

BILL ANALYSIS

C.S.S.B. 393
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Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law does not provide for military parents who are deployed in a foreign country to designate their parental rights of possession of or access to a child to other family members while they are overseas. Even though a parent does not have full custody of a child nor the right to designate the principal residence of that child, during scheduled visits the child has the opportunity to bond with not only the parent, but also with the rest of the military parent's family. Legally, it is not entirely clear whether the child's custodial parent may keep the child away from the other military parent's family for the entire time he or she is deployed. As a practical matter, however, it is likely that a child may be separated from stepparents, grandparents, half-siblings, and other family members for extended periods of time. C.S.S.B.393 allows a court to provide in an initial order for the possibility that a military parent may be deployed overseas, and to provide that while overseas, the military parent will have the right to designate another person to exercise limited possession rights with the child so that the child can continue to be a part of the deployed parent's family. In addition, a court having continuing jurisdiction over a suit affecting the parent-child relationship may modify an existing decree to provide a similar order of limited possession under circumstances of military deployment of a parent overseas.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subchapter F, Chapter 153, Family Code, by adding Section 153.3161, as follows:

Sec. 153.3161. LIMITED POSSESSION DURING MILITARY DEPLOYMENT.

(a) Provides that this section applies only to a parent named possessory conservator or joint managing conservator without the exclusive right to designate the primary residence of a child who has been or may be deployed outside of the United States in a foreign country as a member of the United States armed forces. The designation is subject to the court's determination that the limited possession is in the best interest of the child.

(b) Provides that if the court as determined that limited possession is in the best interest of the child, during deployment the court shall order limited possession of the child on the first weekend of each month beginning at 6 p.m. on the day school recesses for the weekend and ending at 6 p.m. on the day before school resumes after the weekend. The limited possession is subject to specific requirements regarding possession of a child in accordance with requirements established by the Standard Possession under Section 153.316 (5)-(9). Further, the person designated with limited possession may exercise the rights and duties of a nonparent under Section 153.376(a), and is subject to a court order regarding restricted or prohibited access to the child by any specified individual.

(c) Provides that after the deployment of the military member concludes and returns to that parent's usual residence, the limited possession under this section terminates.

SECTION 2. Amends Subchapter B, Chapter 156, Family Code, by adding Section 156.105, as follows:

Sec. 156.105. MODIFICATION OF ORDER BASED ON MILITARY DEPLOYMENT. (a) Provides that the military deployment of a person described in Section 153.3161 is a material and substantial change of circumstances sufficient to modify an existing decree regarding possession of or access to a child. (b) Provides that modification of the decree is in the best interest of the child a court may modify the decree in accordance with Section 153.

SECTION 3. Provides that Section 153.3161, Family Code, applies only to a suit affecting the parent-child relationship pending or filed after the effective date.

SECTION 4. Provides that Section 156.105, Family Code, applies only to an action to modify a conservatorship order in a suit affecting the parent-child relationship filed on or after the effective date.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B.393 modifies the original S.B.393 by adding Section 2, and renumbering accordingly, to provide for modification of an existing decree of conservatorship in a suit affecting the parent-child relationship on the basis of a material change of circumstances, and to authorize the court of continuing jurisdiction to order limited possession of a child when a military parent has been deployed overseas on the same basis as provided in an initial decree under Section 1 of this Act.