

- SUBJECT:** Rules of conservatorship for child of deployed military parent
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 11 ayes — Jackson, Lewis, Bohac, Castro, S. Davis, Hartnett, Madden, Raymond, Scott, Thompson, Woolley
- 0 nays
- WITNESSES:** For — Heather King, Texas Family Law Foundation; (*Registered, but did not testify*: Steve Bresnen, Texas Family Law Foundation)
- Against — None
- BACKGROUND:** Under current law, a parent ordered to military duty may file a request for a temporary order to designate an alternate conservator to care for his or her child during the parent's service. A court may issue a temporary order designating an alternate conservator if it is in the best interests of the child.
- DIGEST:** HB 1404 would allow a parent to file for a temporary order designating an alternate conservator for his or her child without having to show a material and substantial change of circumstances if military deployment, military mobilization, or temporary military duty was the cause of the request.
- The bill would specify that if the designated alternate conservator was a nonparent, then that person would have the rights and duties of a nonparent appointed as sole managing conservator, but the court could not require that person to pay child support.
- The bill would repeal Family Code, sec. 153.706, which states that a temporary order may cause a change of circumstances that could justify modification of a person's child support obligations.
- HB 1404 would take effect on September 1, 2011. It would apply to a motion for a temporary order that was pending in court on the effective date or filed on or after that date.

**SUPPORTERS  
SAY:**

HB 1404 would save parents the time and expense of proving a material and substantial change of circumstances when military deployment made it necessary to designate an alternate conservator. Deployment often requires a service member to make quick child care arrangements, sometimes with a new spouse or family member to minimize disruption to the child's schedule. The bill would remove an unnecessary step in the process of obtaining a temporary order, ensuring that the service member was not penalized because of a deployment.

A temporary order is a mechanism for preserving the original custody arrangement. The ultimate decision of whether to grant a temporary order would remain with the judge and would be based on the best interests of the child. HB 1404 is a narrowly drawn bill and would not affect the determination of a material and substantial change of circumstances in situations other than temporary orders.

The bill would prevent a parent from avoiding child support if the parent was appointed as a designated conservator, but it also would clarify that a nonparent appointed as a designated conservator would not be required to pay child support.

**OPPONENTS  
SAY:**

Since it would remove a step in the process of obtaining a temporary order, this bill possibly could allow a deployment to be used against a service member to temporarily change a custody arrangement or child support obligation arrangement.

**NOTES:**

The Senate companion bill, SB 818 by Harris, has been referred to the Senate Jurisprudence Committee.