TCMP — Texas Catholic Marriage Project

Why Equal Parenting Time Does Not Restore Equal Parental Authority

Exclusive Decision-Making Rights, Child Safety, and Attachment Security Under a 50/50 Possession Schedule

CONFIDENTIAL LEGAL MEMORANDUM

To: the Respondent | Prepared for TCMP review

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Register: Formal legal analysis in plain English

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Question presented

Whether a reform providing equal physical possession addresses the exclusive rights and duty allocated to the Plaintiff in the decree, preserves the Respondent's practical ability to protect the children, and answers TCMP's concerns about family preservation, foreseeable maltreatment risk, and attachment security.

Short answer

A 50/50 possession schedule alone does not change any of the eleven allocations identified in the decree. It changes the distribution of physical possession while leaving the specified authority over residence, treatment, education, legal affairs, finances, and passport applications intact. A parent can therefore receive equal time while remaining excluded from equal participation in major decisions whose consequences operate throughout the child's life.

Nor does equal time itself ensure timely information about the other household or continuous access to a protective caregiver. TCMP's position is that an equal schedule is an incomplete response to questions of family preservation, parental authority, and child security. A proposal that expressly reallocates decision-making powers must be assessed according to its actual terms; the analysis here concerns equal physical possession standing alone.

I The intact family as TCMP's starting point

TCMP begins with the child's existing family and both fit parents' original responsibilities. Within an intact household, parental care ordinarily overlaps through daily supervision, meals, education, discipline, affection, worship, and protection. Each parent can observe circumstances and respond to concerns within a common setting. Neither parent's role is adequately described as a percentage of possession.

Dividing possession creates separate periods and households. An equal division may increase one parent's involvement compared with a restrictive schedule, but it does not recreate common household life or preserve continuous practical access to both parents. TCMP treats improvements after separation as possible loss mitigation while maintaining preservation of the family as its principal reform objective.

TCMP's constitutional position asks what sufficient factual and legal predicate authorizes restructuring the family and subordinating a fit Respondent's participation. That is the project's argument. It is distinct from the narrower statutory conclusion, established below, that possession and decision-making authority are separately allocated.

II The legal distinction between time and authority

Texas Family Code § 153.134(b)(2)–(4) separately addresses allocation of parental rights, minimization of disruption, and periods of possession. Section 153.135 provides that joint managing conservatorship need not entail equal physical possession. These provisions distinguish the conservatorship label, the powers allocated under it, and the possession schedule. An equal schedule therefore cannot be read as an unstated amendment to an express exclusive grant. Section 153.138 likewise preserves support authority between joint conservators. [1]

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The practical question is what the operative order authorizes. If only the schedule changes, the decree's exclusive grants remain. Consultation, record access, daily caregiving, and final consent serve different functions. This is a textual analysis of the decree, rather than an assumption that equal time automatically creates equal powers.

III The original decree and eleven allocations

The certified decree appoints both parents joint managing conservators. The decree nevertheless allocates the following powers and duty to the Plaintiff. The discussion below assumes those provisions remain while possession is changed to 50/50. [2]

1 Primary residence without geographic restriction

The decree gives the Plaintiff the exclusive right to designate the children's primary residence without regard to geographic location. Equal possession supplies neither an equal residence-designation right nor a geographic restriction. A distant relocation could make the schedule difficult to implement and require reconciliation of the residence and possession terms. The schedule itself does not resolve the allocation.

2 Invasive medical dental and surgical treatment

The Plaintiff retains exclusive consent authority for treatment involving invasive procedures. Having the children half the time does not give the Respondent joint approval or veto authority under this clause. Treatment and recovery may affect his caregiving periods even though the authorization remains hers. The decree's separate emergency-treatment rights remain available and must not be confused with ordinary consent to invasive treatment.

3 Psychiatric and psychological treatment

The Plaintiff retains exclusive authority to consent to psychiatric and psychological treatment. Equal possession does not convert the Respondent's informational and consultative rights into a requirement for his consent. Treatment decisions can affect the children's emotional lives and relationships across both households; the consequences are not confined to the authorizing parent's possession periods.

4 Receipt and administration of child support

The Plaintiff retains the exclusive right to receive and give receipt for periodic support payments and hold or disburse those funds for the children's benefit. Equal possession alone changes neither that designation nor the existing support obligation. It does not create shared administration of the payments merely because both parents provide substantial direct care.

5 Legal representation and substantial legal decisions

The Plaintiff retains the exclusive right to represent the children in legal action and make other decisions of substantial legal significance. Equal possession does not make the Respondent coequal under that grant. Where the children's interests may diverge from a parent's litigation objectives, the distinct question of independent representation remains; a calendar formula does not address it. The grant should not be described as eliminating every procedural avenue otherwise available to protect the children.

