

SUBJECT: Additional access to a child for parents returning from military deployment

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 6 ayes — Corte, Edwards, Farias, Ortiz, Pickett, C. Turner

0 nays

3 absent — Vaught, Chavez, Maldonado

WITNESSES: None

BACKGROUND: Family Code, ch. 153 addresses rights of conservatorship, possession, and access to a child, including the best interests of the child being of primary consideration, and the ability of a court to appoint a managing conservator, who would have primary responsibility for the child, and a possessory conservator.

If a military service member is possessory conservator of a child, or a joint managing conservator who does not have the exclusive right to designate the child's primary residence, and is facing deployment for six months or more, he or she may designate an alternate conservator during the deployment, provided the court determines that possession by the designee is in the best interests of the child.

DIGEST: HB 409 would allow military service members who do not have partial or joint custody of a child to petition the court to be awarded additional periods of possession of or access to the child to compensate for time lost due to involuntary deployment. The service member would have to petition the court within 90 days of returning from deployment and would have to have been deployed in an area where access to the child was not reasonably possible.

The court would have to calculate the amount of possession or access time lost and determine whether awarding additional time was in the best interest of the child. If the court decided to award additional time, it would not be required to award time equal to that which was lost during the parent's deployment. Once the additional time granted expired, the rights

of all of the parties involved would revert to those held prior to the service member's deployment.

This bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

Members of the armed forces and National Guard are doing a service to our country, and military reservists are being deployed more often and for longer periods of time than in previous eras. They should not be penalized by losing time with their child due to active duty. This bill would not require courts to award additional time to non-custodial parents, nor would any time awarded have to be equal to the time lost, but the bill would allow courts to make determinations on what would be in the best interests of children in these situations.

**OPPONENTS
SAY:**

By allowing non-custodial parents to petition for extra time with their child, this bill could take time away from the child's other parent and alter the terms of the parents' custody agreement. It also could cause disruption to the child's schedule in addition to that caused by the deployment.

NOTES:

A bill containing language identical to this bill, HB 63 by Aycock, also is on today's General State Calendar.