

By: Gonzalez Toureilles

H.B. No. 1012

A BILL TO BE ENTITLED

AN ACT

relating to the conservatorship or possession of, or access to, a child in a suit affecting the parent-child relationship.

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

SECTION 1. Section 102.0045(b), Family Code, is amended to read as follows:

(b) Access to a child by a sibling of the child is governed by the standards established by Section 153.551 [~~Subchapter J, Chapter 153~~].

SECTION 2. Section 107.0511, Family Code, is amended by adding Subsections (g), (h), and (i) to read as follows:

(g) The minimum qualifications prescribed by this section do not apply to an individual who, before September 1, 2007:

(1) lived in a county that has a population of 500,000 or more and is adjacent to two or more counties each of which has a population of 50,000 or more;

(2) received a four-year degree from an accredited institution of higher education;

(3) worked as a child protective services investigator for the Department of Family and Protective Services for at least four years;

(4) worked as a community supervision and corrections department officer; and

(5) conducted at least 100 social studies in the

1 previous five years.

2 (h) A person described by Subsection (g) who performs a
3 social study must:

4 (1) complete at least eight hours of family violence
5 dynamics training provided by a family violence service provider;
6 and

7 (2) participate annually in at least 15 hours of
8 continuing education for child custody evaluators that meets the
9 Model Standards of Practice for Child Custody Evaluation adopted
10 by the Association of Family and Conciliation Courts as those
11 standards existed May 1, 2009, or a later version of those standards
12 if adopted by rule of the executive commissioner of the Health and
13 Human Services Commission.

14 (i) Subsections (g) and (h) and this subsection expire
15 September 1, 2017.

16 SECTION 3. Section 153.133, Family Code, is amended by
17 adding Subsection (c) to read as follows:

18 (c) Notwithstanding Subsection (a)(1), the court shall
19 render an order adopting the provisions of a written agreed
20 parenting plan appointing the parents as joint managing
21 conservators if the parenting plan:

22 (1) meets all the requirements of Subsections (a)(2)
23 through (6); and

24 (2) provides that the child's primary residence shall
25 be within a specified geographic area.

26 SECTION 4. Subchapter F, Chapter 153, Family Code, is
27 amended by adding Section 153.3101 to read as follows:

1 Sec. 153.3101. REFERENCE TO "SCHOOL" IN STANDARD POSSESSION
2 ORDER. In a standard possession order, "school" means the primary
3 or secondary school in which the child is enrolled or, if the child
4 is not enrolled in a primary or secondary school, the public school
5 district in which the child primarily resides.

6 SECTION 5. Section 153.311, Family Code, is amended to read
7 as follows:

8 Sec. 153.311. MUTUAL AGREEMENT OR SPECIFIED TERMS FOR
9 POSSESSION. The court shall specify in a standard possession order
10 that the parties may have possession of the child at times mutually
11 agreed to in advance by the parties and, in the absence of mutual
12 agreement, shall have possession of the child under the specified
13 terms set out in the standard possession order.

14 SECTION 6. Section 153.312, Family Code, is amended to read
15 as follows:

16 Sec. 153.312. PARENTS WHO RESIDE 100 MILES OR LESS APART.
17 (a) If the possessory conservator resides 100 miles or less from
18 the primary residence of the child, the possessory conservator
19 shall have the right to possession of the child as follows:

20 (1) on weekends throughout the year beginning at 6
21 p.m. on the first, third, and fifth Friday of each month and ending
22 at 6 p.m. on the following Sunday [~~except that, at the possessory~~
23 ~~conservator's election made before or at the time of the rendition~~
24 ~~of the original or modification order, and as specified in the~~
25 ~~original or modification order, the weekend periods of possession~~
26 ~~specified by this subdivision that occur during the regular school~~
27 ~~term shall begin at the time the child's school is regularly~~

1 ~~dismissed and end at 6 p.m. on the following Sunday]; and~~

2 (2) on Thursdays of each week during the regular
3 school term beginning at 6 p.m. and ending at 8 p.m.~~[, or, at the~~
4 ~~possessory conservator's election made before or at the time of the~~
5 ~~rendition of the original or modification order, and as specified~~
6 ~~in the original or modification order, beginning at the time the~~
7 ~~child's school is regularly dismissed and ending at the time the~~
8 ~~child's school resumes]~~, unless the court finds that visitation
9 under this subdivision is not in the best interest of the child.

