

Written Comment: Review and Approval of the Final TCMF Report

Texas Commission on Marriage and Family, meeting of October 13, 2026

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Position on the agenda item: support action on family-law reform. Disclosure: my report is self-funded, and I provide attachment assessment and training commercially.

Chairman Caton and Members of the Commission: House Bill 3284 asks the Commission to identify state laws, rules, and policies that discourage Texans from marrying and raising children, and to recommend changes. I ask that the final report, and the Bonus Report on Reforming Family Law, carry the family-law recommendations below. Each is developed, with its sources and its limits, in my full report, *The Best Interest of the Child*, which I have sent separately to the Commission.

What the full report finds

The Family Code makes the best interest of the child "the primary consideration of the court" (Fam. Code § 153.002) and uses the phrase 193 times in 134 sections without defining it. It declares a policy of "frequent and continuing contact" with both parents (§ 153.001(a)(1)) and then presumes a schedule its own text calls "reasonable minimum possession" (§ 153.252). In 2025 the people of Texas wrote into the Bill of Rights that a parent has "the corresponding fundamental right to exercise care, custody, and control of the parent's child" (Tex. Const. art. I, § 37), yet a parent's custody can be decided by a preponderance of the evidence, by an associate judge, without written findings unless a party asks. In fiscal year 2025, Texas district courts disposed of 282,099 family cases; 109 were decided by a jury.

The research supports continuity of care. Randomized trials show that caregiving can be changed and that children's development follows it. Joint custody is associated with better adjustment across 33 studies (Bauserman, 2002). I state these as findings about groups of children, never as predictions for a particular child.

What I ask the Commission to recommend

1. **Equal parenting.** Presume equal parenting time with each fit, willing, and able parent, rebuttable only by clear and convincing evidence, with written findings. Family-violence protections stay unchanged.
2. **Findings and a record.** Require written findings in every ruling on conservatorship, possession, or placement, and a recording of every hearing.
3. **The elected judge.** Reserve contested conservatorship and possession to the elected judge unless the parties consent.
4. **Review of temporary orders.** Require findings for any departure from equal time, and an accelerated appeal of orders that change conservatorship or restrict a parent.
5. **One evaluation, one standard.** Replace the open-ended custody evaluation with a fixed battery of validated measures, scored blind, and require a good-cause finding before a second evaluation.
6. **Divorce grounds.** Repeal the fault-free grounds (§§ 6.001 and 6.006) as the lead recommendation, with an express ground for family violence or child abuse.
7. **Data.** Direct the Office of Court Administration to publish custody and possession outcomes by court, so that the best-interest standard can be seen in operation.

Why this matters on October 13

H.B. 3284 requires the report by November 1, 2026, and the Commission ends on December 31, 2026. After this meeting the recommendations are likely to be final. Texas has already chosen the standard, in H.B. 3284 and in article I, section 37. The question for the Commission is whether its report measures family law against that standard. I ask that it do so.

The full report, its Executive Summary, and drafting specifications for the recommended bills are available to the Commission and staff. I would welcome questions from any member. I am registered to speak in person.

Respectfully submitted,

L. Brooks McKenzie, PhD