic loss of jurisdiction of the court, except as to attorney's fees for parents defending the suit, automatic dismissal with prejudice and an automatic vacancy of any orders in place. The bill received an early hearing in committee, but after weeks of meeting with the stakeholders, we were unable to come to a compromise on the bill. The bill also had a Senate Companion, by **Senator Brandon Creighton of Conroe**, who is also a great legislator. The Senate bill never moved and the House bill also quietly died. We also want to thank the **Texas Home School Coalition** for at least attempting to find a compromise on this bill. Although TFLF and the Home School Coalition do not always agree, the advocates for the Coalition consistently demonstrate class and sincerity while working with us.

[HB 1670 by Vo](#)

Although legislators' hearts are in the right place when they file this bill, and it is filed *every session*, the potential consequences of this bill are too dire for TFLF to not oppose. This bill would have removed the limitation that only a parent,

guardian or person with legal control pursuant to a court order can enroll a child in a public school. It also removes the requirement that a school district record the name, address, and date of birth of the person enrolling the child. Proponents of the bill were validly concerned that migrant or displaced children are not going to school because of the hardship of having to get a court order to enroll the child into a school. We appreciate this concern. But TFLF's chief concern remains the same each session: human trafficking. Although we worked with the proponents of the bill to come up with a proposal, they were not interested in a compromise that involved pursuing a court order over *any* length of time. The bill did not receive a hearing.

[HB 2890 by Laubenberg](#)

This bill, informally known as the "parental presumption" bill, would have required non-parents to overcome the parental presumption in all subsequent modifications, even though the presumption had been overcome in a prior proceeding that resulted in the underlying order. Case law, dating back to 2000, has held that the parental presumption does not apply in suits for modification where the non-parent has already overcome such a high burden. The bill was brought to the Legislature by the **Texas Home School Coalition**, a steadfast supporter of parental rights in most, if not all, cases. The bill received a late hearing in the House but died in committee, and although there was a Senate companion, it did not receive a hearing in the Senate.

[HB 3297 by Burrows](#)

For most of the legislative session, the Foundation did not get deeply involved in the CPS reform bills because many of our members have little to no involvement with those cases. However, there were so many CPS bills scattered in various committees that by the end of April, we offered our much needed help. It was clear that the Legislature needed more experts involved before it ended up making a huge mistake. This bill is an example. Among other provisions, the bill changed the standard of proof requiring a court to return a child at the initial hearing where CPS has taken possession of the child without court order from "is satisfied" to a determination "based on clear and convincing evidence" that there is no continuing danger. Although some provisions of the bill did become law in other bills that passed, it was not without substantial input from several TFLF members. Luckily, the most egregious provisions, such as the aforementioned language, did not become law.

**SECTION 2.
BILLS THAT RECEIVED TFLF
SUPPORT**

The following bills represent a non-exhaustive list of bills that the Foundation supported but did not become law. Some of the bills are Section bills, while other bills were brought by other groups or interests. As noted previously, the bills listed are just a portion bills and not the entire list of bills.

[HB 161 by Dutton](#)

This bill was a very simple bill that would restrict a court from holding a child

support obligor in contempt if the respondent or the respondent’s attorney can show sufficient proof that the obligor was in jail for at least 90 days for any offense other than family violence or failure to pay child support. It also required evidence that the obligor did not have sufficient resources to pay while the obligor was in jail. The bill passed out of the House committee with unanimous support and with overwhelming support on the House floor. However, it was never referred in the Senate and most likely fell victim to the rising tension between the House and Senate. It is also important to note that **State Representative Harold Dutton of Houston** is Chair of House Committee on Juvenile Justice and Family Issues, which has jurisdiction over family law legislation in the House. Chairman Dutton has been instrumental in stopping very bad legislation from becoming law. TFLF owes him a world of gratitude and when we can help his bills, if we approve of them, we do so.

[HB 1491 by S. Thompson](#)

This bill was a Family Law Section bill that would have allowed a parent under the Standard Possession Order to have possession of the child from 6:00 p.m. to 8:00 p.m. on the child's birthday if the parent was not otherwise entitled under the possession order to any period of possession of the child that day. The current provisions were thought to be confusing on this point. Unfortunately, many did not see a need for this bill. Ironically, the only bill that would have been a suitable vehicle onto which we could have amended this bill was HB 453, the “50/50” or “equal parenting” bill. We declined to use that technique.

[HB 1663 by Dutton](#)

This was one of several bills that would have codified *Obergefell* and related decisions, which legalized same-sex marriage in all fifty states. The Family Law Section was prepared to offer its own *Obergefell* bill, but the TFLF decided to advocate for the already-existing bills, including and especially, Chairman Dutton's bill. The bill received a hearing in March but did not have the votes to move out of committee. Although Representative Dutton is chair of the committee, the makeup of the committee is stacked with conservatives who oppose same-sex marriage regardless of what the United States Supreme Court says. It was not a surprising defeat as sodomy, by statute, is still a crime listed in the Texas Penal Code.

[HB 3806 by Dutton](#)

This was the Section's "grandparent access" bill, which is filed every legislative session. The bill would have clarified that expert testimony is not required to overcome the presumption that a parent acts in the best of the parent's child by showing that denial of possession or access to the child would significantly impair the child's physical health or emotional development. The bill also would have removed the requirement in grandparental access suits for the grandparent to be the parent of a parent of the child who has been either incarcerated during the three months prior to suit, found incompetent, is dead, or has no actual or court-ordered possession of or access to the child. Once again, this bill was defeated by the efforts of the **Texas Homeschool Coalition**. It did not pass out of committee.

[HB 4174 by Elkins](#)

This was another "grandparent access" bill that died in committee due to opposition from the **Texas Homeschool Coalition**. The bill would have expanded a grandparent's limited ability to request court-ordered time with a grandchild after both biological parents have died or have had their parental rights terminated. Currently, a grandparent cannot request court-ordered time with a grandchild under these circumstances if someone other than a stepparent has adopted the grandchild or if there's a pending adoption by the stepparent. It would have dove-tailed nicely with the Section's "grandparent access" bill.

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Issues to Anticipate For Next Session

Hey, 2019!

- ✓ “50/50” or Equal Parenting
- ✓ Attempts to End “No Fault” Divorce
- ✓ Dramatically Extended Waiting Times for Divorce
- ✓ Virtual Elimination of Grandparent Rights
- ✓ Child Support “Reform”
- ✓ Adoption wars



Americans for Parental Equality

March 16 · 🌐



This is one of the BEST testimonies and exchanges you will hear on the unconstitutionality of "no-fault" (unilateral) divorce. Every constitutional lawyer knows that no-fault divorce is not constitutional and that it violates the due-process protections given to defendants. In fact, no-fault divorce is the ONLY LAW that the defendant cannot win--the defendant will lose 100 percent of the time.

<https://www.youtube.com/watch?v=bqYaRT2agC0>

We support Matthew Krause and House Bill 93 to repeal insupportability as a cause of divorce.

	<p>No Fault Divorce Is Unconstitutional Constitutional Attorney Shelby Sharpe</p> <p>No-fault divorce should be repealed simply because it is unconstitutional. The defendant ends up with no...</p> <p>WWW.YOUTUBE.COM</p>
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Source: The Americans for Parental Equality Facebook page (March 2017).

