

BILL ANALYSIS

H.B. 409
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Defense & Veterans' Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Cases involving possession of or access to a child for conservators returning from active military deployment have become more frequent as thousands of Texans in the armed forces are deployed overseas. There is currently no recourse for conservators who have been deployed to gain back the time lost with their children.

H.B. 409 allows a conservator who has returned from active military deployment to petition the court for additional periods of possession of or access to his or her children equal to the amount of time the conservator would have been entitled to had he or she not been deployed. The bill allows the court to grant additional time after considering the amount of entitled 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

H.B. 409 amends the Family Code to provide for additional periods of possession of or access to a child for certain conservators who have returned from active military deployment. The bill defines "conservator" to mean a possessory conservator of a child or a joint managing conservator of a child without the exclusive right to designate the primary residence of the child. The bill authorizes a conservator, not later than the 90th day after the conclusion of the conservator's active military deployment, to petition the court with jurisdiction of a suit affecting the parent-child relationship to compute the periods of possession of or access to the child to which the conservator would have otherwise been entitled during the conservator's deployment and to award the conservator additional periods of possession of or access to the child to compensate for those periods.

H.B. 409 requires the court to compute the periods of possession of or access to the child to which the conservator would have otherwise been entitled during deployment and authorizes the court to award additional periods of possession of or access to the child under 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. The bill requires the court, in making a determination to award additional periods of possession of or access to a child, to consider the computed periods of possession or access the conservator missed while deployed and whether the court provided a standard possession order that a person exercise limited possession of the child during the conservator's deployment in addition to any other factor the court deems appropriate. The bill specifies that the court is not required to award additional periods of possession of or access to a child that equals the periods to which the conservator would have been entitled during deployment as computed by the court.

H.B. 409 specifies that after all additional periods of possession of or access to a child awarded to a conservator have been exercised, the rights of all affected parties are governed by the terms of any court order applicable when the conservator is not deployed.

EFFECTIVE DATE

September 1, 2009.