6 Marriage and military enlistment

The decree combines these matters in one numbered provision granting the Plaintiff exclusive consent authority. Equal possession does not make the Respondent's approval necessary under that provision. Applicable legal requirements continue to govern the underlying act, but the decree's allocation of parental consent remains unchanged.

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7 Educational decisions

The Plaintiff retains exclusive educational decision-making authority. The Respondent could provide transportation, supervise homework, and implement educational arrangements during half the schedule while lacking equal authority to select those arrangements. School selection and educational services can shape both households' routines and opportunities for Catholic education. Equal time does not itself create shared educational approval.

8 Services and earnings

The Plaintiff retains the exclusive right to the children's services and earnings, subject to the decree's express exception for Texas Family Code § 264.0111. A larger share of day-to-day care does not amend this allocation. The exception must remain part of any accurate description of the grant.

9 Agency concerning the children's estates

The Plaintiff retains exclusive agency authority concerning the children's estates when action by a state, the United States, or a foreign government requires the children's action. The decree excepts circumstances in which a guardian of the estates or a guardian or attorney ad litem has been appointed. Equal possession neither makes the Respondent a joint agent under this clause nor removes those exceptions.

10 Management of estates created by parental property

The decree imposes on the Plaintiff the exclusive duty to manage the children's estates to the extent created by community property or the parents' joint property. This is expressly a duty. Equal possession does not divide the management responsibility or appoint the Respondent as a joint manager. It is also distinct from each parent's separately retained authority over estates created by that parent or that parent's family.

11 Sole authority to apply for passports

The Plaintiff is the sole person authorized to apply for the children's passports. The decree requires notice to the other conservator no later than thirty days after application. Equal possession does not authorize the Respondent to make an application under this provision or create a requirement of advance joint approval.

Passport possession is separately qualified. The Plaintiff's right to retain the passports is subject to delivery requirements. The decree orders delivery to the Respondent within ten days after receipt of his notice of intended international travel during his possession; he must return them within ten days after the children return. This is not an unqualified exclusive right to withhold the documents. Equal time alone changes neither the application authority nor those delivery obligations. [2]

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IV Protection and transparency during the other household's possession

The decree preserves the Respondent's rights to information, consultation, records, contact with providers and schools, school attendance, emergency notification, and emergency treatment. It also requires timely communication of significant information about health, education, and welfare. The decree assigns each parent care, control, protection, reasonable discipline, ordinary support, noninvasive medical consent, and moral and religious training during that parent's possession. [2]

The problem identified by TCMP is therefore not the complete legal extinction of protective rights. It is the restriction of practical observation and timely intervention. A parent may retain responsibility and legal remedies while lacking immediate knowledge of the other household, the people present, the child's treatment, or emerging behavioral changes.

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Where children reside with the Plaintiff and her boyfriend, the question is their exposure within that household and the Respondent's practical ability to learn of concerns and respond. This memorandum treats that household circumstance as the scenario discussed, rather than a factual finding established by the decree.

The issue is exposure to potential risk while the other parent's ability to observe and intervene is restricted.

An equal schedule may improve opportunities to observe the children during the Respondent's possession. It does not, without additional provisions and effective implementation, establish transparency during the Plaintiff's possession. Delayed disclosure can leave protection reactive. A remedy after discovery of harm is different from a meaningful opportunity to prevent it.

V NIS-4 and foreseeable population risk

NIS-4 is the Fourth National Incidence Study of Child Abuse and Neglect Report to Congress, published in 2010 for the United States Department of Health and Human Services. Its family-structure analysis reports differing observed maltreatment rates across household arrangements, including two married biological parents and a single parent living with an unmarried partner. [3]

The project's argument concerns aggregate risk. The inability to identify beforehand which child will suffer abuse or neglect does not eliminate a measured population-level risk. Across sufficiently many comparable exposures, harmful occurrences can reasonably be expected among some children even when the identities of future victims are unknown.

That probabilistic reasoning makes prevention possible. Uncertainty about an individual outcome is not a reason to disregard foreseeable risk. The relevant policy question is how much weight such evidence should receive before and during changes in children's household circumstances.

NIS-4's household comparisons and TCMP's application must remain distinguishable. The report does not directly test 50/50 schedules. The project draws an inference that foreseeable household-associated risks deserve examination when dissolution results in the relevant circumstances. The inference does not require claiming that every separated household has the same risk or that a particular child's harm is inevitable.

