

By: Van de Putte

S.B. No. 393

Substitute the following for S.B. No. 393:

By: Goodman

C.S.S.B. No. 393

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the exercise of limited possession and visitation  
3 rights by a designated person on behalf of a parent serving in the  
4 armed forces and deployed outside this country.

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

6 SECTION 1. Subchapter F, Chapter 153, Family Code, is  
7 amended by adding Section 153.3161 to read as follows:

8 Sec. 153.3161. LIMITED POSSESSION DURING MILITARY  
9 DEPLOYMENT. (a) In addition to the general terms and conditions of  
10 possession required by Section 153.316, if a possessory conservator  
11 or a joint managing conservator of the child without the exclusive  
12 right to designate the primary residence of the child is currently a  
13 member of the armed forces of the state or the United States or is  
14 reasonably expected to join those forces, the court shall:

15 (1) permit that conservator to designate a person who  
16 may exercise limited possession of the child during any period that  
17 the conservator is deployed outside of the United States; and

18 (2) if the conservator elects to designate a person  
19 under Subdivision (1), provide in the order for limited possession  
20 of the child by the designated person under those circumstances,  
21 subject to the court's determination that the limited possession is  
22 in the best interest of the child.

23 (b) If the court determines that the limited possession is  
24 in the best interest of the child, the court shall provide in the

1 order that during periods of deployment:

2 (1) the designated person has the right to possession  
3 of the child on the first weekend of each month beginning at 6 p.m.  
4 on Friday and ending at 6 p.m. on Sunday;

5 (2) the other parent shall surrender the child to the  
6 designated person at the beginning of each period of possession at  
7 the other parent's residence;

8 (3) the designated person shall return the child to  
9 the other parent's residence at the end of each period of  
10 possession;

11 (4) the child's other parent and the designated person  
12 are subject to the requirements of Sections 153.316(5)-(9);

13 (5) the designated person has the rights and duties of  
14 a nonparent possessory conservator under Section 153.376(a) during  
15 the period that the person has possession of the child; and

16 (6) the designated person is subject to any provision  
17 in a court order restricting or prohibiting access to the child by  
18 any specified individual.

19 (c) After the deployment is concluded, and the deployed  
20 parent returns to that parent's usual residence, the designated  
21 person's right to limited possession under this section terminates  
22 and the rights of all affected parties are governed by the terms of  
23 any court order applicable when a parent is not deployed.

24 SECTION 2. Subchapter B, Chapter 156, Family Code, is  
25 amended by adding Section 156.105 to read as follows:

26 Sec. 156.105. MODIFICATION OF ORDER BASED ON MILITARY  
27 DEPLOYMENT. (a) The military deployment outside this country of a

1 person who is a possessory conservator or a joint managing  
2 conservator without the exclusive right to designate the primary  
3 residence of the child is a material and substantial change of  
4 circumstances sufficient to justify a modification of an existing  
5 court order or portion of a decree that sets the terms and  
6 conditions for the possession of or access to a child.

7 (b) If the court determines that modification is in the best  
8 interest of the child, the court may modify the order or decree to  
9 provide in a manner consistent with Section 153.3161 for limited  
10 possession of the child during the period of the deployment by a  
11 person designated by the deployed conservator.

12 SECTION 3. Section 153.3161, Family Code, as added by this  
13 Act, applies only to a suit affecting the parent-child relationship  
14 pending in a trial court on or filed on or after the effective date  
15 of this Act.

16 SECTION 4. Section 156.105, Family Code, as added by this  
17 Act, applies only to an action to modify an order in a suit  
18 affecting the parent-child relationship pending in a trial court on  
19 or filed on or after the effective date of this Act.

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