

BILL ANALYSIS

Senate Research Center
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H.B. 63
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Administration
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Engrossed

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 take into account a parent deployed on active military duty and does not prohibit a court from modifying an order affecting the terms of a parent's possession or access to a child due to the conservator's absence. In addition, with thousands of Texans in the armed forces deployed overseas, cases of possession or access in regards to child custody have developed.

Currently, there is no recourse for conservators who have been deployed to gain back the time lost with the conservator's children. The bill seeks to protect the rights of a conservator on active military duty and prevents the conservator's absence during military deployment from affecting a child custody proceeding.

This legislation 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. The bill authorizes conservators who have been deployed to petition the court for additional periods of possession of or access to a child to compensate for the loss of time to which the conservator would have been entitled if not deployed. The bill authorizes the court to grant additional time after considering the amount of time lost and the best interests of the child.

H.B. 63 relates to possession of or access to a child by a parent who is deployed by the military.

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 Chapter 151, Family Code, by adding Section 151.004, as follows:

Sec. 151.004. PROHIBITION AGAINST CERTAIN ORDERS DURING PARENT'S MILITARY DEPLOYMENT. Prohibits a court from rendering an order affecting the terms of a parent's possession of or access to the parent's child on the sole grounds that the parent has voluntarily abandoned or left the child or has otherwise voluntarily relinquished the primary care and possession of the child if the parent has temporarily relinquished the primary care and possession of the child to another person during a period in which the parent:

- (1) is ordered to duty as a member of the armed forces of the United States, the Texas National Guard, or the National Guard of another state without the option of being accompanied by the child; and
- (2) is serving in a location where access to the child is not reasonably possible.

SECTION 2. Amends Subchapter F, Chapter 153, Family Code, by adding Section 153.3162, as follows:

Sec. 153.3162. ADDITIONAL PERIODS OF POSSESSION OR ACCESS AFTER CONCLUSION OF MILITARY DEPLOYMENT. (a) Defines "conservator" in this section.

(b) Authorizes the conservator, not later than the 90th day after the date a conservator who is a member of the armed services concludes the conservator's active military deployment, 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).

(c) Provides that if the conservator petitions the court under Subsection (b), the court:

(1) is required to compute the periods of possession or access to the child described by Subsection (b)(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 terms the court considers reasonable, if the court determines that the conservator was deployed 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.

(d) Provides that the court, in making the determination under Subsection (c)(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 deployment, as computed under Subsection (c)(1); whether the court provided in an order under Section 153.3161 (Possession During Military Deployment) that a person 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 deployment, as computed under Subsection (c)(1).

(e) Provides that after the conservator 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 any court order applicable when the conservator is not deployed.

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

SECTION 4. Effective date: September 1, 2009.