



General Assembly

Substitute Bill No. 5395

February Session, 2012

* _____HB05395VA_JUD031512_____*

AN ACT CONCERNING CUSTODY ORDERS FOR DEPLOYED MEMBERS OF THE ARMED FORCES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) For the purposes of this
2 section:

3 (1) "Armed forces" means the United States Army, Navy, Marine
4 Corps, Coast Guard and Air Force and any reserve component thereof,
5 including the Connecticut National Guard performing duty as
6 provided in 32 USC;

7 (2) "Deploy" means military service in compliance with military
8 orders received by a member of the armed forces to report for combat
9 operations, contingency operations, peacekeeping operations, a remote
10 tour of duty or other active duty service. Deployment includes a
11 period during which a member of the armed forces remains subject to
12 deployment orders and remains deployed on account of sickness,
13 wounds or other lawful cause;

14 (3) "Deploying parent" means a parent who is a member of the
15 armed forces and has been notified by military leadership that he or
16 she will deploy or mobilize with the armed forces;

17 (4) "Mobilize" means the call-up of National Guard or Reserve

18 service members to extended active service. For purposes of this
19 definition, "mobilization" does not include National Guard or Reserve
20 annual training, inactive duty days, drill weekends, temporary duty or
21 state active duty; and

22 (5) "Nondeploying parent" means a parent who has not been
23 notified by military leadership that he or she will deploy or mobilize
24 with the armed forces.

25 (b) If a deploying parent is required to be separated from a child of
26 such parent during a deployment or mobilization, a court shall not
27 enter a final order of custody or visitation modifying a final order of
28 custody or visitation issued pursuant to section 46b-56, 46b-56a or 46b-
29 61 of the general statutes until ninety days after the deployment or
30 mobilization ends, unless such modification is agreed to by the
31 deploying parent.

32 (c) If a parent who is a member of the armed forces has joint or sole
33 custody of a child receives notice from military leadership that he or
34 she will deploy or mobilize in the near future and will be required to
35 be separated from such child due to such deployment or mobilization,
36 then upon motion of such deploying parent or the nondeploying
37 parent, a court may enter temporary orders of custody or visitation
38 modifying final orders of custody or visitation during the period of
39 such deployment or mobilization if: (1) The deployment or
40 mobilization would have a material effect upon the deploying parent's
41 ability to exercise parental rights, responsibilities or parent-child
42 contact as set forth in the existing final orders of custody or visitation,
43 and (2) modification is in the best interests of the child. In issuing such
44 temporary modification orders, the court shall be guided by the
45 provisions of the general statutes pertaining to custody and visitation.
46 Motions for temporary modification because of deployment shall be
47 heard by the court as expeditiously as possible and shall be given
48 priority for this purpose. All temporary modification orders shall
49 include a specific transition plan to facilitate a return to the
50 predeployment order over the shortest reasonable time period after the

51 deployment and, taking into consideration the child's best interest.
52 Temporary modification orders issued pursuant to this section shall
53 designate the parent's parental rights, responsibilities and parent-child
54 contact during a period of leave granted to the deploying parent, in the
55 best interests of the child. Upon motion of such parent and in
56 accordance with section 46b-59 of the general statutes, the court may
57 delegate such parent's right of contact, or a portion thereof, to a family
58 member, a person with whom such parent cohabits, or another person
59 with a close and substantial relationship to the minor child or children
60 for the duration of the deployment or mobilization, if it is in the child's
61 best interests. Such delegated contact does not create separate rights to
62 parent-child contact for a person other than a parent. The temporary
63 modification orders shall expire upon the completion of the transition
64 plan, and the prior final order issued pursuant to section 46b-56, 46b-
65 56a or 46b-61 of the general statutes shall be in effect.

66 (d) A temporary court order modifying final orders of custody or
67 visitation issued under subsection (c) of this section shall require that:
68 (1) The nondeploying parent make the child reasonably available to
69 the deploying parent when the deploying parent has leave; (2) the
70 nondeploying parent facilitate opportunities for telephonic, electronic
71 mail, and other such contact between the deploying parent and the
72 child during deployment or mobilization; and (3) the deploying parent
73 provide timely information regarding his or her leave schedule to the
74 nondeploying parent. Changes in actual leave dates shall not be used
75 by the nondeploying parent to prevent parent-child contact.

76 (e) A temporary court order modifying final orders of custody or
77 visitation issued under subsection (c) of this section shall specify that
78 deployment or mobilization is the basis for the order and shall be
79 entered by the court as a temporary order. The order shall further
80 require the nondeploying parent to provide the court and the
81 deploying parent with thirty days' advance written notice of any
82 change of address and any change of telephone number, unless a court
83 has ordered that the deploying party is not entitled to this information.

84 (f) If pendente lite orders of custody or visitation are in place or if
85 there are no existing orders of custody or visitation establishing the
86 terms of parental rights and responsibilities or parent-child contact
87 and it appears that deployment or mobilization of a parent who is a
88 member of the armed forces is imminent, upon motion by either
89 parent, the court shall expedite a hearing to establish temporary
90 parental rights and responsibilities and parent-child contact to (1)
91 ensure the deploying parent has access to the child, provided it is in
92 the child's best interest; (2) ensure disclosure of information; (3) grant
93 other rights and duties set forth herein; and (4) provide other
94 appropriate relief. Any initial pleading filed to establish parental rights
95 and responsibilities or parent-child contact with a child of a deploying
96 parent shall be so identified at the time of filing by stating in the text of
97 the pleading the specific facts related to deployment.

98 Sec. 2. (NEW) (*Effective from passage*) (a) Nothing in section 1 of this
99 act shall preclude the court from hearing a motion ninety days after
100 the return of the deploying parent for permanent modification of final
101 orders of custody and visitation issued pursuant to section 46b-56, 46b-
102 56a or 46b-61 of the general statutes. The nondeploying parent shall
103 bear the burden of showing that reentry of final orders of custody or
104 visitation, issued pursuant to section 46b-56, 46b-56a or 46b-61 of the
105 general statutes, in effect before the deployment is no longer in the
106 child's best interest.

107 (b) Nothing in this section and section 1 of this act shall impair the
108 court's ability to hear an emergency motion to modify final orders of
109 custody or visitation issued pursuant to section 46b-56, 46b-56a or 46b-
110 61 of the general statutes and to grant an ex parte order on such
111 motion prior to ninety days after the deployment or mobilization ends
112 and upon the filing and service of a verified application for the same
113 which alleges an immediate danger of harm to the child. Any such
114 motion shall be heard as expeditiously as possible, but in no event
115 more than fifteen days from the date of filing.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

VA

Joint Favorable Subst. C/R

JUD