

1 AN ACT

2 relating to periods of possession of and access to a child,
3 including periods of electronic communication.

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

5 SECTION 1. Subchapter A, Chapter 153, Family Code, is
6 amended by adding Section 153.015 to read as follows:

7 Sec. 153.015. ELECTRONIC COMMUNICATION WITH CHILD BY
8 CONSERVATOR. (a) In this section, "electronic communication"
9 means any communication facilitated by the use of any wired or
10 wireless technology via the Internet or any other electronic media.
11 The term includes communication facilitated by the use of a
12 telephone, electronic mail, instant messaging, videoconferencing,
13 or webcam.

14 (b) If a conservator of a child requests the court to order
15 periods of electronic communication with the child under this
16 section, the court may award the conservator reasonable periods of
17 electronic communication with the child to supplement the
18 conservator's periods of possession of the child. In determining
19 whether to award electronic communication, the court shall
20 consider:

21 (1) whether electronic communication is in the best
22 interest of the child;

23 (2) whether equipment necessary to facilitate the
24 electronic communication is reasonably available to all parties

1 subject to the order; and

2 (3) any other factor the court considers appropriate.

3 (c) If a court awards a conservator periods of electronic
4 communication with a child under this section, each conservator
5 subject to the court's order shall:

6 (1) provide the other conservator with the e-mail
7 address and other electronic communication access information of
8 the child;

9 (2) notify the other conservator of any change in the
10 e-mail address or other electronic communication access
11 information not later than 24 hours after the date the change takes
12 effect; and

13 (3) if necessary equipment is reasonably available,
14 accommodate electronic communication with the child, with the same
15 privacy, respect, and dignity accorded all other forms of access,
16 at a reasonable time and for a reasonable duration subject to any
17 limitation provided by the court in the court's order.

18 (d) The court may not consider the availability of
19 electronic communication as a factor in determining child support.
20 The availability of electronic communication is not intended as a
21 substitute for physical possession of or access to the child, where
22 otherwise appropriate.

23 (e) In a suit in which the court's order contains provisions
24 related to a finding of family violence in the suit, including
25 supervised visitation, the court may award periods of electronic
26 communication under this section only if:

27 (1) the award and terms of the award are mutually

1 agreed to by the parties; and

2 (2) the terms of the award:

3 (A) are printed in the court's order in
4 boldfaced, capitalized type; and

5 (B) include any specific restrictions relating
6 to family violence or supervised visitation, as applicable,
7 required by other law to be included in a possession or access
8 order.

9 SECTION 2. Section 153.312(a), Family Code, is amended to
10 read as follows:

11 (a) If the possessory conservator resides 100 miles or less
12 from the primary residence of the child, the possessory conservator
13 shall have the right to possession of the child as follows:

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

24 (2) on Thursdays of each week during the regular
25 school term beginning at 6 p.m. and ending at 8 p.m., or, at the
26 possessory conservator's election made before or at the time of the
27 rendition of the original or modification order, and as specified

1 in the original or modification order, beginning at the time the
2 child's school is regularly dismissed and ending at the time the
3 child's school resumes, unless the court finds that visitation
4 under this subdivision is not in the best interest of the child.

5 SECTION 3. Section 153.314, Family Code, is amended to read
6 as follows:

7 Sec. 153.314. HOLIDAY POSSESSION UNAFFECTED BY DISTANCE
8 PARENTS RESIDE APART. The following provisions govern possession
9 of the child for certain specific holidays and supersede
10 conflicting weekend or Thursday periods of possession without
11 regard to the distance the parents reside apart. The possessory
12 conservator and the managing conservator shall have rights of
13 possession of the child as follows:

14 (1) the possessory conservator shall have possession
15 of the child in even-numbered years beginning at 6 p.m. on the day
16 the child is dismissed from school for the Christmas school
17 vacation and ending at noon on December 28 [~~26~~], and the managing
18 conservator shall have possession for the same period in
19 odd-numbered years;

20 (2) the possessory conservator shall have possession
21 of the child in odd-numbered years beginning at noon on December 28
22 [~~26~~] and ending at 6 p.m. on the day before school resumes after
23 that vacation, and the managing conservator shall have possession
24 for the same period in even-numbered years;

25 (3) the possessory conservator shall have possession
26 of the child in odd-numbered years, beginning at 6 p.m. on the day
27 the child is dismissed from school before Thanksgiving and ending

1 at 6 p.m. on the following Sunday, and the managing conservator
2 shall have possession for the same period in even-numbered years;

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

9 (5) if a conservator, the father shall have possession
10 of the child beginning at 6 p.m. on the Friday preceding Father's
11 Day and ending on Father's Day at 6 p.m., provided that, if he is not
12 otherwise entitled under this standard order to present possession
13 of the child, he picks up the child from the residence of the
14 conservator entitled to possession and returns the child to that
15 same place; and

16 (6) if a conservator, the mother shall have possession
17 of the child beginning at 6 p.m. on the Friday preceding Mother's
18 Day and ending on Mother's Day at 6 p.m., provided that, if she is
19 not otherwise entitled under this standard order to present
20 possession of the child, she picks up the child from the residence
21 of the conservator entitled to possession and returns the child to
22 that same place.

