

BILL ANALYSIS

Senate Research Center
81R2699 KSD-D

H.B. 409
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Veteran Affairs & Military Installations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Cases involving possession of or access to a child for conservators returning from active military deployment have become more frequent as thousands of Texans in the armed forces are deployed overseas. There is currently no recourse for conservators who have been deployed to gain back the time lost with their children.

H.B. 409 allows a conservator who has returned from active military deployment to petition the court for additional periods of possession of or access to his or her children equal to the amount of time the conservator would have been entitled to had he or she not been deployed. The bill allows the court to grant additional time after considering the amount of entitled time lost and the best interests of 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 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."

(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 a 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 the terms the court considers reasonable, if the court determines that:

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

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

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

(1) is required to consider:

(A) 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);

(B) 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

(C) 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 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 2. Provides that Section 153.3162, Family Code, as added by this Act, applies 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 3. Effective date: September 1, 2009.