

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Metz offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Part IV of chapter 61, Florida Statutes, consisting of sections 61.703-61.773, Florida Statutes, is created and entitled "Uniform Deployed Parents Custody and Visitation Act."

61.703 Definitions.—As used in this part:

(1) "Adult" means an individual who has attained 18 years of age or who has had the disability of nonage removed under chapter 743.

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13 (2) "Caretaking authority" means the right to live with
14 and care for a child on a day-to-day basis. The term includes
15 physical custody, parenting time, right to access, and
16 visitation.

17 (3) "Child" means:

18 (a) An individual who has not attained 18 years of age and
19 who has not had the disability of nonage removed under chapter
20 743; or

21 (b) An adult son or daughter by birth or adoption, or
22 designated by general law, who is the subject of a court order
23 concerning custodial responsibility.

24 (4) "Close and substantial relationship" means a positive
25 relationship of substantial duration and depth in which a
26 significant emotional bond exists between a child and a
27 nonparent.

28 (5) "Court" means the court of legal jurisdiction.

29 (6) "Custodial responsibility" includes all powers and
30 duties relating to caretaking authority and decisionmaking
31 authority for a child. The term includes physical custody, legal
32 custody, parenting time, right to access, visitation, and
33 authority to grant limited contact with a child.

34 (7) "Decisionmaking authority" means the power to make
35 important decisions regarding a child, including decisions
36 regarding the child's education, religious training, health
37 care, extracurricular activities, and travel. The term does not

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38 include the power to make decisions that necessarily accompany a
39 grant of caretaking authority.

40 (8) "Deploying parent" means a servicemember who is
41 deployed or has been notified of impending deployment and is:

42 (a) A parent of a child; or

43 (b) An individual who has custodial responsibility for a
44 child.

45 (9) "Deployment" means the movement or mobilization of a
46 servicemember for more than 90 days but less than 18 months
47 pursuant to uniformed service orders that:

48 (a) Are designated as unaccompanied;

49 (b) Do not authorize dependent travel; or

50 (c) Otherwise do not permit the movement of family members
51 to the location to which the servicemember is deployed.

52 (10) "Family member" means a sibling, aunt, uncle, cousin,
53 stepparent, or grandparent of a child or an individual
54 recognized by the deploying parent and the other parent to be in
55 a familial relationship with a child.

56 (11) "Limited contact" means the authority of a nonparent
57 to visit a child for a limited time. The term includes authority
58 to take the child to a place other than the child's residence.

59 (12) "Nonparent" means an individual other than a
60 deploying parent or other parent.

61 (13) "Notice of deployment" means official notification to
62 a servicemember, through orders or other written or electronic

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63 communication, that the servicemember is subject to deployment
64 on or about a specified date.

65 (14) "Other parent" means an individual who, in addition
66 to a deploying parent, is:

67 (a) A parent of a child; or

68 (b) An individual who has custodial responsibility for a
69 child.

70 (15) "Record" means information that is created in a
71 tangible medium or stored in an electronic or other medium and
72 is retrievable in perceivable form.

73 (16) "Return from deployment" means the conclusion of a
74 servicemember's deployment as specified in uniformed service
75 orders.

76 (17) "Servicemember" means a member of a uniformed
77 service.

78 (18) "Sign" means, with the intent to authenticate or
79 adopt a record, to:

80 (a) Execute or adopt a tangible symbol; or

81 (b) Attach to or logically associate with the record an
82 electronic symbol, sound, or process.

83 (19) "State" means a state of the United States, the
84 District of Columbia, Puerto Rico, the United States Virgin
85 Islands, or any territory or insular possession subject to the
86 jurisdiction of the United States.

87 (20) "Uniformed service" means any of the following:

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88 (a) Active and reserve components of the Army, Navy, Air
89 Force, Marine Corps, or Coast Guard of the United States.

90 (b) The United States Merchant Marine.

91 (c) The commissioned corps of the United States Public
92 Health Service.

93 (d) The commissioned corps of the National Oceanic and
94 Atmospheric Administration.

95 (e) The National Guard of a state or territory of the
96 United States, Puerto Rico, or the District of Columbia.

97 61.705 Remedies for noncompliance.—In addition to other
98 remedies authorized by general law, if a court finds that a
99 party to a proceeding acts in bad faith or intentionally fails to
100 comply with this part or a court order issued under this part,
101 the court may assess any remedies under this chapter against the
102 party, and order other appropriate relief under general law.

103 61.707 Jurisdiction.—

104 (1) A court may issue an order regarding custodial
105 responsibility only if the court has jurisdiction under the
106 Uniform Child Custody Jurisdiction and Enforcement Act.