10 (b) The following provisions govern possession of the child
11 for vacations and certain specific holidays and supersede
12 conflicting weekend or Thursday periods of possession. The
13 possessory conservator and the managing conservator shall have
14 rights of possession of the child as follows:

15 (1) the possessory conservator shall have possession
16 in even-numbered years, beginning at 6 p.m. on the day the child is
17 dismissed from school for the school's spring vacation and ending
18 at 6 p.m. on the day before school resumes after that vacation, and
19 the managing conservator shall have possession for the same period
20 in odd-numbered years;

21 (2) if a possessory conservator:

22 (A) gives the managing conservator written
23 notice by April 1 of each year specifying an extended period or
24 periods of summer possession, the possessory conservator shall have
25 possession of the child for 30 days beginning not earlier than the
26 day after the child's school is dismissed for the summer vacation
27 and ending not later than seven days before school resumes at the

1 end of the summer vacation, to be exercised in not more than two
2 separate periods of at least seven consecutive days each, with each
3 period of possession beginning and ending at 6 p.m. on each
4 applicable day; or

5 (B) does not give the managing conservator
6 written notice by April 1 of each year specifying an extended period
7 or periods of summer possession, the possessory conservator shall
8 have possession of the child for 30 consecutive days beginning at 6
9 p.m. on July 1 and ending at 6 p.m. on July 31;

10 (3) if the managing conservator gives the possessory
11 conservator written notice by April 15 of each year, the managing
12 conservator shall have possession of the child on any one weekend
13 beginning Friday at 6 p.m. and ending at 6 p.m. on the following
14 Sunday during one period of possession by the possessory
15 conservator under Subdivision (2), provided that the managing
16 conservator picks up the child from the possessory conservator and
17 returns the child to that same place; and

18 (4) if the managing conservator gives the possessory
19 conservator written notice by April 15 of each year or gives the
20 possessory conservator 14 days' written notice on or after April 16
21 of each year, the managing conservator may designate one weekend
22 beginning not earlier than the day after the child's school is
23 dismissed for the summer vacation and ending not later than seven
24 days before school resumes at the end of the summer vacation, during
25 which an otherwise scheduled weekend period of possession by the
26 possessory conservator will not take place, provided that the
27 weekend designated does not interfere with the possessory

conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child.

SECTION 7. Section 153.313, Family Code, is amended to read as follows:

Sec. 153.313. PARENTS WHO RESIDE OVER 100 MILES APART. If the possessory conservator resides more than 100 miles from the residence of the child, the possessory conservator shall have the right to possession of the child as follows:

(1) either regular weekend possession beginning on the first, third, and fifth Friday as provided under the terms applicable to parents who reside 100 miles or less apart or not more than one weekend per month of the possessory conservator's choice beginning at 6 p.m. on the day school recesses for the weekend and ending at 6 p.m. on the day before school resumes after the weekend, provided that the possessory conservator gives the managing conservator 14 days' written or telephonic notice preceding a designated weekend, and provided that the possessory conservator elects an option for this alternative period of possession by written notice given to the managing conservator within 90 days after the parties begin to reside more than 100 miles apart, as applicable;

(2) each year beginning at 6 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6 p.m. on the day before school resumes after that vacation;

(3) if the possessory conservator:

1 (A) gives the managing conservator written
2 notice by April 1 of each year specifying an extended period or
3 periods of summer possession, the possessory conservator shall have
4 possession of the child for 42 days beginning not earlier than the
5 day after the child's school is dismissed for the summer vacation
6 and ending not later than seven days before school resumes at the
7 end of the summer vacation, to be exercised in not more than two
8 separate periods of at least seven consecutive days each, with each
9 period of possession beginning and ending at 6 p.m. on each
10 applicable day; or