VI Attachment security and the Wuhan narrative review

Ye, Han, and Zhong's 2024 review describes how dependable relationships provide a secure base for exploration and a safe haven during distress. Children develop expectations about whether help is available through repeated caregiving experiences. Secure base script knowledge describes their organized understanding of seeking assistance, receiving a helpful response, and returning to ordinary activity. [4]

The authors report including thirty-eight articles drawn from English- and Chinese-language literature. This is a narrative synthesis, not a new custody experiment. It connects responsive caregiving with attachment security, emotional regulation, resilience, social functioning, and possible protection against psychological difficulties.

Parental sensitivity is central. The authors discuss presence, engagement, affection, calmness, and empathy, together with interventions such as Circle of Security Parenting. Parents' own attachment histories may influence care across generations, but the review expressly recognizes that parents with insecure histories can develop responsive practices and raise securely attached children.

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The review identifies fathers' contributions as important and insufficiently studied. It does not assign secure-base and safe-haven functions exclusively by sex. Teachers, peers, and other dependable relationships can also strengthen security, while parents retain primary responsibility for establishing a secure base.

The article discusses activation of supportive relationship expectations through imagery, memories, and related techniques. It emphasizes that early attachment matters without determining the child's entire future; intervention remains possible in childhood and adolescence. Its discussion of migration and left-behind children highlights communication and continuity, although those circumstances are not identical to divorce.

The authors also discuss diverse family structures and research emphasizing caregiving quality. The review therefore supplies no categorical ranking of household types. Its relevance here is functional: what relationships provide reliable security, how accessible are those caregivers, and what happens to those functions when care arrangements change?

The review calls for further work on fathers, parental attachment, developmental and cultural differences, group support, and family placement. Its methods report thirty-eight included articles while listing fifty-five references, and an April search date with coverage through August; the article does not fully explain those distinctions. These are reporting limitations, not grounds for dismissing the attachment mechanisms it examines.

VII Combined analysis of safety attachment and authority

NIS-4 addresses observed maltreatment across household circumstances. The Wuhan review addresses the relationships through which children obtain emotional security and support. Their combined relevance is to exposure and access to protection. They do not become a single study merely because TCMP uses them together.

A child may encounter a troubling circumstance while the parent best able to recognize distress is absent or poorly informed. The relationship can continue emotionally and legally while its protective operation is constrained by distance, schedules, restricted communication, or inadequate transparency. This is the project's synthesis of the two bodies of evidence.

The eleven allocations add another dimension. Even when the child is physically with the Respondent, decisions reserved to the Plaintiff may continue to govern education, treatment, residence, legal affairs, and financial administration. The inequality operates across the entire schedule. Equal time therefore cannot be treated as proof that equal authority or effective protective participation has been restored.

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VIII TCMP position and conclusion

TCMP does not adopt equal possession as a sufficient reform objective. Its position asks why the family is being restructured, how children's existing relationships and security will be affected, which risks are foreseeable, and what practical capacity each fit parent retains to protect them. Serious circumstances requiring separation and protection must be addressed through their actual facts and needs.

The decree demonstrates why the phrase shared parenting requires precision. Both parents can hold the joint-managing-conservator title while one holds the eleven allocations analyzed here. Both can receive equal possession while final authority remains unequal. Neither terminology nor arithmetic establishes safety, attachment continuity, or meaningful parental oversight.

The memorandum's conclusion is that equal physical possession alone does not address the eleven allocations, restore equal participation in major decisions, ensure transparency in the other household, or answer TCMP's family-preservation and child-security concerns. Those matters require direct consideration of authority, information, protective access, and the child's circumstances.

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Sources

[1] Texas Family Code §§ 153.134(b)(2)–(4), 153.135, and 153.138. Official Chapter 153 text: https://tcss.legis.texas.gov/resources/FA/htm/FA.153.htm. Consulted October 18, 2026.

[2] Final Decree of Divorce, In the Matter of the Marriage of the Plaintiff and the Respondent, Cause No. 2005-10618, 257th District Court, Harris County, Texas. Certified Document No. 21139087. Original uploaded page scans rechecked for this memorandum. The decree contains the exclusive grants and passport delivery requirements.

[3] Andrea J. Sedlak et al., Fourth National Incidence Study of Child Abuse and Neglect NIS-4 Report to Congress (Washington, DC: United States Department of Health and Human Services, Administration for Children and Families, 2010), Chapter 5, family structure and living arrangement analysis. Official report: https://acf.gov/sites/default/files/documents/opre/nis4_report_congress_full_pdf_jan2010.pdf. No numerical multiplier is asserted in this memorandum.

[4] Zi-Ying Ye, Zhuo-Ying Han, and Bao-Liang Zhong, Secure base and mental health in children a narrative review, Translational Pediatrics 13(9) (2024): 1608–1616, doi:10.21037/tp-24-191. Full article supplied and reviewed: https://pmc.ncbi.nlm.nih.gov/articles/PMC11467232/.

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