

BILL ANALYSIS

Senate Research Center
82R583 KSD-F

H.B. 1404
By: Sheffield et al. (Harris)
Jurisprudence
4/25/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 153.702 (Temporary Orders), Family Code, provides that, if a conservator of a child is ordered to military deployment, military mobilization, or temporary military duty, either conservator may file for a temporary order regarding the possession of or access to a child or child support. However, Chapter 156 (Modification), Family Code, only allows for a modification to an order for possession of or access to a child or for child support if there has been a material and substantial change in circumstances. This leads to confusion regarding whether there must be a showing of a material and substantial change in circumstance in addition to military deployment in order to obtain a temporary order.

H.B. 1404 clarifies that a conservator can make a change in conservatorship without having to prove a material and substantial change in circumstance when deployment is the reason for the temporary order. In addition, it clarifies that a nonparent who is chosen to take the place of the parent during the deployment can maintain the same rights as the parent during the deployment without being required to pay child support.

H.B. 1404 amends current law relating to certain temporary orders in a suit affecting the parent-child relationship during a parent's military deployment.

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 Sections 153.702(a) and (c), Family Code, as follows:

(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 without the necessity of showing a material and substantial change of circumstances other than the military deployment, military mobilization, or temporary military duty.

(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 if the designated person is a nonparent, the court may not require the designated person to pay child support.

SECTION 2. Amends Section 153.703(b), Family Code, to provide that a nonparent appointed as a designated person, rather than 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).

SECTION 3. Repealer: Section 153.706 (Temporary Order for Child Support), Family Code.

SECTION 4. Provides that the changes in law made by this Act apply to a motion for a temporary order under Subchapter L, Chapter 153, Family Code, that is pending in a trial court on the effective date of this Act or filed on or after that date.

SECTION 5. Effective date: September 1, 2011.