11 (B) does not give the managing conservator
12 written notice by April 1 of each year specifying an extended period
13 or periods of summer possession, the possessory conservator shall
14 have possession of the child for 42 consecutive days beginning at 6
15 p.m. on June 15 and ending at 6 p.m. on July 27;

16 (4) if the managing conservator gives the possessory
17 conservator written notice by April 15 of each year the managing
18 conservator shall have possession of the child on one weekend
19 beginning Friday at 6 p.m. and ending at 6 p.m. on the following
20 Sunday during one period of possession by the possessory
21 conservator under Subdivision (3), provided that if a period of
22 possession by the possessory conservator exceeds 30 days, the
23 managing conservator may have possession of the child under the
24 terms of this subdivision on two nonconsecutive weekends during
25 that time period, and further provided that the managing
26 conservator picks up the child from the possessory conservator and
27 returns the child to that same place; and

(5) if the managing conservator gives the possessory conservator written notice by April 15 of each year, the managing conservator may designate 21 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each, with each period of possession beginning and ending at 6 p.m. on each applicable day, during which the possessory conservator may not have possession of the child, provided that the period or periods so designated do not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child.

SECTION 8. Section 153.314, Family Code, is amended to read as follows:

Sec. 153.314. HOLIDAY POSSESSION UNAFFECTED BY DISTANCE PARENTS RESIDE APART. The following provisions govern possession of the child for certain specific holidays and supersede conflicting weekend or Thursday periods of possession without regard to the distance the parents reside apart. The possessory conservator and the managing conservator shall have rights of possession of the child as follows:

(1) the possessory conservator shall have possession of the child in even-numbered years beginning at 6 p.m. on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 28, and the managing conservator shall have possession for the same period in

1 odd-numbered years;

2 (2) the possessory conservator shall have possession
3 of the child in odd-numbered years beginning at noon on December 28
4 and ending at 6 p.m. on the day before school resumes after that
5 vacation, and the managing conservator shall have possession for
6 the same period in even-numbered years;

7 (3) the possessory conservator shall have possession
8 of the child in odd-numbered years, beginning at 6 p.m. on the day
9 the child is dismissed from school before Thanksgiving and ending
10 at 6 p.m. on the following Sunday, and the managing conservator
11 shall have possession for the same period in even-numbered years;

12 (4) the parent not otherwise entitled under this
13 standard possession order to present possession of a child on the
14 child's birthday shall have possession of the child beginning at 6
15 p.m. and ending at 8 p.m. on that day, provided that the parent
16 picks up the child from the residence of the conservator entitled to
17 possession and returns the child to that same place;

18 (5) if a conservator, the father shall have possession
19 of the child beginning at 6 p.m. on the Friday preceding Father's
20 Day and ending on Father's Day at 6 p.m., provided that, if he is not
21 otherwise entitled under this standard possession order to present
22 possession of the child, he picks up the child from the residence of
23 the conservator entitled to possession and returns the child to
24 that same place; and

25 (6) if a conservator, the mother shall have possession
26 of the child beginning at 6 p.m. on the Friday preceding Mother's
27 Day and ending on Mother's Day at 6 p.m., provided that, if she is

1 not otherwise entitled under this standard possession order to
2 present possession of the child, she picks up the child from the
3 residence of the conservator entitled to possession and returns the
4 child to that same place.

5 SECTION 9. Section 153.315, Family Code, is amended to read
6 as follows:

7 Sec. 153.315. WEEKEND POSSESSION EXTENDED BY HOLIDAY.

8 (a) If a weekend period of possession of the possessory
9 conservator coincides with a student ~~[school]~~ holiday or teacher
10 in-service day that falls on a Monday during the regular school
11 term, as determined by the school in which the child is enrolled, or
12 with a federal, state, or local holiday that falls on a Monday
13 during the summer months in which school is not in session, the
14 weekend possession shall end at 6 p.m. on ~~[a] Monday~~ ~~[holiday or~~
15 ~~school holiday or shall begin at 6 p.m. Thursday for a Friday~~
16 ~~holiday or school holiday, as applicable]~~.

