

Holley Factors in Preparation for Trial

The Role Best Interest of the Child Plays in Family Law Decisions

The Family Code is clear: “**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 fact, many statutes addressing issues related to children require a best interest analysis, for example, the presumption that both parents be named joint managing conservators is dependent on such appointment being in the best interest of the child.

Holley Factors

The most cited case regarding best interest is the Texas Supreme Court’s 1976 decision *Holley v. Adams*. The Court wrote that certain factors to consider in ascertaining the best interest of a child included the following:

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
4. The parenting abilities of the individuals seeking custody
5. The programs available to assist those individuals to promote the best interest of the child
6. The plans for the child by these individuals or by the agency seeking custody

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

9. Any excuse for the acts or omissions of the parent