23 SECTION 4. Section 153.3161, Family Code, is amended to
24 read as follows:

25 Sec. 153.3161. [~~LIMITED~~] POSSESSION DURING MILITARY
26 DEPLOYMENT. (a) In this section, "military deployment" means
27 military duty ordered for a period of more than six months during

1 which the person ordered to duty:

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

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

6 (b) In addition to the general terms and conditions of
7 possession required by Section 153.316, if a possessory conservator
8 or a joint managing conservator of the child without the exclusive
9 right to designate the primary residence of the child is currently a
10 member of the armed forces of the state or the United States or is
11 reasonably expected to join those forces, the court shall:

12 (1) permit that conservator to designate a person who
13 may exercise [~~limited~~] possession of the child on behalf of that
14 conservator during any period that the conservator is deployed
15 under a military deployment [~~outside of the United States~~]; and

16 (2) if the conservator elects to designate a person
17 under Subdivision (1), provide in the order for [~~limited~~]
18 possession of the child by the designated person under those
19 circumstances, subject to the court's determination that the
20 [~~limited~~] possession is in the best interest of the child.

21 (c) [~~(b)~~] If the court determines that the [~~limited~~]
22 possession is in the best interest of the child, the court shall
23 provide in the order that during periods of military deployment:

24 (1) the designated person has the right to possession
25 of the child for the periods and in the manner in which the deployed
26 conservator would be entitled to exercise possession if not
27 deployed [~~on the first weekend of each month beginning at 6 p.m. on~~

1 ~~Friday and ending at 6 p.m. on Sunday];~~

2 (2) ~~[the other parent shall surrender the child to the~~
3 ~~designated person at the beginning of each period of possession at~~
4 ~~the other parent's residence,~~

5 ~~[(3) the designated person shall return the child to~~
6 ~~the other parent's residence at the end of each period of~~
7 ~~possession,~~

8 ~~[(4)]~~ the child's other parent and the designated
9 person are subject to the requirements of Section 153.316, with the
10 designated person considered for purposes of that section to be the
11 possessory conservator ~~[Sections 153.316(5)-(9)];~~

12 (3) ~~[(5)]~~ the designated person has the rights and
13 duties of a nonparent possessory conservator under Section
14 153.376(a) during the period that the person has possession of the
15 child; and

16 (4) ~~[(6)]~~ the designated person is subject to any
17 provision in a court order restricting or prohibiting access to the
18 child by any specified individual.

19 (d) ~~[(c)]~~ After the military deployment is concluded, and
20 the deployed parent returns to that parent's usual residence, the
21 designated person's right to ~~[limited]~~ possession under this
22 section terminates and the rights of all affected parties are
23 governed by the terms of any court order applicable when a parent is
24 not deployed.

25 SECTION 5. Section 156.105, Family Code, is amended to read
26 as follows:

27 Sec. 156.105. MODIFICATION OF ORDER BASED ON MILITARY

1 DEPLOYMENT. (a) In this section, "military deployment" means
2 military duty ordered for a period of more than six months during
3 which the person ordered to duty:

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

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

8 (b) The military deployment [~~outside this country~~] of a
9 person who is a possessory conservator or a joint managing
10 conservator without the exclusive right to designate the primary
11 residence of the child is a material and substantial change of
12 circumstances sufficient to justify a modification of an existing
13 court order or portion of a decree that sets the terms and
14 conditions for the possession of or access to a child.

15 (c) [~~(b)~~] If the court determines that modification is in
16 the best interest of the child, the court may modify the order or
17 decree to provide in a manner consistent with Section 153.3161 for
18 [~~limited~~] possession of the child during the period of the military
19 deployment by a person designated by the deployed conservator.

20 SECTION 6. Section 153.015, Family Code, as added by this
21 Act, applies to a suit affecting the parent-child relationship
22 filed before, on, or after the effective date of this Act.

23 SECTION 7. The change in law made by this Act to Section
24 153.314, Family Code, applies only to a court order providing for
25 possession of or access to a child rendered on or after the
26 effective date of this Act. A court order rendered before the
27 effective date of this Act is governed by the law in effect on the

1 date the order was rendered, and the former law is continued in
2 effect for that purpose.

3 SECTION 8. Section 153.3161, Family Code, as amended by
4 this Act, applies only to a suit affecting the parent-child
5 relationship pending in a trial court on or filed on or after the
6 effective date of this Act.

7 SECTION 9. Section 156.105, Family Code, as amended by this
8 Act, applies only to an action to modify an order in a suit
9 affecting the parent-child relationship pending in a trial court on
10 or filed on or after the effective date of this Act.

11 SECTION 10. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas Constitution.
14 If this Act does not receive the vote necessary for immediate
15 effect, this Act takes effect September 1, 2007.

David Newkirk

President of the Senate

Jim Caddick

Speaker of the House

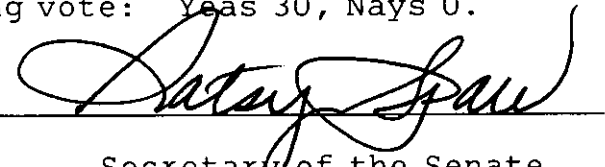
I certify that H.B. No. 1864 was passed by the House on May 4, 2007, by the following vote: Yeas 140, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1864 on May 25, 2007, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1864 on May 27, 2007, by the following vote: Yeas 146, Nays 0, 2 present, not voting.

Robert Haney

Chief Clerk of the House

H.B. No. 1864

I certify that H.B. No. 1864 was passed by the Senate, with amendments, on May 22, 2007, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1864 on May 27, 2007, by the following vote: Yeas 30, Nays 0.



Secretary of the Senate

APPROVED: 15 JUN 07

Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
7 PM O'CLOCK

JUN 15 2007

Secretary of State