17 (b) If a weekend period of possession of the possessory
18 conservator coincides with a student holiday or teacher in-service
19 day that falls on a Friday during the regular school term, as
20 determined by the school in which the child is enrolled, or with a
21 federal, state, or local holiday that falls on a Friday during the
22 summer months in which school is not in session, the weekend
23 possession shall begin at 6 p.m. on Thursday ~~[At the possessory~~
24 ~~conservator's election, made before or at the time of the rendition~~
25 ~~of the original or modification order, and as specified in the~~
26 ~~original or modification order, periods of possession extended by a~~
27 ~~holiday may begin at the time the child's school is regularly~~

1 ~~dismissed~~].

2 SECTION 10. Section 153.317, Family Code, is amended to
3 read as follows:

4 Sec. 153.317. ALTERNATIVE BEGINNING AND ENDING POSSESSION
5 TIMES. (a) If elected by a conservator, the court shall alter the
6 standard possession order under Sections 153.312, 153.314, and
7 153.315 to provide for one or more of the following alternative
8 beginning and ending possession times for the described periods of
9 possession, unless the court finds that the election is not in the
10 best interest of the child:

11 (1) for weekend periods of possession under Section
12 153.312(a)(1) during the regular school term:

13 (A) beginning at the time the child's school is
14 regularly dismissed; or

15 (B) ending at the time the child's school resumes
16 after the weekend;

17 (2) for Thursday periods of possession under Section
18 153.312(a)(2):

19 (A) beginning at the time the child's school is
20 regularly dismissed; or

21 (B) ending at the time the child's school resumes
22 on Friday;

23 (3) for spring vacation periods of possession under
24 Section 153.312(b)(1), beginning at the time the child's school is
25 dismissed for those vacations;

26 (4) for Christmas school vacation periods of
27 possession under Section 153.314(1), beginning at the time the

child's school is dismissed for the vacation;

(5) for Thanksgiving holiday periods of possession under Section 153.314(3), beginning at the time the child's school is dismissed for the holiday;

(6) for Father's Day periods of possession under Section 153.314(5), ending at 8 a.m. on the Monday after Father's Day weekend;

(7) for Mother's Day periods of possession under Section 153.314(6):

(A) beginning at the time the child's school is regularly dismissed on the Friday preceding Mother's Day; or

(B) ending at the time the child's school resumes after Mother's Day; or

(8) for weekend periods of possession that are extended under Section 153.315(b) by a student holiday or teacher in-service day that falls on a Friday, beginning at the time the child's school is regularly dismissed on Thursday.

(b) A conservator must make an election under Subsection (a) before or at the time of the rendition of a possession order. The election may be made:

(1) in a written document filed with the court; or

(2) through an oral statement made in open court on the record.

~~[If a child is enrolled in school and the possessory conservator elects before or at the time of the rendition of the original or modification order, the standard order must expressly provide that the possessory conservator's period of possession shall begin or end, or both, at a different time expressly set in~~

~~the standard order under and within the range of alternative times provided by one or both of the following subdivisions:~~

~~[(1) instead of a period of possession by a possessory conservator beginning at 6 p.m. on the day school recesses, the period of possession may be set in the standard possession order to begin at the time the child's school is regularly dismissed or at any time between the time the child's school is regularly dismissed and 6 p.m.; and~~

~~[(2) except for Thursday evening possession, instead of a period of possession by a possessory conservator ending at 6 p.m. on the day before school resumes, the period of possession may be set in the standard order to end at the time school resumes.]~~

SECTION 11. Section 153.432, Family Code, is amended by adding a new Subsection (c) to read as follows:

(c) In a suit described by Subsection (a), the person filing the suit must execute and attach an affidavit on knowledge or belief that contains, along with supporting facts, the allegation that denial of possession of or access to the child by the petitioner would significantly impair the child's physical health or emotional well-being. The court shall deny the relief sought and dismiss the suit, unless the court determines, on the basis of the affidavit, that the facts stated in the affidavit, if true, would be sufficient to support the relief authorized under Section 153.433.

SECTION 12. Section 153.433, Family Code, is amended to read as follows:

Sec. 153.433. POSSESSION OF OR ACCESS TO GRANDCHILD.

