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H.B. No. 63

A BILL TO BE ENTITLED

1 AN ACT
2 relating to possession of or access to a child by a parent who is
3 deployed by the military.

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

5 SECTION 1. Chapter 151, Family Code, is amended by adding
6 Section 151.004 to read as follows:

7 Sec. 151.004. PROHIBITION AGAINST CERTAIN ORDERS DURING
8 PARENT'S MILITARY DEPLOYMENT. A court may not render an order
9 affecting the terms of a parent's possession of or access to the
10 parent's child on the sole grounds that the parent has voluntarily
11 abandoned or left the child or has otherwise voluntarily
12 relinquished the primary care and possession of the child if the
13 parent has temporarily relinquished the primary care and possession
14 of the child to another person during a period in which the parent:

15 (1) is ordered to duty as a member of the armed forces
16 of the United States, the Texas National Guard, or the National
17 Guard of another state without the option of being accompanied by
18 the child; and

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

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

23 Sec. 153.3162. ADDITIONAL PERIODS OF POSSESSION OR ACCESS
24 AFTER CONCLUSION OF MILITARY DEPLOYMENT. (a) In this section,

1 "conservator" means:

2 (1) a possessory conservator of a child; or

3 (2) a joint managing conservator of a child without
4 the exclusive right to designate the primary residence of the
5 child.

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

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

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

16 (c) If a conservator petitions the court under Subsection
17 (b), the court:

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

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

23 (A) the conservator was deployed in a location
24 where access to the child was not reasonably possible; and

25 (B) the award of additional periods of possession
26 of or access to the child is in the best interest of the child.

27 (d) In making the determination under Subsection (c)(2),

1 the court:

2 (1) shall consider:

3 (A) the periods of possession of or access to the
4 child to which the conservator would otherwise have been entitled
5 during the conservator's deployment, as computed under Subsection
6 (c)(1);

7 (B) whether the court provided in an order under
8 Section 153.3161 that a person exercise limited possession of the
9 child during the conservator's deployment; and

10 (C) any other factor the court considers
11 appropriate; and

12 (2) is not required to award additional periods of
13 possession of or access to the child that equals the possession or
14 access to which the conservator would have been entitled during the
15 conservator's deployment, as computed under Subsection (c)(1).

16 (e) After the conservator has exercised all additional
17 periods of possession or access awarded under this section, the
18 rights of all affected parties are governed by the terms of any
19 court order applicable when the conservator is not deployed.

20 SECTION 3. The changes in law made by this Act apply to a
21 suit affecting the parent-child relationship, or an action to
22 modify an order in a suit affecting the parent-child relationship,
23 pending in a trial court on the effective date of this Act or filed
24 on or after that date.

25 SECTION 4. This Act takes effect September 1, 2009.