

BILL ANALYSIS

Senate Research Center
81R1188 KSD-D

S.B. 279
By: Nelson
Jurisprudence
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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 protect military parents who are deployed on active duty from a court modifying the order due to the conservator's absence.

As proposed, S.B. 279 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. This bill protects the rights of a military conservator and prevents a court from using the military conservator's absence during deployment against him or her during child custody proceedings.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 156.006, Family Code, by adding Subsections (c) and (d), as follows:

(c) Provides that Subsection (b)(2) (relating to the ability of the court to render a temporary order that has the effect of changing the designation of the person who has the exclusive right to designate the primary residence of the child under the final order) does not apply to a conservator who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment.

(d) Defines "military deployment."

SECTION 2. Amends Section 156.101, Family Code, as follows:

Sec. 156.101. GROUND FOR MODIFICATION OF ORDER ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. (a) Creates Subsection (a) from existing text.

(b) Provides that Subsection (a)(3) (relating to the modification of an order relating to relinquishment of the primary care and possession of a child by a conservator who has the exclusive right to designate the child's primary residence) does not apply to a conservator who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment.

(c) Defines "military deployment."

SECTION 3. Amends Section 156.102, Family Code, by adding Subsections (d) and (e), as follows:

(d) Provides that Subsection (b)(3) (relating to the contents of the affidavit) does not apply to a person who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment.

(e) Defines "military deployment."

SECTION 4. Amends Section 156.105, Family Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Authorizes the court, if the court determines that modification is in the best interest of the child based on the military deployment of a person described by Subsection (b) (relating to the military deployment of a person who is a possessory conservator or a joint managing conservator of a child), to modify the order or decree to provide in a manner consistent with Section 153.3161 (Possession During Military Deployment) for possession of the child during the period of the military deployment by a person designated by the deployed conservator.

(d) Provides that the military deployment of a conservator who has the exclusive right to designate the primary residence of the child and who temporarily relinquishes the primary care and possession of the child to another person during the conservator's deployment does not by itself constitute a material and substantial change of circumstances sufficient to justify a modification of an existing court order or portion of a decree that sets the terms and conditions for the possession of or access to the child.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2009.