(a) The court may ~~shall~~ order reasonable possession of or access

1 to a grandchild by a grandparent if:

2 (1) at the time the relief is requested, at least one
3 biological or adoptive parent of the child has not had that parent's
4 parental rights terminated;

5 (2) the grandparent requesting possession of or access
6 to the child overcomes the presumption that a parent acts in the
7 best interest of the parent's child by proving by a preponderance of
8 the evidence that denial of possession of or access to the child
9 would significantly impair the child's physical health or emotional
10 well-being; and

11 (3) the grandparent requesting possession of or access
12 to the child is a parent of a parent of the child and that parent of
13 the child:

14 (A) has been incarcerated in jail or prison
15 during the three-month period preceding the filing of the petition;

16 (B) has been found by a court to be incompetent;

17 (C) is dead; or

18 (D) does not have actual or court-ordered
19 possession of or access to the child.

20 (b) An order granting possession of or access to a child by a
21 grandparent that is rendered over a parent's objections must state,
22 with specificity:

23 (1) that at the time the relief was requested, at least
24 one biological or adoptive parent of the child had not had that
25 parent's parental rights terminated;

26 (2) the evidence that supports the conclusion that the
27 grandparent requesting possession of or access to the child has

1 overcome the presumption that a parent acts in the best interest of
2 the parent's child;

3 (3) the evidence that supports the conclusion that the
4 denial of possession of or access to the child would significantly
5 impair the child's physical health or emotional well-being; and

6 (4) that the grandparent requesting possession of or
7 access to the child is a parent of a parent of the child and that
8 parent of the child:

9 (A) has been incarcerated in jail or prison
10 during the three-month period preceding the filing of the petition;

11 (B) has been found by a court to be incompetent;

12 (C) is dead; or

13 (D) does not have actual or court-ordered
14 possession of or access to the child.

15 SECTION 13. Section 153.551, Family Code, is amended by
16 amending Subsection (b) and adding Subsection (c) to read as
17 follows:

18 (b) A [The] sibling described by Subsection (a) [of a child]
19 may request access to the child in a suit filed for the sole purpose
20 of requesting the relief, without regard to whether the appointment
21 of a managing conservator is an issue in the suit.

22 (c) The court shall order reasonable access to the child by
23 the child's sibling described by Subsection (a) if the court finds
24 that access is in the best interest of the child.

25 SECTION 14. Section 153.605, Family Code, is amended by
26 amending Subsection (b) and adding Subsection (d) to read as
27 follows:

1 (b) The court may not appoint a parenting coordinator
2 unless, after notice and hearing, the court makes a specific
3 finding that:

4 (1) the case is a high-conflict case~~[+]~~ or
5 ~~[-2-]~~ there is good cause shown for the appointment of
6 a parenting coordinator and the appointment is in the best interest
7 of any minor child in the suit; and

8 (2) the person appointed has the minimum
9 qualifications required by Section 153.610, as documented by the
10 person.

11 (d) A parenting coordinator may not draft a settlement
12 agreement described by Section 154.071, Civil Practice and Remedies
13 Code.

14 SECTION 15. Chapter 153, Family Code, is amended by adding
15 Subchapter L to read as follows:

16 SUBCHAPTER L. MILITARY DUTY

17 Sec. 153.701. DEFINITIONS. In this subchapter:

18 (1) "Designated person" means the person ordered by
19 the court to temporarily exercise a conservator's rights, duties,
20 and periods of possession and access with regard to a child during
21 the conservator's military deployment, military mobilization, or
22 temporary military duty.

23 (2) "Military deployment" means the temporary
24 transfer of a service member of the armed forces of this state or
25 the United States serving in an active-duty status to another
26 location in support of combat or some other military operation.

27 (3) "Military mobilization" means the call-up of a

1 National Guard or Reserve service member of the armed forces of this
2 state or the United States to extended active duty status. The term
3 does not include National Guard or Reserve annual training.

4 (4) "Temporary military duty" means the transfer of a
5 service member of the armed forces of this state or the United
6 States from one military base to a different location, usually
7 another base, for a limited time for training or to assist in the
8 performance of a noncombat mission.

