

BILL ANALYSIS

C.S.H.B. 63
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, a court may modify an existing order providing for the conservatorship of a child if the appointed conservator voluntarily relinquishes primary care and possession of the child to another person for at least six months. This law does not take into account a parent deployed on active military duty and does not prohibit a court from modifying an order affecting the terms of a parent's possession or access to a child due to the conservator's absence.

In addition, with thousands of Texans in the armed forces deployed overseas, cases of possession or access in regards to child custody have developed. Currently, there is no recourse for conservators who have been deployed to gain back the time lost with the conservator's children. The bill seeks to protect the rights of a conservator on active military duty and prevents the conservator's absence during military deployment from affecting a child custody proceeding.

C.S.H.B. 63 provides that a military conservator's deployment may not be used to justify modification of a court order providing for the conservatorship of a child. The bill authorizes conservators who have been deployed to petition the court for additional periods of possession of or access to a child to compensate for the loss of time to which the conservator would have been entitled if not deployed. The bill authorizes the court to grant additional time after considering the amount of time lost and the best interests of the child.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 63 amends the Family Code to prohibit a court from rendering an order affecting the terms of a parent's possession of or access to the parent's child on the sole grounds that the parent has voluntarily abandoned or left the child or has otherwise voluntarily relinquished the primary care and possession of the child if the parent has temporarily relinquished the primary care and possession of the child to another person during a period in which the parent is ordered to duty as a member of the armed forces of the United States, the Texas National Guard, or the National Guard of another state without the option of being accompanied by the child and is serving in a location where access to the child is not reasonably possible.

C.S.H.B. 63 authorizes a conservator who is a member of the armed services, not later than the 90th day after the date the conservator concludes the conservator's active military deployment, to petition the court to compute the periods of possession or access to the child to which the conservator would have otherwise been entitled during the conservator's deployment and award the conservator additional periods of possession of or access to the child to compensate for those periods.

C.S.H.B. 63 requires a court to compute the periods of possession or access to the child to which the conservator would have otherwise been entitled during the conservator's deployment if a conservator petitions the court. The bill authorizes the court to award to the conservator additional periods of possession of or access to the child for a length of time and under the terms the court considers reasonable if the court determines that the conservator was deployed in a location where access to the child was not reasonably possible and the award of additional periods of possession of or access to the child is in the best interest of the child.

C.S.H.B. 63 requires the court, in making this determination, to consider the periods of possession of or access to the child to which the conservator would otherwise have been entitled during the conservator's deployment; whether the court provided in an order that a person exercise limited possession of the child during the conservator's deployment; and any other factor the court considers appropriate. The bill clarifies that the court, in making this determination, is not required to award additional periods of possession of or access to the child that equals the possession or access to which the conservator would have been entitled during the conservator's deployment. The bill provides that, after the conservator has exercised all additional periods of possession or access awarded by a court, the rights of all affected parties are governed by the terms of any court order applicable when the conservator is not deployed.

C.S.H.B. 63 defines "conservator."

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 63 differs from the original by adding provisions regarding the petition for and computation and award of additional periods of possession of or access to a child after the conclusion of active military deployment of a conservator. The substitute makes related conforming changes not included in the original.