

By: Nelson, Fraser

S.B. No. 43

A BILL TO BE ENTITLED

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AN ACT

relating to the modification of an order establishing the conservatorship of a child or providing for the possession of or access to a child based on military deployment.

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

SECTION 1. Section 156.006, Family Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) 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.

(d) In this section, "military deployment" means military duty ordered for a period of more than six months during which the person ordered to duty:

(1) is not provided the option of being accompanied by the person's child; and

(2) is serving in a location where access to the person's child is not reasonably possible.

SECTION 2. Section 156.101, Family Code, is amended to read as follows:

Sec. 156.101. GROUNDS FOR MODIFICATION OF ORDER ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. (a) The court may modify an order that provides for the appointment of a

1 conservator of a child, that provides the terms and conditions of  
2 conservatorship, or that provides for the possession of or access  
3 to a child if modification would be in the best interest of the  
4 child and:

5 (1) the circumstances of the child, a conservator, or  
6 other party affected by the order have materially and substantially  
7 changed since the earlier of:

8 (A) the date of the rendition of the order; or

9 (B) the date of the signing of a mediated or  
10 collaborative law settlement agreement on which the order is based;

11 (2) the child is at least 12 years of age and has filed  
12 with the court, in writing, the name of the person who is the  
13 child's preference to have the exclusive right to designate the  
14 primary residence of the child; or

15 (3) the conservator who has the exclusive right to  
16 designate the primary residence of the child has voluntarily  
17 relinquished the primary care and possession of the child to  
18 another person for at least six months.

19 (b) Subsection (a)(3) does not apply to a conservator who  
20 has the exclusive right to designate the primary residence of the  
21 child and who has temporarily relinquished the primary care and  
22 possession of the child to another person during the conservator's  
23 military deployment.

24 (c) In this section, "military deployment" means military  
25 duty ordered for a period of more than six months during which the  
26 person ordered to duty:

27 (1) is not provided the option of being accompanied by

1 the person's child; and

2 (2) is serving in a location where access to the  
3 person's child is not reasonably possible.

4 SECTION 3. Section 156.102, Family Code, is amended by  
5 adding Subsections (d) and (e) to read as follows:

6 (d) Subsection (b)(3) does not apply to a person who has the  
7 exclusive right to designate the primary residence of the child and  
8 who has temporarily relinquished the primary care and possession of  
9 the child to another person during the conservator's military  
10 deployment.

11 (e) In this section, "military deployment" means military  
12 duty ordered for a period of more than six months during which the  
13 person ordered to duty:

14 (1) is not provided the option of being accompanied by  
15 the person's child; and

16 (2) is serving in a location where access to the  
17 person's child is not reasonably possible.

18 SECTION 4. Section 156.105, Family Code, is amended by  
19 amending Subsection (b) and adding Subsections (c) and (d) to read  
20 as follows:

21 (b) If the court determines that modification is in the best  
22 interest of the child based on the military deployment of a person  
23 described by Subsection (a), the court may modify the order or  
24 decree to provide in a manner consistent with Section 153.3161 for  
25 limited possession of the child during the period of the deployment  
26 by a person designated by the deployed conservator.

27 (c) The military deployment of a conservator who has the

1 exclusive right to designate the primary residence of the child and  
2 who temporarily relinquishes the primary care and possession of the  
3 child to another person during the conservator's deployment does  
4 not by itself constitute a material and substantial change of  
5 circumstances sufficient to justify a modification of an existing  
6 court order or portion of a decree that sets the terms and  
7 conditions for the possession of or access to the child.

8 (d) In this section, "military deployment" means military  
9 duty ordered for a period of more than six months during which the  
10 person ordered to duty:

11 (1) is not provided the option of being accompanied by  
12 the person's child; and

13 (2) is serving in a location where access to the  
14 person's child is not reasonably possible.

15 SECTION 5. The changes in law made by this Act apply to an  
16 action to modify an order in a suit affecting the parent-child  
17 relationship that is pending in a trial court on the effective date  
18 of this Act or filed on or after that date.

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