

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the designation of certain adults to exercise child
3 visitation and possession rights on behalf of a parent serving in
4 the armed forces and deployed outside this country.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter B, Chapter 153, Family Code, is
7 amended by adding Section 153.077 to read as follows:

8 Sec. 153.077. DESIGNATION BY MILITARY PERSONNEL OF SPOUSE
9 OR GRANDPARENT TO EXERCISE PERIODS OF POSSESSION. (a) This
10 section applies only to a parent deployed outside of the United
11 States in a foreign country as a member of the United States armed
12 forces who has been awarded periods of possession of a child as a:

13 (1) possessory conservator of the child;

14 (2) joint managing conservator of the child without
15 the exclusive right to designate the primary residence of the
16 child; or

17 (3) noncustodial parent with comparable rights by
18 virtue of an order by a court or tribunal of another state.

19 (b) Except as otherwise provided by this subsection, a
20 parent described by Subsection (a) may designate in writing the
21 parent's spouse or a grandparent of the child to exercise, in the
22 manner provided by this section, possession of the child on behalf
23 of the parent during the time that the parent is deployed. This
24 subsection does not authorize a parent to designate a person whose

1 access to the child is prohibited or restricted by a court order.

2 (c) Unless otherwise agreed in accordance with Subsection
3 (e)(3), a person designated under Subsection (b) shall have the
4 right to possession of the child on the first weekend of each month
5 beginning at 6 p.m. on the day school recesses for the weekend and
6 ending at 6 p.m. on the day before school resumes after the weekend,
7 beginning with the first weekend that begins not earlier than the
8 30th day after the date on which the designating parent provides
9 notice under Subsection (e)(2).

10 (d) If a parent designates a person under this section:

11 (1) the other parent shall surrender the child to the
12 designated person at the beginning of each period of possession at
13 the other parent's residence;

14 (2) the designated person shall return the child to
15 the other parent's residence at the end of each period of
16 possession;

17 (3) the child's other parent and the designated person
18 are subject to the requirements of Sections 153.316(5)-(9);

19 (4) the designated person has the rights and duties of
20 a nonparent possessory conservator under Section 153.376(a) during
21 the period that the person has possession of the child; and

22 (5) the designated person is subject to any provision
23 in a court order restricting or prohibiting access to the child by
24 any specified individual.

25 (e) A parent described by Subsection (a):

26 (1) may exercise the right provided by this section
27 regardless of whether the right is specified in the order awarding

1 periods of possession to the parent;

2 (2) must provide written notice of the designation to
3 the child's other parent; and

4 (3) may reach an agreement with the other parent for
5 alternative periods of possession by the designated person.

6 (f) A person who receives a written designation under this
7 section may seek a court order at any time prohibiting the
8 designated person from exercising the right to possession on the
9 grounds that the possession is not in the best interest of the
10 child.

11 (g) After a deployment described by Subsection (a) is
12 concluded, a designation under this section has no effect and the
13 rights of all affected parties are governed by the terms of any
14 court order applicable when a parent is not deployed in the manner
15 described by Subsection (a).

16 SECTION 2. Section 153.077, Family Code, as added by this
17 Act, applies to each parent appointed as a conservator of a child or
18 awarded comparable rights by a court or tribunal of another state
19 regardless of the date on which the parent was appointed as
20 conservator or awarded comparable rights.

21 SECTION 3. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2005.