

By: Nelson, Fraser

S.B. No. 43

A BILL TO BE ENTITLED

1 AN ACT

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

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

6 SECTION 1. Section 156.006, Family Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) Subsection (b)(2) does not apply to a conservator who
9 has the exclusive right to designate the primary residence of the
10 child and who has temporarily relinquished the primary care and
11 possession of the child to another person during the conservator's
12 military deployment outside of the United States.

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

15 Sec. 156.101. GROUNDS FOR MODIFICATION OF ORDER
16 ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. (a) The
17 court may modify an order that provides for the appointment of a
18 conservator of a child, that provides the terms and conditions of
19 conservatorship, or that provides for the possession of or access
20 to a child if modification would be in the best interest of the
21 child and:

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

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

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

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

8 (3) the conservator who has the exclusive right to
9 designate the primary residence of the child has voluntarily
10 relinquished the primary care and possession of the child to
11 another person for at least six months.

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

17 SECTION 3. Section 156.102, Family Code, is amended by
18 adding Subsection (d) to read as follows:

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

24 SECTION 4. Section 156.105, Family Code, is amended by
25 amending Subsection (b) and adding Subsection (c) to read as
26 follows:

27 (b) If the court determines that modification is in the best

1 interest of the child based on the military deployment of a person
2 described by Subsection (a), the court may modify the order or
3 decree to provide in a manner consistent with Section 153.3161 for
4 limited possession of the child during the period of the deployment
5 by a person designated by the deployed conservator.

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

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.