

BILL ANALYSIS

Senate Research Center

H.B. 1012
By: Gonzalez Toureilles (Harris)
Jurisprudence
5/18/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are various provisions in the Family Code regarding possession of a child that need to be clarified and amended.

H.B. 1012 amends various provisions of the Family Code regarding joint custody, the standard child possession order, and an adult sibling's ability to gain access to a child taken because of an action by the Department of Family and Protective Services. The bill also creates Subchapter L of Chapter 153 (Conservatorship, Possession, and Access), Family Code, to address possession, child support, visitation, and other issues in cases where a parent is deployed for military duty and required to move a substantial distance from the child.

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 102.0045(b), Family Code, to provide that access to a child by a sibling of the child is governed by the standards established by Section 153.551, rather than Subchapter J (Rights of Siblings), Chapter 153 (Conservatorship, Possession, and Access).

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

(g) Provides that 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 (DFPS) 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 previous five years.

(h) Requires a person described by Subsection (g) who performs a social study to:

- (1) complete at least eight hours of family violence dynamics training provided by a family violence service provider; and
- (2) participate annually in at least 15 hours of continuing education for child custody evaluators that meets the Model Standards of Practice for Child Custody Evaluation adopted by the Association of Family and Conciliation Courts as those standards existed May 1, 2009, or a later version of those standards if adopted by

rule of the executive commissioner of the Health and Human Services Commission.

(i) Provides that Subsections (g) and (h) and this subsection expire September 1, 2017.

SECTION 3. Amends Section 153.133, Family Code, by adding Subsection (c), as follows:

(c) Requires the court, notwithstanding Subsection (a)(1) (relating to designating the conservator who has the exclusive right to designate the primary residence of the child), to render an order adopting the provisions of a written agreed parenting plan appointing the parents as joint managing conservators if the parenting plan:

(1) meets all the requirements of Subsections (a)(2) (relating to the parenting plan specifying the rights and duties of each parent regarding the child's physical care, support, and education), (3) (relating to the parenting plan including provisions in the parenting plan to minimize disruption of the child's education, daily routine, and association with friends), (4) (relating to the parenting plan allocating between the parents, independently, jointly, or exclusively, all of the remaining rights and duties of a parent), (5) (relating to the parenting plan being made voluntarily and knowingly by each parent and not repudiated by either at the time the order is rendered), and (6) (relating to the parenting plan being in the best interest of the child); and

(2) provides that the child's primary residence is required to be within a specified geographic area.

SECTION 4. Amends Subchapter F, Chapter 153, Family Code, by adding Section 153.3101, as follows:

Sec. 153.3101. REFERENCE TO "SCHOOL" IN STANDARD POSSESSION ORDER. Defines "school."

SECTION 5. Amends Section 153.311, Family Code, to require the court to specify in a standard possession order that the parties are authorized to have possession of the child at times mutually agreed to in advance by the parties and, in the absence of mutual agreement, are required to have possession of the child under the specified terms set out in the standard possession order.

SECTION 6. Amends Section 153.312, Family Code, as follows:

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

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

(2) on Thursdays of each week during the regular school term beginning at 6 p.m. and ending at 8 p.m., unless the court finds that visitation under this subdivision is not in the best interest of the child, rather than on Thursdays of each week during the regular school term beginning at 6 p.m. and ending at 8 p.m., or, at the possessory conservator's election made before or at the time of the rendition of the original or modification

order, and as specified in the original or modification order, beginning at the time the child's school is regularly dismissed and ending at the time the child's school resumes.

(b) Requires the possessory conservator and the managing conservator to have rights of possession of the child as follows:

(1) Makes no change to this subdivision;

(2) if a possessory conservator gives the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator is required to have possession of the child for 30 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; and

(3)-(4) Makes no changes to these subdivisions.

SECTION 7. Amends Section 153.313, Family Code, as follows:

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

(1) Makes no change to this subdivision;

(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 gives the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator is required to have possession of the child for 42 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;

(4) Makes no change to this subdivision; or

(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 is prohibited from having 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. Amends Section 153.314, Family Code, as follows:

Sec. 153.314. HOLIDAY POSSESSION UNAFFECTED BY DISTANCE PARENTS RESIDE APART. Requires the possessory conservator and the managing conservator to have rights of possession of the child as follows:

(1)-(3) Makes no changes to these subdivisions;

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

(5)-(6) Makes a conforming change.

SECTION 9. Amends Section 153.315, Family Code, as follows:

Sec. 153.315. WEEKEND POSSESSION EXTENDED BY HOLIDAY. (a) Requires the weekend possession, if a weekend period of possession of the possessory conservator coincides with a student, rather than school, holiday or teacher in-service day that falls on a Monday during the regular school term, as determined by the school in which the child is enrolled, or with a federal, state, or local holiday that falls on a Monday during the summer months in which school is not in session, to end at 6 p.m. on Monday, rather than on a Monday holiday or school holiday or is required to begin at 6 p.m. Thursday for a Friday holiday or school holiday, as applicable.

