

The "Fit Parent" Presumption

A non-parent seeking custody or visitation of a child against the wishes of that child's biological parent must provide sufficient evidence to overcome the presumption that the parent is fit.

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

**"(A)ny best-interest determination in which a court weighs a fit parent's rights against a claim to conservatorship or access by a non-parent to include a presumption that a fit parent acts in his or her child's best interest".
Id. at 818-19.**

COMPANION CASE

U.S. Supreme Ct.

Troxel v. Granville, 530 U.S. 57,
68, 120 S. Ct. 2054, 147 L. Ed. 2d
49 (2000)

Parents have a fundamental right to control the upbringing of their children, and a law that allows anyone to petition a court for child visitation rights over parental objections unconstitutionally infringes on this right. Courts may not use a freestanding "best interest of the child" standard to overturn parental rights.

Facts that MAY overcome the Fit Parent Presumption

- A prior order in which neither parent or the sole surviving parent was appointed as a managing conservator
- Drug use or history of drug use
- Avoidance of drug testing
- Unemployment or history of unemployment
- No or few child support payments made
- Lack of housing for children
- Non-compliance with possession order
- Not exercising possession or access
- History of domestic violence, particularly if witnessed by or directed at children
- Relinquishment of managing conservatorship to a third party, even if the parent attempts to reassert the relinquished right.



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