

1-1 By: Van de Putte S.B. No. 393
1-2 (In the Senate - Filed February 8, 2005; February 15, 2005,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 March 14, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; March 14, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 393 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the designation of certain adults to exercise child
1-11 visitation and possession rights on behalf of a parent serving in
1-12 the armed forces and deployed outside this country.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter B, Chapter 153, Family Code, is
1-15 amended by adding Section 153.077 to read as follows:

1-16 Sec. 153.077. DESIGNATION BY MILITARY PERSONNEL OF SPOUSE
1-17 OR GRANDPARENT TO EXERCISE PERIODS OF POSSESSION. (a) This section
1-18 applies only to a parent deployed outside of the United States in a
1-19 foreign country as a member of the United States armed forces who
1-20 has been awarded periods of possession of a child as a:

1-21 (1) possessory conservator of the child;

1-22 (2) joint managing conservator of the child without
1-23 the exclusive right to designate the primary residence of the
1-24 child; or

1-25 (3) noncustodial parent with comparable rights by
1-26 virtue of an order by a court or tribunal of another state.

1-27 (b) Except as otherwise provided by this subsection, a
1-28 parent described by Subsection (a) may designate in writing the
1-29 parent's spouse or a grandparent of the child to exercise, in the
1-30 manner provided by this section, possession of the child on behalf
1-31 of the parent during the time that the parent is deployed. This
1-32 subsection does not authorize a parent to designate a person whose
1-33 access to the child is prohibited or restricted by a court order.

1-34 (c) Unless otherwise agreed in accordance with Subsection
1-35 (e)(3), a person designated under Subsection (b) shall have the
1-36 right to possession of the child on the first weekend of each month
1-37 beginning at 6 p.m. on the day school recesses for the weekend and
1-38 ending at 6 p.m. on the day before school resumes after the weekend,
1-39 beginning with the first weekend that begins not earlier than the
1-40 30th day after the date on which the designating parent provides
1-41 notice under Subsection (e)(2).

1-42 (d) If a parent designates a person under this section:

1-43 (1) the other parent shall surrender the child to the
1-44 designated person at the beginning of each period of possession at
1-45 the other parent's residence;

1-46 (2) the designated person shall return the child to
1-47 the other parent's residence at the end of each period of
1-48 possession;

1-49 (3) the child's other parent and the designated person
1-50 are subject to the requirements of Sections 153.316(5)-(9);

1-51 (4) the designated person has the rights and duties of
1-52 a nonparent possessory conservator under Section 153.376(a) during
1-53 the period that the person has possession of the child; and

1-54 (5) the designated person is subject to any provision
1-55 in a court order restricting or prohibiting access to the child by
1-56 any specified individual.

1-57 (e) A parent described by Subsection (a):

1-58 (1) may exercise the right provided by this section
1-59 regardless of whether the right is specified in the order awarding
1-60 periods of possession to the parent;

1-61 (2) must provide written notice of the designation to
1-62 the child's other parent; and

1-63 (3) may reach an agreement with the other parent for

2-1 alternative periods of possession by the designated person.

2-2 (f) A person who receives a written designation under this
2-3 section may seek a court order at any time prohibiting the
2-4 designated person from exercising the right to possession on the
2-5 grounds that the possession is not in the best interest of the
2-6 child.

2-7 (g) After a deployment described by Subsection (a) is
2-8 concluded, a designation under this section has no effect and the
2-9 rights of all affected parties are governed by the terms of any
2-10 court order applicable when a parent is not deployed in the manner
2-11 described by Subsection (a).

2-12 SECTION 2. Section 153.077, Family Code, as added by this
2-13 Act, applies to each parent appointed as a conservator of a child or
2-14 awarded comparable rights by a court or tribunal of another state
2-15 regardless of the date on which the parent was appointed as
2-16 conservator or awarded comparable rights.

2-17 SECTION 3. This Act takes effect immediately if it receives
2-18 a vote of two-thirds of all the members elected to each house, as
2-19 provided by Section 39, Article III, Texas Constitution. If this
2-20 Act does not receive the vote necessary for immediate effect, this
2-21 Act takes effect September 1, 2005.

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