9 Sec. 153.702. TEMPORARY ORDERS. (a) If a conservator is
10 ordered to military deployment, military mobilization, or
11 temporary military duty that involves moving a substantial distance
12 from the conservator's residence so as to materially affect the
13 conservator's ability to exercise the conservator's rights and
14 duties in relation to a child, either conservator may file for an
15 order under this subchapter.

16 (b) The court may render a temporary order in a proceeding
17 under this subchapter regarding:

18 (1) possession of or access to the child; or

19 (2) child support.

20 (c) A temporary order rendered by the court under this
21 subchapter may grant rights to and impose duties on a designated
22 person regarding the child, except the court may not require the
23 designated person to pay child support.

24 (d) After a conservator's military deployment, military
25 mobilization, or temporary military duty is concluded, and the
26 conservator returns to the conservator's usual residence, the
27 temporary orders under this section terminate and the rights of all

affected parties are governed by the terms of any court order applicable when the conservator is not ordered to military deployment, military mobilization, or temporary military duty.

Sec. 153.703. APPOINTING DESIGNATED PERSON FOR CONSERVATOR WITH EXCLUSIVE RIGHT TO DESIGNATE PRIMARY RESIDENCE OF CHILD. (a) If the conservator with the exclusive right to designate the primary residence of the child is ordered to military deployment, military mobilization, or temporary military duty, the court may render a temporary order to appoint a designated person to exercise the exclusive right to designate the primary residence of the child during the military deployment, military mobilization, or temporary military duty in the following order of preference:

(1) the conservator who does not have the exclusive right to designate the primary residence of the child;

(2) if appointing the conservator described by Subdivision (1) is not in the child's best interest, a designated person chosen by the conservator with the exclusive right to designate the primary residence of the child; or

(3) if appointing the conservator described by Subdivision (1) or the person chosen under Subdivision (2) is not in the child's best interest, another person chosen by the court.

(b) A designated person named in a temporary order rendered under this section has the rights and duties of a nonparent appointed as sole managing conservator under Section 153.371.

(c) The court may limit or expand the rights of a nonparent named as a designated person in a temporary order rendered under this section as appropriate to the best interest of the child.

1 Sec. 153.704. APPOINTING DESIGNATED PERSON TO EXERCISE
2 VISITATION FOR CONSERVATOR WITH EXCLUSIVE RIGHT TO DESIGNATE
3 PRIMARY RESIDENCE OF CHILD IN CERTAIN CIRCUMSTANCES. (a) If the
4 court appoints the conservator without the exclusive right to
5 designate the primary residence of the child under Section
6 153.703(a)(1), the court may award visitation with the child to a
7 designated person chosen by the conservator with the exclusive
8 right to designate the primary residence of the child.

9 (b) The periods of visitation shall be the same as the
10 visitation to which the conservator without the exclusive right to
11 designate the primary residence of the child was entitled under the
12 court order in effect immediately before the date the temporary
13 order is rendered.

14 (c) The temporary order for visitation must provide that:

15 (1) the designated person under this section has the
16 right to possession of the child for the periods and in the manner
17 in which the conservator without the exclusive right to designate
18 the primary residence of the child is entitled under the court order
19 in effect immediately before the date the temporary order is
20 rendered;

21 (2) the child's other conservator and the designated
22 person under this section are subject to the requirements of
23 Section 153.316, with the designated person considered for purposes
24 of that section to be the possessory conservator;

25 (3) the designated person under this section has the
26 rights and duties of a nonparent possessory conservator under
27 Section 153.376(a) during the period that the person has possession

1 of the child; and

2 (4) the designated person under this section is
3 subject to any provision in a court order restricting or
4 prohibiting access to the child by any specified individual.

5 (d) The court may limit or expand the rights of a nonparent
6 designated person named in a temporary order rendered under this
7 section as appropriate to the best interest of the child.

8 Sec. 153.705. APPOINTING DESIGNATED PERSON TO EXERCISE
9 VISITATION FOR CONSERVATOR WITHOUT EXCLUSIVE RIGHT TO DESIGNATE
10 PRIMARY RESIDENCE OF CHILD. (a) If the conservator without the
11 exclusive right to designate the primary residence of the child is
12 ordered to military deployment, military mobilization, or
13 temporary military duty, the court may award visitation with the
14 child to a designated person chosen by the conservator, if the
15 visitation is in the best interest of the child.