107 (2) For purposes of the Uniform Child Custody Jurisdiction
108 and Enforcement Act, the residence of the deploying parent does
109 not change by reason of the deployment if:

110 (a) A court has issued a temporary order regarding
111 custodial responsibility.

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112 (b) A court has issued a permanent order regarding
113 custodial responsibility before notice of deployment and the
114 parents modify that order temporarily by agreement.

115 (c) A court in another state has issued a temporary order
116 regarding custodial responsibility as a result of impending or
117 current deployment.

118 (3) This section does not prevent a court from exercising
119 temporary emergency jurisdiction under the Uniform Child Custody
120 Jurisdiction and Enforcement Act.

121 61.709 Notice requirement for deploying parent.-

122 (1) Except as otherwise provided in subsection (3), and
123 subject to subsection (2), a deploying parent shall notify in a
124 record to the other parent:

125 (a) A pending deployment not later than 7 days after
126 receiving notice of deployment unless he or she is reasonably
127 prevented from doing so by the circumstances of service, in which
128 case the deploying parent shall provide notice as soon as
129 reasonably possible.

130 (b) A proposed plan fulfilling each parent's share of
131 custodial responsibility during deployment provided as soon as
132 reasonably possible after notice of deployment is given under
133 paragraph (a).

134 (2) If a court order prohibits disclosure of the address
135 or contact information of the other parent, notice pursuant to
136 subsection (1) must be provided to the issuing court. If the

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137 address of the other parent is available to the issuing court,
138 the court shall forward the notice to the other parent. The court
139 shall keep confidential the address or contact information of the
140 other parent.

141 (3) Notice pursuant to subsection (1) is not required if
142 both parents are living in the same residence and have actual
143 notice of the deployment or plan.

144 (4) In a proceeding regarding custodial responsibility, a
145 court may consider the reasonableness of a parent's efforts to
146 comply with this section.

147 61.711 Duty to notify of change of address.—

148 (1) Except as otherwise provided in subsection (2), an
149 individual granted custodial responsibility during deployment
150 must notify the deploying parent and any other individual with
151 custodial responsibility of a child of any change of mailing
152 address or residence until the grant is terminated. The
153 individual must provide the notice to any court that has issued
154 a custody or child support order concerning the child.

155 (2) If a court order prohibits disclosure of the address
156 or contact information of an individual to whom custodial
157 responsibility has been granted, notice pursuant to subsection
158 (1) must be provided to the issuing court. The court shall keep
159 confidential the mailing address or residence of the individual
160 granted custodial responsibility.

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161 61.713 General consideration in custody proceeding of
162 parent's service.—In a proceeding for custodial responsibility
163 of a child of a servicemember, a court may not consider a
164 parent's past deployment or possible future deployment in
165 determining the best interest of the child.

166 61.721 Form of temporary custodial responsibility
167 agreement.—

168 (1) The parents of a child may enter into a temporary
169 agreement granting custodial responsibility during deployment.

170 (2) The agreement must be in writing and signed by both
171 parents and any agreed upon nonparent granted custodial
172 responsibility during deployment.

173 (3) Subject to subsection (4), the agreement, if feasible,
174 must:

175 (a) To the extent permissible, identify the destination,
176 duration, and conditions of the deployment that is the basis for
177 the agreement.

178 (b) Specify the allocation of caretaking authority among
179 the deploying parent, the other parent, and any agreed upon
180 nonparent.

181 (c) Specify any decisionmaking authority that accompanies
182 a grant of caretaking authority.

183 (d) Specify any grant of limited contact to an agreed upon
184 nonparent.

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185 (e) Provide a process to resolve any dispute that may arise
186 if custodial responsibility is shared by the other parent and an
187 agreed upon nonparent, or by other agreed upon nonparents.

188 (f) Specify the frequency, duration, and means, including
189 electronic means, by which the deploying parent will have contact
190 with the child, any role to be played by the other parent or
191 agreed upon nonparent in facilitating the contact, and the
192 allocation of any costs of contact.

193 (g) Specify contact between the deploying parent and child
194 during the time the deploying parent is on leave or is otherwise
195 available.

196 (h) Acknowledge that the agreement does not modify any
197 existing child support obligation and that changing the terms of
198 the obligation during deployment requires modification in the
199 appropriate court.

200 (i) Provide that the agreement will terminate according to
201 the procedures under this part after the deploying parent returns
202 from deployment or as otherwise agreed upon in writing or in a
203 record by the deploying parent and the other parent.

