

## **BILL ANALYSIS**

C.S.S.B.999  
By: Eltife  
Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law allows a military parent to designate an individual to exercise limited possession over a child during a military deployment overseas. However, the law does not address mobilization or deployment within the United States, which can be for extended periods of time and at a considerable distance from home. Limited possession allows the designated individual to visit the child one weekend a month, which is below the minimum visitation guidelines set forth in the Standard Possession Order (Chapter 153, Subchapter F, Family Code).

C.S.S.B.999 authorizes a military parent to designate an individual to exercise limited possession of a child during a military deployment or mobilization and provides that the designation is subject to the court's discretion and determination that it is in the best interest of the child.

Moreover, in the interest of allowing maximum amount of time between a deployed parent and that child C.S.S.B.999 further provides a system by which a deployed parent may, upon return, petition the court for additional visitation time with that child. The court will have the authority to grant the additional periods of time and the amount of additional time to be granted.

### **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 153.3161, Family Code, as follows:

Sec. 153.3161. New heading: POSSESSION DURING MILITARY DEPLOYMENT.

(a) Defines "military deployment."

(b) Requires the court to permit a possessory or a joint managing conservator of a child without the exclusive right to designate the primary residence of the child who is currently a member of the armed forces of the state or the United States or is reasonably expected to join those forces to designate a person who may exercise possession, rather than limited possession, of the child on behalf of that conservator during any period that the conservator is deployed under a military deployment, rather than outside of the United States. Makes conforming changes.

(c) Requires the court to provide in the order, if the court determines that the possession, rather than the limited possession, is in the best interest of the child, that during periods of military deployment the designated person has the right to possession of the child for the periods and in the manner in which the deployed conservator would be entitled to exercise possession if not deployed, and the child's other parent and the designated person are subject to the requirements of Section 153.316, rather than Sections 153.316(5) - (9), with the designated person considered for purposes of that section to be the possessory conservator. Makes conforming changes.

(d) The court shall use every reasonable means to expedite a hearing under this section to ensure that the order is rendered before the conservator's military

deployment, unless the court determines that an expedited hearing is not in the best interest of the child.

(e) Makes conforming changes.

SECTION 2. Amends Subchapter F, Chapter 153, Family Code by adding Section 153.3162 to provide for additional periods of possession or access after conclusion of military deployment. (a) In this section, the meaning of "conservator" and "military deployment" is defined. Details the time frame during which a conservator may request that the court compute periods of possession or access to a child that was missed because of deployment, and award the conservator additional periods of time. Allows the court to determine whether the conservator's access to the child was not reasonably possible due to deployment and whether additional periods of possession or access are in the best interest of the child. Identifies factors of consideration for making that determination. If the court determines that the conservator shall be granted additional possession or access time it may award a length of time and under terms that the court deems to be reasonable, so long as it is in the best interest of the child. However, in making this determination, the court shall consider the periods of possession of or access to the child to which the conservator would otherwise have been entitled during the conservator's military deployment, as computed under Subsection (c)(1) and any other factor the court considers appropriate. The court is not required to award additional periods of possession and access to the child that would equal the possession and access to which the conservator would have been entitled during the conservator's military deployment.

After the conservator has exercised all additional periods of possession or access awarded under this section, the rights of all affected parties are governed by the terms of any court order applicable when the conservator is not deployed under a military deployment. Further this section does not apply if a court rendered an order under Section 153.3161.

SECTION 3. Amends Section 156.105, Family Code, to define "military deployment" and makes conforming changes.

SECTION 4. Provides that Section 153.3161, Family Code, as amended by this Act, applies to a suit affecting the parent-child relationship that is pending in a trial court on or filed on or after the effective date of this Act.

SECTION 5. Provides that Section 153.3162, Family Code, as amended by this Act, applies to a suit affecting the parent-child relationship that is pending in a trial court on or filed on or after the effective date of this Act.

SECTION 6. Provides that Section 156.105, Family Code, as amended by this Act, applies to an action to modify an order in a suit affecting the parent-child relationship pending in trial court on or filed on or after the effective date of this Act.

SECTION 7. This Act takes effect September 1, 2007.

#### **EFFECTIVE DATE**

September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.S.B.999 modifies the original S.B.999 by adding subsection (d) to provide that the court shall use every reasonable means to expedite a hearing under this section to ensure that the order is rendered before the conservator's military deployment, unless the court determines that an expedited hearing is not in the best interest of the child.

C.S.S.B. 999 80(R)

C.S.S.B.999 also adds Section 153.3162 to Chapter 153 of the Family Code, which provides for additional periods of possession or access after conclusion of military deployment which defines the meaning of "conservator" for the purposes of the added section. C.S.S.B.999 details the time frame during which a conservator may request that the court compute periods of possession or access to a child that was missed because of deployment, and award the conservator additional periods of time. C.S.S.B.999 allows the court to determine whether the conservator's access to the child was not reasonably possible due to deployment and whether additional periods of possession or access are in the best interest of the child. C.S.S.B.999 also identifies factors of consideration for making that determination. If the court determines that the conservator shall be granted additional possession or access time it may award a length of time and under terms that the court deems to be reasonable, so long as it is in the best interest of the child. However, in making this determination, the court shall consider the periods of possession of or access to the child to which the conservator would otherwise have been entitled during the conservator's military deployment, as computed under Subsection (c)(1) and any other factor the court considers appropriate. The court is not required to award additional periods of possession and access to the child that would equal the possession and access to which the conservator would have been entitled during the conservator's military deployment. After the conservator has exercised all additional periods of possession or access awarded under this section, the rights of all affected parties are governed by the terms of any court order applicable when the conservator is not deployed under a military deployment. Further this section does not apply if a court rendered an order under Section 153.3161. Finally, C.S.S.B.999 provides that the added section applies only to suits or actions to modify suits affecting the parent-child relationship pending in a trial court on or after the effective date.