(b) Requires the weekend possession, if a weekend period of possession of the possessory conservator coincides with a student holiday or teacher in-service day that falls on a Friday during the regular school term, as determined by the school in which the child is enrolled, or with a federal, state, or local holiday that falls on a Friday during the summer months in which school is not in session, to begin at 6 p.m. on Thursday. Deletes existing text authorizing periods of possession extended by a holiday at the possessory conservator's election, made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, to begin at the time the child's school is regularly dismissed.

SECTION 10. Amends Section 153.317, Family Code, as follows:

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

(1) for weekend periods of possession under Section 153.312(a)(1) during the regular school term beginning at the time the child's school is regularly dismissed or ending at the time the child's school resumes after the weekend;

(2) for Thursday periods of possession under Section 153.312(a)(2) beginning at the time the child's school is regularly dismissed or ending at the time the child's school resumes on Friday;

(3) for spring vacation periods of possession under Section 153.312(b)(1) (relating to requiring the possessory conservator to have possession in even-numbered years, beginning at 6 p.m. on the day the child is dismissed from school for the school's spring vacation and ending the day school resumes; and requiring the managing conservator to have possession for the same period in odd-numbered years), beginning at the time the child's school is dismissed for those vacations;

(4) for Christmas school vacation periods of possession under Section 153.314(1) (relating to requiring the possessory conservator to have possession in even-

numbered years, beginning at 6 p.m. on the day the child is dismissed from school for Christmas vacation and ending at noon on December 28; and requiring the managing conservator to have possession for the same period in odd-numbered years), 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) (relating to requiring the possessory conservator to have possession of the child in odd-numbered years, beginning at 6 p.m. on the day the child is dismissed from school before Thanksgiving and ending at 6 p.m. on the following Sunday; and requiring the managing conservator to have possession of the child for the same period in even-numbered years), 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) (relating to requiring the father, if a conservator, to have possession of the child beginning at 6 p.m. on the Friday preceding Father's Day and ending on Father's Day at 6 p.m. under certain conditions), 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) (relating to requiring the mother, if a conservator, to have possession of the child beginning at 6 p.m. on the Friday preceding Mother's Day and ending on Mother's Day at 6 p.m. under certain conditions), beginning at the time the child's school is regularly dismissed on the Friday preceding Mother's Day or 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) Requires a conservator to make an election under Subsection (a) before or at the time of the rendition of a possession order. Authorizes the election to be made in a written document filed with the court or through an oral statement made in open court on the record. Deletes existing text requiring the standard order, 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, to expressly provide that the possessory conservator's period of possession is required to 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: authorizing the period of possession, instead of a period of possession by a possessory conservator beginning at 6 p.m. on the day school recesses, to 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 authorizing the period of possession, 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, to be set in the standard order to end at the time school resumes.

SECTION 11. Amends Section 153.432, Family Code, by adding a new Subsection (c), to require the person filing the suit, in a suit described by Subsection (a) (relating to certain methods for a grandparent to request access to the child), to 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. Requires the court to 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. Amends Section 153.433, Family Code, as follows:

Sec. 153.433. POSSESSION OF OR ACCESS TO GRANDCHILD. (a) Creates this subsection from existing text. Authorizes, rather than requires, the court to order reasonable possession of or access to a grandchild by a grandparent under certain conditions.

(b) Requires that an order granting possession of or access to a child by a grandparent that is rendered over a parent's objections state, with specificity:

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

(2) the evidence that supports the conclusion that the grandparent requesting possession of or access to the child has overcome the presumption that a parent acts in the best interest of the parent's child;

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

(4) that the grandparent requesting possession of or access to the child is a parent of a parent of the child and that parent of the child has been incarcerated in jail or prison during the three-month period preceding the filing of the petition, has been found by a court to be incompetent, is dead, or does not have actual or court-ordered possession of or access to the child.

SECTION 13. Amends Section 153.551, Family Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Authorizes a sibling described by Subsection (a) (relating to certain methods for a separated sibling to request access to the child), rather than the sibling of a child, to request access to the child in a suit filed for the sole purpose of requesting the relief, without regard to whether the appointment of a managing conservator is an issue in the suit.

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

SECTION 14. Amends Section 153.605, Family Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Prohibits the court from appointing a parenting coordinator unless, after notice and hearing, the court makes a specific finding that the person appointed has the minimum qualifications required by Section 153.610 (Qualifications of Parenting Coordinator), as documented by the person, among other findings.

(d) Prohibits a parenting coordinator from drafting a settlement agreement described by Section 154.071 (Effect of Written Settlement Agreement), Civil Practice and Remedies Code.

SECTION 15. Amends Chapter 153, Family Code, by adding Subchapter L, as follows:

SUBCHAPTER L. MILITARY DUTY

Sec. 153.701. DEFINITIONS. Defines "designated person," "military deployment," "military mobilization," and "temporary military duty."

