

A bill to be entitled

An act relating to rights of military personnel; amending ss. 61.076, 63.032, 250.01, 250.82, 250.83, and 250.84, F.S.; conforming provisions to the redesignation of the Soldiers' and Sailors' Civil Relief Act as the Servicemembers Civil Relief Act; amending s. 250.80, F.S., conforming provisions to the creation of s. 250.85, F.S.; creating s. 250.85, F.S.; prohibiting modification of child custody of a parent activated to military service; providing exceptions; providing for effect on specified proceedings of a parent's failure to comply with certain orders due to activation to military service and deployment out of state; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (2) of section 61.076, Florida Statutes, is amended to read:

61.076 Distribution of retirement plans upon dissolution of marriage.--

(2) If the parties were married for at least 10 years, during which at least one of the parties who was a member of the federal uniformed services performed at least 10 years of creditable service, and if the division of marital property includes a division of uniformed services retired or retainer pay, the final judgment shall include the following:

(b) Certification that the Servicemembers ~~Soldiers' and Sailors'~~ Civil Relief Act, Title 50, Appendix U.S.C. ss. 501 et

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29 seq. of 1940 was observed if the decree was issued while the
 30 member was on active duty and was not represented in court;

31 Section 2. Subsection (17) of section 63.032, Florida
 32 Statutes, is amended to read:

33 63.032 Definitions.--As used in this chapter, the term:

34 (17) "Primarily lives and works outside Florida" means a
 35 person who lives and works outside this state at least 6 months
 36 of the year, military personnel who designate Florida as their
 37 place of residence in accordance with the Servicemembers
 38 ~~Soldiers' and Sailors'~~ Civil Relief Act, Title 50, Appendix
 39 U.S.C. ss. 501 et seq. of 1940, or employees of the United
 40 States Department of State living in a foreign country who
 41 designate a state other than Florida as their place of
 42 residence.

43 Section 3. Subsection (20) of section 250.01, Florida
 44 Statutes, is amended to read:

45 250.01 Definitions.--As used in this chapter, the term:

46 (20) "SCRA" ~~"SSCRA"~~ means the Servicemembers ~~Soldiers' and~~
 47 ~~Sailors'~~ Civil Relief Act, Title 50, Appendix U.S.C. ss. 501 et
 48 seq.

49 Section 4. Section 250.80, Florida Statutes, is amended to
 50 read:

51 250.80 Short title Popular name.--This part Sections
 52 ~~250.80-250.84~~ may be cited as known by the ~~popular name~~ the
 53 "Florida Uniformed Servicemembers Protection Act."

54 Section 5. Subsection (1) of section 250.82, Florida
 55 Statutes, is amended to read:

56 250.82 Applicability of federal law.--

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57 (1) Florida law provides certain protections to members of
58 the United States Armed Forces, the United States Reserve
59 Forces, and the Florida National Guard in various legal
60 proceedings and contractual relationships. In addition to these
61 state provisions, federal law also contains protections, such as
62 those provided in the Servicemembers ~~Soldiers' and Sailors'~~
63 Civil Relief Act (SCRA) ~~(SSCRA)~~, Title 50, Appendix U.S.C. ss.
64 501 et seq., and the Uniformed Services Employment and
65 Reemployment Rights Act (USERRA), Title 38 United States Code,
66 chapter 43, that are applicable to members in every state even
67 though such provisions are not specifically identified under
68 state law.

69 Section 6. Section 250.83, Florida Statutes, is amended to
70 read:

71 250.83 Construction of part.--In the event that any other
72 provision of law conflicts with SCRA ~~SSCRA~~, USERRA, or the
73 provisions of this chapter, the provisions of SCRA ~~SSCRA~~,
74 USERRA, or the provisions of this chapter, whichever is
75 applicable, shall control. Nothing in this part shall construe
76 rights or responsibilities not provided under the SCRA ~~SSCRA~~,
77 USERRA, or this chapter.

78 Section 7. Paragraph (b) of subsection (3) of section
79 250.84, Florida Statutes, is amended to read:

80 250.84 Florida Uniformed Servicemembers Protection Act;
81 rights of servicemembers; incorporation by reference.--

82 (3) Such documents containing the rights and
83 responsibilities of servicemembers set forth in this act shall

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84 include an enumeration of all rights and responsibilities under
85 state and federal law, including, but not limited to:

86 (b) The rights and responsibilities provided by the
87 Servicemembers ~~Soldiers' and Sailors'~~ Civil Relief Act.

88 Section 8. Section 250.85, Florida Statutes, is created to
89 read:

90 250.85 Child custody modification.--

91 (1) If a motion for change of child custody is filed
92 during the time a parent is activated to military service, the
93 court shall not issue an order or modify or amend a previous
94 judgment or order that changes a child's placement that existed
95 on the date the parent was activated to military service, except
96 that a court may enter a temporary order to modify or amend such
97 custody if there is clear and convincing evidence that the
98 modification or amendment is in the best interest of the child.
99 If such a temporary order is issued, the court shall reinstate
100 the custody order in effect immediately preceding that period of
101 active military service upon the parent's return from active
102 military service.

103 (2) A parent's absence, relocation, or failure to comply
104 with custody and visitation orders shall not, by itself, be
105 sufficient to justify a modification of a custody or visitation
106 order if the reason for the absence, relocation, or failure to
107 comply is the parent's activation to military service and
108 deployment out of state.

109 Section 9. This act shall take effect July 1, 2007.