

1-1 By: Nelson, Fraser S.B. No. 43
1-2 (In the Senate - Filed November 13, 2006; January 23, 2007,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 March 12, 2007, reported favorably by the following vote: Yeas 5,
1-5 Nays 0; March 12, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the modification of an order establishing the
1-9 conservatorship of a child or providing for the possession of or
1-10 access to a child based on military deployment.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 156.006, Family Code, is amended by
1-13 adding Subsection (c) to read as follows:

1-14 (c) Subsection (b)(2) does not apply to a conservator who
1-15 has the exclusive right to designate the primary residence of the
1-16 child and who has temporarily relinquished the primary care and
1-17 possession of the child to another person during the conservator's
1-18 military deployment outside of the United States.

1-19 SECTION 2. Section 156.101, Family Code, is amended to read
1-20 as follows:

1-21 Sec. 156.101. GROUNDS FOR MODIFICATION OF ORDER
1-22 ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. (a) The
1-23 court may modify an order that provides for the appointment of a
1-24 conservator of a child, that provides the terms and conditions of
1-25 conservatorship, or that provides for the possession of or access
1-26 to a child if modification would be in the best interest of the
1-27 child and:

1-28 (1) the circumstances of the child, a conservator, or
1-29 other party affected by the order have materially and substantially
1-30 changed since the earlier of:

1-31 (A) the date of the rendition of the order; or

1-32 (B) the date of the signing of a mediated or
1-33 collaborative law settlement agreement on which the order is based;

1-34 (2) the child is at least 12 years of age and has filed
1-35 with the court, in writing, the name of the person who is the
1-36 child's preference to have the exclusive right to designate the
1-37 primary residence of the child; or

1-38 (3) the conservator who has the exclusive right to
1-39 designate the primary residence of the child has voluntarily
1-40 relinquished the primary care and possession of the child to
1-41 another person for at least six months.

1-42 (b) Subsection (a)(3) does not apply to a conservator who
1-43 has the exclusive right to designate the primary residence of the
1-44 child and who has temporarily relinquished the primary care and
1-45 possession of the child to another person during the conservator's
1-46 military deployment outside of the United States.

1-47 SECTION 3. Section 156.102, Family Code, is amended by
1-48 adding Subsection (d) to read as follows:

1-49 (d) Subsection (b)(3) does not apply to a person who has the
1-50 exclusive right to designate the primary residence of the child and
1-51 who has temporarily relinquished the primary care and possession of
1-52 the child to another person during the conservator's military
1-53 deployment outside of the United States.

1-54 SECTION 4. Section 156.105, Family Code, is amended by
1-55 amending Subsection (b) and adding Subsection (c) to read as
1-56 follows:

1-57 (b) If the court determines that modification is in the best
1-58 interest of the child based on the military deployment of a person
1-59 described by Subsection (a), the court may modify the order or
1-60 decree to provide in a manner consistent with Section 153.3161 for
1-61 limited possession of the child during the period of the deployment
1-62 by a person designated by the deployed conservator.

1-63 (c) The military deployment outside this country of a
1-64 conservator who has the exclusive right to designate the primary

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

2-8 SECTION 5. The changes in law made by this Act apply to an
2-9 action to modify an order in a suit affecting the parent-child
2-10 relationship that is pending in a trial court on the effective date
2-11 of this Act or filed on or after that date.

2-12 SECTION 6. This Act takes effect September 1, 2007.

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