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

(b) Authorizes the court to render a temporary order in a proceeding under this subchapter regarding possession of or access to the child, or child support.

(c) Authorizes a temporary order rendered by the court under this subchapter to grant rights to and impose duties on a designated person regarding the child, except that the court is prohibited from requiring the designated person to pay child support.

(d) Provides that after a conservator's military deployment, military mobilization, or temporary military duty is concluded, and the conservator returns to the conservator's usual residence, the 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) Authorizes the court, 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, to 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) Provides that 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 (Rights and Duties of Nonparent Appointed as Sole Managing Conservator).

(c) Authorizes the court to 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.

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

(b) Requires that the periods of visitation be the same as the visitation to which the conservator without the exclusive right to designate the primary residence of the child was entitled under the court order in effect immediately before the date the temporary order is rendered.

(c) Requires that the temporary order for visitation provide that:

(1) the designated person under this section has the right to possession of the child for the periods and in the manner in which the conservator

without exclusive right to designate the primary residence of the child is entitled under the court order in effect immediately before the date the temporary order is rendered;

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

(3) the designated person under this section has the rights and duties of a nonparent possessory conservator under Section 153.376(a) (relating to certain rights and duties of the possessory conservator during the period of possession) during the period that the person has possession of the child; and

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

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

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

(b) Requires that the temporary order for visitation provide that:

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

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

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

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

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

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

Sec. 153.707. EXPEDITED HEARING. (a) Requires the court, on a motion by the conservator who has been ordered to military deployment, military mobilization, or

temporary military duty, for good cause shown, to hold an expedited hearing if the court finds that the conservator's military duties have a material effect on the conservator's ability to appear in person at a regularly scheduled hearing.

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

(c) Requires the court, on a motion by any party, after reasonable advance notice and for good cause shown, to allow a party to present testimony and evidence by electronic means, including by teleconference or through the Internet.

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

Sec. 153.709. ADDITIONAL PERIODS OF POSSESSION OR ACCESS. (a) Authorizes the conservator, not later than 90th day after the date a conservator without the exclusive right to designate the primary residence of the child who is a member of the armed services concludes the conservator's military deployment, military mobilization, or temporary military duty, to petition the court to:

(1) 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

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

(b) Provides that the court, if the conservator described by Subsection (a) petitions the court under Subsection (a):

(1) is required to compute the periods of possession or access to the child described by Subsection (a)(1); and

(2) is authorized to award to the conservator additional periods of possession of or access to the child for a length of time and under the terms the court considers reasonable, if the court determines that the conservator was on military deployment, military mobilization, or temporary military duty 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.

(c) Provides that the court, in making the determination under Subsection (b)(2):

(1) is required to consider the periods of possession of or access to the child to which the conservator would otherwise have been entitled during the conservator's military deployment, military mobilization, or temporary military duty, as computed under Subsection (b)(1), whether the court named a designated person under Section 153.705 to exercise limited possession of the child during the conservator's deployment, and any other factor the court considers appropriate; and

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

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

SECTION 16. Amends Section 156.002, Family Code, by adding Subsection (c), to authorize the sibling of a child who is separated from the child because of the actions of the Department of Family and Protective Services to file a suit for modification requesting access to the child in the court with continuing, exclusive jurisdiction.

SECTION 17. Amends Section 156.006, Family Code, by adding Subsection (c), to provide that Subsection (b)(2) (relating to voluntary relinquishment of primary care and possession of the child for more than six months and temporary order is in the best interest of the child) does not apply to a conservator who has 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. Amends Section 156.101, Family Code, as follows:

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

(b) Provides that Subsection (a)(3) (relating to voluntary relinquishment by the conservator who has exclusive right to designate the primary residence of the child) 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. Amends Section 156.102, Family Code, by adding Subsection (d), to provide that Subsection (b)(3) (relating to voluntary relinquishment by the person who has exclusive right to designate the primary residence of the child) 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. Amends Section 156.105, Family Code, as follows:

Sec. 156.105. **New heading: MODIFICATION OF ORDER BASED ON MILITARY DUTY.** Provides that the military duty of a conservator who is ordered to military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701, 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 a child except that the court is authorized to render a temporary order under Subchapter L, Chapter 153. Deletes existing text defining "military deployment." Deletes existing text of Subsection (b) providing that the military deployment of a person who is a possessory conservator or a joint managing conservator without the exclusive right to designate the primary residence of the child is 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 a child. Deletes existing text of Subsection (c), authorizing the court, if the court determines that modification is in the best interest of the 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.

SECTION 21. Repealer: Section 153.137 (Guidelines for the Possession of Child by Parent Named As Joint Managing Conservator), Family Code.

Repealer: Section 153.3161 (Possession During Military Deployment), Family Code.

Repealer: Section 153.552 (Access to Sibling), Family Code.

Repealer: Section 156.410 (Change in Circumstances Resulting From Military Service), Family Code.

SECTION 22. Makes application of this Act prospective.

SECTION 23. Effective date: September 1, 2009.