

By: Dutton

H.B. No. 1872

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to possession of or access to a child in a suit affecting  
3 the parent-child relationship during military deployment or  
4 mobilization of the child's parent.

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

6 SECTION 1. Section 153.3161, Family Code, is amended to  
7 read as follows:

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

16 (1) permit that conservator to designate a person who  
17 may exercise [~~limited~~] possession of the child on behalf of that  
18 conservator during any period that the conservator is deployed or  
19 mobilized [~~outside of the United States~~]; and

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

1 (b) If the court determines that the [~~limited~~] possession is  
2 in the best interest of the child, the court shall provide in the  
3 order that during periods of deployment or mobilization:

4 (1) the designated person has the right to possession  
5 of the child for the periods and in the manner in which the deployed  
6 or mobilized conservator would be entitled to exercise possession  
7 if not deployed or mobilized [~~on the first weekend of each month~~  
8 ~~beginning at 6 p.m. on Friday and ending at 6 p.m. on Sunday~~];

9 (2) [~~the other parent shall surrender the child to the~~  
10 ~~designated person at the beginning of each period of possession at~~  
11 ~~the other parent's residence,~~

12 [~~(3) the designated person shall return the child to~~  
13 ~~the other parent's residence at the end of each period of~~  
14 ~~possession,~~

15 [~~(4)~~] the child's other parent and the designated  
16 person are subject to the requirements of Section 153.316, with the  
17 designated person considered for purposes of that section to be the  
18 possessory conservator [~~Sections 153.316(5)-(9)~~];

19 (3) [~~(5)~~] the designated person has the rights and  
20 duties of a nonparent possessory conservator under Section  
21 153.376(a) during the period that the person has possession of the  
22 child; and

23 (4) [~~(6)~~] the designated person is subject to any  
24 provision in a court order restricting or prohibiting access to the  
25 child by any specified individual.

26 (c) After the deployment or mobilization is concluded, and  
27 the deployed or mobilized parent returns to that parent's usual

1 residence, the designated person's right to [~~limited~~] possession  
2 under this section terminates and the rights of all affected  
3 parties are governed by the terms of any court order applicable when  
4 a parent is not deployed or mobilized.

5 SECTION 2. Section 156.105, Family Code, is amended to read  
6 as follows:

7 Sec. 156.105. MODIFICATION OF ORDER BASED ON MILITARY  
8 DEPLOYMENT OR MOBILIZATION. (a) The military deployment or  
9 mobilization [~~outside this country~~] of a person who is a possessory  
10 conservator or a joint managing conservator without the exclusive  
11 right to designate the primary residence of the child is a material  
12 and substantial change of circumstances sufficient to justify a  
13 modification of an existing court order or portion of a decree that  
14 sets the terms and conditions for the possession of or access to a  
15 child.

16 (b) If the court determines that modification is in the best  
17 interest of the child, the court may modify the order or decree to  
18 provide in a manner consistent with Section 153.3161 for [~~limited~~]  
19 possession of the child during the period of the deployment or  
20 mobilization by a person designated by the deployed or mobilized  
21 conservator.

22 SECTION 3. Section 153.3161, Family Code, as amended by  
23 this Act, applies only to a suit affecting the parent-child  
24 relationship pending in a trial court on or filed on or after the  
25 effective date of this Act.

26 SECTION 4. Section 156.105, Family Code, as amended by this  
27 Act, applies only to an action to modify an order in a suit

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1 affecting the parent-child relationship pending in a trial court on  
2 or filed on or after the effective date of this Act.

3 SECTION 5. This Act takes effect September 1, 2007.