

By: Nelson

S.B. No. 279

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the modification of an order establishing the
3 conservatorship of a child or providing for the possession of or
4 access to a child based on military deployment.

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

6 SECTION 1. Section 156.006, Family Code, is amended by
7 adding Subsections (c) and (d) to read as follows:

8 (c) Subsection (b)(2) does not apply to a conservator who
9 has the exclusive right to designate the primary residence of the
10 child and who has temporarily relinquished the primary care and
11 possession of the child to another person during the conservator's
12 military deployment.

13 (d) In this section, "military deployment" means military
14 duty ordered for a period of more than six months during which the
15 person ordered to duty:

16 (1) is not provided the option of being accompanied by
17 the person's child; and

18 (2) is serving in a location where access to the
19 person's child is not reasonably possible.

20 SECTION 2. Section 156.101, Family Code, is amended to read
21 as follows:

22 Sec. 156.101. GROUNDS FOR MODIFICATION OF ORDER
23 ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. (a) The
24 court may modify an order that provides for the appointment of a

1 conservator of a child, that provides the terms and conditions of
2 conservatorship, or that provides for the possession of or access
3 to a child if modification would be in the best interest of the
4 child and:

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

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

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

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

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

19 (b) Subsection (a)(3) does not apply to a conservator who
20 has the exclusive right to designate the primary residence of the
21 child and who has temporarily relinquished the primary care and
22 possession of the child to another person during the conservator's
23 military deployment.

24 (c) In this section, "military deployment" means military
25 duty ordered for a period of more than six months during which the
26 person ordered to duty:

27 (1) is not provided the option of being accompanied by

1 the person's child; and

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

4 SECTION 3. Section 156.102, Family Code, is amended by
5 adding Subsections (d) and (e) to read as follows:

6 (d) Subsection (b)(3) does not apply to a person who has the
7 exclusive right to designate the primary residence of the child and
8 who has temporarily relinquished the primary care and possession of
9 the child to another person during the conservator's military
10 deployment.

11 (e) In this section, "military deployment" means military
12 duty ordered for a period of more than six months during which the
13 person ordered to duty:

14 (1) is not provided the option of being accompanied by
15 the person's child; and

16 (2) is serving in a location where access to the
17 person's child is not reasonably possible.

18 SECTION 4. Section 156.105, Family Code, is amended by
19 amending Subsection (c) and adding Subsection (d) to read as
20 follows:

21 (c) If the court determines that modification is in the best
22 interest of the child based on the military deployment of a person
23 described by Subsection (b), the court may modify the order or
24 decree to provide in a manner consistent with Section 153.3161 for
25 possession of the child during the period of the military
26 deployment by a person designated by the deployed conservator.

27 (d) The military deployment of a conservator who has the

1 exclusive right to designate the primary residence of the child and
2 who temporarily relinquishes the primary care and possession of the
3 child to another person during the conservator's deployment does
4 not by itself constitute a material and substantial change of
5 circumstances sufficient to justify a modification of an existing
6 court order or portion of a decree that sets the terms and
7 conditions for the possession of or access to the child.

8 SECTION 5. The changes in law made by this Act apply to an
9 action to modify an order in a suit affecting the parent-child
10 relationship that is pending in a trial court on the effective date
11 of this Act or filed on or after that date.

12 SECTION 6. This Act takes effect September 1, 2009.