

By: Eltife, et al.

S.B. No. 999

Substitute the following for S.B. No. 999:

By: Dutton

C.S.S.B. No. 999

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 or after military deployment
4 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. (a) In this section, "military deployment" means
10 military duty ordered for a period of more than six months during
11 which the person ordered to duty:

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

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

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

22 (1) permit that conservator to designate a person who
23 may exercise [~~limited~~] possession of the child on behalf of that
24 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) The court shall use every reasonable means to expedite a
6 hearing under this section to ensure that the order is rendered
7 before the conservator's military deployment, unless the court
8 determines that an expedited hearing is not in the best interest of
9 the child.

10 (e) [~~(e)~~] After the military deployment is concluded, and
11 the deployed parent returns to that parent's usual residence, the
12 designated person's right to [~~limited~~] possession under this
13 section terminates and the rights of all affected parties are
14 governed by the terms of any court order applicable when a parent is
15 not deployed.

16 SECTION 2. Subchapter F, Chapter 153, Family Code, is
17 amended by adding Section 153.3162 to read as follows:

18 Sec. 153.3162. ADDITIONAL PERIODS OF POSSESSION OR ACCESS
19 AFTER CONCLUSION OF MILITARY DEPLOYMENT. (a) In this section:

20 (1) "Conservator" means:

21 (A) a possessory conservator of a child; or

22 (B) a joint managing conservator of a child
23 without the exclusive right to designate the primary residence of
24 the child.

25 (2) "Military deployment" means military duty ordered
26 for a period of more than six months during which the person ordered
27 to duty:

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

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

5 (b) Not later than the 90th day after the date a conservator
6 who is a member of the armed services concludes the conservator's
7 military deployment, the conservator may petition the court to:

8 (1) compute the periods of possession of or access to
9 the child to which the conservator would have otherwise been
10 entitled during the conservator's military deployment; and

11 (2) award the conservator additional periods of
12 possession of or access to the child to compensate for the periods
13 described by Subdivision (1).

14 (c) If a conservator petitions the court under Subsection
15 (b), the court:

16 (1) shall compute the periods of possession or access
17 to the child described by Subsection (b)(1); and

18 (2) may award to the conservator additional periods of
19 possession of or access to the child for a length of time and under
20 terms the court considers reasonable, if the court determines that
21 the award of additional periods of possession of or access to the
22 child is in the best interest of the child.

23 (d) In making the determination under Subsection (c)(2),
24 the court:

25 (1) shall consider:

26 (A) the periods of possession of or access to the
27 child to which the conservator would otherwise have been entitled

1 during the conservator's military deployment, as computed under
2 Subsection (c)(1); and

3 (B) any other factor the court considers
4 appropriate; and

5 (2) is not required to award additional periods of
6 possession of or access to the child that equals the possession or
7 access to which the conservator would have been entitled during the
8 conservator's military deployment, as computed under Subsection
9 (c)(1).

10 (e) After the conservator has exercised all additional
11 periods of possession or access awarded under this section, the
12 rights of all affected parties are governed by the terms of any
13 court order applicable when the conservator is not deployed under a
14 military deployment.

15 (f) This section does not apply if a court rendered an order
16 under Section 153.3161 that permitted a person to exercise the
17 right to possession of the child during the conservator's military
18 deployment for the period and in the manner in which the conservator
19 would be entitled to exercise possession if not deployed under a
20 military deployment.

21 SECTION 3. Section 156.105, Family Code, is amended to read
22 as follows:

23 Sec. 156.105. MODIFICATION OF ORDER BASED ON MILITARY
24 DEPLOYMENT. (a) In this section, "military deployment" means
25 military duty ordered for a period of more than six months during
26 which the 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 (b) The military deployment [~~outside this country~~] of a
5 person who is a possessory conservator or a joint managing
6 conservator without the exclusive right to designate the primary
7 residence of the child is a material and substantial change of
8 circumstances sufficient to justify a modification of an existing
9 court order or portion of a decree that sets the terms and
10 conditions for the possession of or access to a child.

11 (c) [~~(b)~~] If the court determines that modification is in
12 the best interest of the child, the court may modify the order or
13 decree to provide in a manner consistent with Section 153.3161 for
14 [~~limited~~] possession of the child during the period of the military
15 deployment by a person designated by the deployed conservator.

16 SECTION 4. Section 153.3161, Family Code, as amended by
17 this Act, applies only to a suit affecting the parent-child
18 relationship pending in a trial court on or filed on or after the
19 effective date of this Act.

20 SECTION 5. Section 153.3162, Family Code, as added by this
21 Act, applies to a suit affecting the parent-child relationship, or
22 an action to modify an order in a suit affecting the parent-child
23 relationship, pending in a trial court on the effective date of this
24 Act or filed on or after that date.

25 SECTION 6. Section 156.105, Family Code, as amended by this
26 Act, applies only to an action to modify an order in a suit
27 affecting the parent-child relationship pending in a trial court on

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1 or filed on or after the effective date of this Act.

2 SECTION 7. This Act takes effect September 1, 2007.