16 (b) The temporary order for visitation must provide that:

17 (1) the designated person under this section has the
18 right to possession of the child for the periods and in the manner
19 in which the conservator described by Subsection (a) would be
20 entitled if not ordered to military deployment, military
21 mobilization, or temporary military duty;

22 (2) the child's other conservator and the designated
23 person under this section are subject to the requirements of
24 Section 153.316, with the designated person considered for purposes
25 of that section to be the possessory conservator;

26 (3) the designated person under this section has the
27 rights and duties of a nonparent possessory conservator under

1 Section 153.376(a) during the period that the designated person has
2 possession of the child; and

3 (4) the designated person under this section is
4 subject to any provision in a court order restricting or
5 prohibiting access to the child by any specified individual.

6 (c) The court may limit or expand the rights of a nonparent
7 designated person named in a temporary order rendered under this
8 section as appropriate to the best interest of the child.

9 Sec. 153.706. TEMPORARY ORDER FOR CHILD SUPPORT. A
10 temporary order rendered under this subchapter may result in a
11 change of circumstances sufficient to justify a temporary order
12 modifying the child support obligations of a party.

13 Sec. 153.707. EXPEDITED HEARING. (a) On a motion by the
14 conservator who has been ordered to military deployment, military
15 mobilization, or temporary military duty, the court shall, for good
16 cause shown, hold an expedited hearing if the court finds that the
17 conservator's military duties have a material effect on the
18 conservator's ability to appear in person at a regularly scheduled
19 hearing.

20 (b) A hearing under this section shall, if possible, take
21 precedence over other suits affecting the parent-child
22 relationship not involving a conservator who has been ordered to
23 military deployment, military mobilization, or temporary military
24 duty.

25 (c) On a motion by any party, the court shall, after
26 reasonable advance notice and for good cause shown, allow a party to
27 present testimony and evidence by electronic means, including by

1 teleconference or through the Internet.

2 Sec. 153.708. ENFORCEMENT. Temporary orders rendered under
3 this subchapter may be enforced by or against the designated person
4 to the same extent that an order would be enforceable against the
5 conservator who has been ordered to military deployment, military
6 mobilization, or temporary military duty.

7 Sec. 153.709. ADDITIONAL PERIODS OF POSSESSION OR ACCESS.

8 (a) Not later than the 90th day after the date a conservator
9 without the exclusive right to designate the primary residence of
10 the child who is a member of the armed services concludes the
11 conservator's military deployment, military mobilization, or
12 temporary military duty, the conservator may petition the court to:

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

16 (2) award the conservator additional periods of
17 possession of or access to the child to compensate for the periods
18 described by Subdivision (1).

19 (b) If the conservator described by Subsection (a)
20 petitions the court under Subsection (a), the court:

21 (1) shall compute the periods of possession or access
22 to the child described by Subsection (a)(1); and

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

26 (A) the conservator was on military deployment,
27 military mobilization, or temporary military duty in a location

1 where access to the child was not reasonably possible; and

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

4 (c) In making the determination under Subsection (b)(2),
5 the court:

6 (1) shall consider:

7 (A) the periods of possession of or access to the
8 child to which the conservator would otherwise have been entitled
9 during the conservator's military deployment, military
10 mobilization, or temporary military duty, as computed under
11 Subsection (b)(1);

12 (B) whether the court named a designated person
13 under Section 153.705 to exercise limited possession of the child
14 during the conservator's deployment; and

15 (C) any other factor the court considers
16 appropriate; and

17 (2) is not required to award additional periods of
18 possession of or access to the child that equals the possession or
19 access to which the conservator would have been entitled during the
20 conservator's military deployment, military mobilization, or
21 temporary military duty, as computed under Subsection (b)(1).

22 (d) After the conservator described by Subsection (a) has
23 exercised all additional periods of possession or access awarded
24 under this section, the rights of all affected parties are governed
25 by the terms of the court order applicable when the conservator is
26 not ordered to military deployment, military mobilization, or
27 temporary military duty.

