

By: Eltife, Van de Putte

S.B. No. 999

A BILL TO BE ENTITLED

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AN ACT

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

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

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

Sec. 153.3161. [~~LIMITED~~] POSSESSION DURING MILITARY DEPLOYMENT. (a) 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.

(b) In addition to the general terms and conditions of possession required by Section 153.316, if a possessory conservator or a joint managing conservator of the child without the exclusive right to designate the primary residence of the child is currently a member of the armed forces of the state or the United States or is reasonably expected to join those forces, the court shall:

(1) permit that conservator to designate a person who may exercise [~~limited~~] possession of the child on behalf of that conservator during any period that the conservator is deployed

1 under a military deployment [~~outside of the United States~~]; and

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

7 (c) [~~(b)~~] If the court determines that the [~~limited~~]
8 possession is in the best interest of the child, the court shall
9 provide in the order that during periods of military deployment:

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

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

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

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

25 (3) [~~(5)~~] the designated person has the rights and
26 duties of a nonparent possessory conservator under Section
27 153.376(a) during the period that the person has possession of the

1 child; and

2 (4) [~~(6)~~] the designated person is subject to any
3 provision in a court order restricting or prohibiting access to the
4 child by any specified individual.

5 (d) [~~(c)~~] After the military deployment is concluded, and
6 the deployed parent returns to that parent's usual residence, the
7 designated person's right to [~~limited~~] possession under this
8 section terminates and the rights of all affected parties are
9 governed by the terms of any court order applicable when a parent is
10 not deployed.

11 SECTION 2. Section 156.105, Family Code, is amended to read
12 as follows:

13 Sec. 156.105. MODIFICATION OF ORDER BASED ON MILITARY
14 DEPLOYMENT. (a) In this section, "military deployment" means
15 military duty ordered for a period of more than six months during
16 which the person ordered to duty:

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

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

21 (b) The military deployment [~~outside this country~~] of a
22 person who is a possessory conservator or a joint managing
23 conservator without the exclusive right to designate the primary
24 residence of the child is a material and substantial change of
25 circumstances sufficient to justify a modification of an existing
26 court order or portion of a decree that sets the terms and
27 conditions for the possession of or access to a child.

1 (c) [~~(b)~~] If the court determines that modification is in
2 the best interest of the child, 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 military
5 deployment by a person designated by the deployed conservator.

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

10 SECTION 4. Section 156.105, Family Code, as amended by this
11 Act, applies only to an action to modify an order in a suit
12 affecting the parent-child relationship pending in a trial court on
13 or filed on or after the effective date of this Act.

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