

BILL ANALYSIS

S.B.43
By: Nelson
Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, a court may modify an existing order providing for the conservatorship of a child if the appointed conservator voluntarily relinquishes primary care and possession of the child to another person for at least six months. This law does not protect military conservators who are required to relinquish their custodial rights while deployed on active duty from a court modifying the order due to the conservator's absence.

As proposed, S.B.43 provides that a military conservator's deployment does not constitute a material and substantial change of circumstances sufficient to justify modification of a court order providing for the conservatorship of a child. S.B.43 protects the rights of a military conservator and prevents a court from using the military conservator's absence during deployment against him or her during child custody proceedings.

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 Section 156.006, Family Code, by adding Subsections (c) and (d) as follows:

(c) Provides that Subsection (b)(2) does not apply to a conservator who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment outside of the United States. (d) Provides for a definition of "military deployment".

SECTION 2. Amends Section 156.101, Family Code, as follows:

(a) Creates this subsection from existing text.

(b) Provides that Subsection (a)(3) does not apply to a conservator who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment outside of the United States.

SECTION 3. Amends Section 156.102, Family Code, by adding Subsection (d) and (e), to provide that Subsection (b)(3) does not apply to a person who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment outside of the United States. (e) Provides for a definition of "military deployment".

SECTION 4. Amends Section 156.105, Family Code, by amending Subsection (b) and adding Subsection (c) and (d), to read as follows:

(b) Authorizes the court to modify the order or decree that sets the terms and conditions for the possession of or access to a child to provide in a manner consistent with Section

153.3161 for limited possession of the child during the period of the deployment by a person designated by the deployed conservator, if the court determines that modification is in the best interest of the child based on the military deployment of a person described by Subsection (a).

(c) Provides that the military deployment outside this country of a conservator who has the exclusive right to designate the primary residence of the child and who temporarily relinquishes the primary care and possession of the child to another person during the conservator's deployment does not by itself constitute a material and substantial change of circumstances sufficient to justify a modification of an existing court order or portion of a decree that sets the terms and conditions for the possession of or access to the child.
(d) Provides for a definition of "military deployment".

SECTION 5. Makes application of this Act prospective.

SECTION 6. This Act takes effect on September 1, 2007.

EFFECTIVE DATE

September 1, 2007.