SECTION 16. Section 156.002, Family Code, is amended by adding Subsection (c) to read as follows:

(c) The sibling of a child who is separated from the child because of the actions of the Department of Family and Protective Services may file a suit for modification requesting access to the child in the court with continuing, exclusive jurisdiction.

SECTION 17. Section 156.006, Family Code, is amended by adding Subsection (c) to read as follows:

(c) Subsection (b)(2) 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, military mobilization, or temporary military duty, as those terms are defined by Section 153.701.

SECTION 18. Section 156.101, Family Code, is amended to read as follows:

Sec. 156.101. GROUNDS FOR MODIFICATION OF ORDER ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. (a) The court may modify an order that provides for the appointment of a conservator of a child, that provides the terms and conditions of conservatorship, or that provides for the possession of or access to a child if modification would be in the best interest of the child and:

(1) the circumstances of the child, a conservator, or other party affected by the order have materially and substantially changed since the earlier of:

(A) the date of the rendition of the order; or

(B) the date of the signing of a mediated or collaborative law settlement agreement on which the order is based;

(2) the child is at least 12 years of age and has filed with the court, in writing, the name of the person who is the child's preference to have the exclusive right to designate the primary residence of the child; or

(3) the conservator who has the exclusive right to designate the primary residence of the child has voluntarily relinquished the primary care and possession of the child to another person for at least six months.

(b) Subsection (a)(3) 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, military mobilization, or temporary military duty, as those terms are defined by Section 153.701.

SECTION 19. Section 156.102, Family Code, is amended by adding Subsection (d) to read as follows:

(d) Subsection (b)(3) 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, military mobilization, or temporary military duty, as those terms are defined by Section 153.701.

SECTION 20. Section 156.105, Family Code, is amended to read as follows:

Sec. 156.105. MODIFICATION OF ORDER BASED ON MILITARY DUTY

1 ~~[DEPLOYMENT]. [(a) In this section, "military deployment" means~~
2 ~~military duty ordered for a period of more than six months during~~
3 ~~which the person ordered to duty.~~

4 ~~[(1) is not provided the option of being accompanied~~
5 ~~by the person's child; and~~

6 ~~[(2) is serving in a location where access to the~~
7 ~~person's child is not reasonably possible.~~

8 ~~[(b)]~~ The military duty of a conservator who is ordered to
9 military deployment, military mobilization, or temporary military
10 duty, as those terms are defined by Section 153.701, does not by
11 itself constitute ~~[of a person who is a possessory conservator or a~~
12 ~~joint managing conservator without the exclusive right to designate~~
13 ~~the primary residence of the child is]~~ a material and substantial
14 change of circumstances sufficient to justify a modification of an
15 existing court order or portion of a decree that sets the terms and
16 conditions for the possession of or access to a child except that
17 the court may render a temporary order under Subchapter L, Chapter
18 153.

19 ~~[(c) If the court determines that modification is in the~~
20 ~~best interest of the child, the court may modify the order or decree~~
21 ~~to provide in a manner consistent with Section 153.3161 for~~
22 ~~possession of the child during the period of the military~~
23 ~~deployment by a person designated by the deployed conservator.]~~

24 SECTION 21. Sections 153.137, 153.3161, 153.552, and
25 156.410, Family Code, are repealed.

26 SECTION 22. (a) Sections 102.0045, 153.432, 153.433,
27 153.551, 156.002, 156.006, 156.101, 156.102, and 156.105, Family

1 Code, as amended by this Act, apply only to a suit affecting the
2 parent-child relationship pending in a trial court on or filed on or
3 after the effective date of this Act.

4 (b) Sections 153.311, 153.312, 153.313, 153.314, 153.315,
5 and 153.317, Family Code, as amended by this Act, and Section
6 153.3101, Family Code, as added by this Act, apply only to a court
7 order providing for possession of or access to a child rendered on
8 or after the effective date of this Act. A court order rendered
9 before the effective date of this Act is governed by the law in
10 effect on the date the order was rendered, and the former law is
11 continued in effect for that purpose.

12 SECTION 23. This Act takes effect September 1, 2009.