204 (j) Specify which parent is required to file the agreement
205 if the agreement must be filed with the court pursuant to s.
206 61.729.

207 (4) The omission of any item in subsection (3) does not
208 invalidate the agreement.

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209 61.723 Nature of authority created by temporary custodial
210 responsibility agreement.-

211 (1) An agreement granting custodial responsibility during
212 deployment is temporary and terminates after the deploying
213 parent returns from deployment unless the agreement has been
214 terminated before that time by court order or modification under
215 s. 61.725. The agreement does not in any way create an
216 independent, continuing right to caretaking authority,
217 decisionmaking authority, or limited contact for an individual
218 granted custodial responsibility.

219 (2) An agreed upon nonparent granted temporary custodial
220 responsibility or limited contact by agreement has standing only
221 to enforce the agreement until it is terminated by a written
222 agreement signed by both the deploying parent and the other
223 parent, or, in the absence of such agreement, by court order or
224 under s. 61.761, or modified under s. 61.725.

225 61.725 Modification of agreement.-

226 (1) The parents of a child may modify an agreement
227 granting temporary custodial responsibility by mutual consent
228 and without the consent of any nonparent.

229 (2) If an agreement is modified before deployment of a
230 deploying parent, the modification must be in writing and signed
231 by both parents and any nonparent granted temporary custodial
232 responsibility under the modified agreement.

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233 (3) If an agreement is modified during deployment of a
234 deploying parent, the modification must be agreed to in a record
235 by both parents and, if applicable, any agreed upon nonparent
236 granted temporary custodial responsibility.

237 61.727 Power of attorney.—A deploying parent may, by power
238 of attorney, grant all or part of custodial responsibility to an
239 adult nonparent for the period of deployment if no other parent
240 possesses custodial responsibility, or if a court order
241 currently in effect prohibits contact between the child and the
242 other parent. The deploying parent may revoke the power of
243 attorney by signing a revocation of the power of attorney.

244 61.729 Filing custodial responsibility agreement or power
245 of attorney with court.—An agreement or power of attorney must
246 be filed within a reasonable time with a court that has entered
247 an order in effect relating to custodial responsibility or child
248 support concerning the child who is the subject of the agreement
249 or power. The case number and heading of the pending case
250 concerning custodial responsibility or child support must be
251 provided to the court with the agreement or power.

252 61.733 Proceeding for temporary custody order.—

253 (1) After a deploying parent receives notice of deployment
254 and until the deployment terminates, a court may issue a
255 temporary order granting custodial responsibility unless
256 prohibited by the Servicemembers Civil Relief Act, Title 50,
257 Appendix U.S.C. ss. 501 et seq. A court may not issue a

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258 permanent order granting custodial responsibility without the
259 consent of the deploying parent.

260 (2) (a) At any time after a deploying parent receives
261 notice of deployment, either parent may file a motion regarding
262 custodial responsibility of a child during deployment. The
263 motion must be filed in a pending proceeding for custodial
264 responsibility in a court with jurisdiction under s. 61.707 or,
265 if a pending proceeding does not exist in a court with
266 jurisdiction under s. 61.707, the motion must be filed in a new
267 action for granting custodial responsibility during deployment.

268 (b) If a motion to grant custodial responsibility is filed
269 under paragraph (a) before a deploying parent deploys, the court
270 shall conduct an expedited hearing.

271 61.735 Testimony by electronic means.—In a proceeding for
272 a temporary custody order, a deploying parent or servicemember
273 witness who is not reasonably able to appear in person may
274 appear, provide testimony, and present evidence by telephonic,
275 electronic, or web-based means. The deploying parent or
276 servicemember witness must be sworn in by an officer authorized
277 to administer oaths under federal law.

278 61.737 Effect of prior judicial order or agreement.—In a
279 proceeding for a temporary grant of custodial responsibility:

280 (1) A prior judicial order granting custodial
281 responsibility in the event of deployment is binding on the
282 court unless circumstances meet the requirements authorized by

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283 general law for modifying a judicial order regarding custodial
284 responsibility.

285 (2) The court shall enforce a prior written agreement
286 between the parents for granting custodial responsibility in the
287 event of deployment, including an agreement for custodial
288 responsibility during deployment, unless the court finds that
289 the agreement is not in the best interest of the child.

290 61.739 Grant of temporary caretaking authority to
291 nonparent.—

292 (1) Upon the motion of a deploying parent and in
293 accordance with general law, if it is in the best interest of
294 the child, a court may grant temporary caretaking authority to a
295 nonparent who is an adult family member of the child or an adult
296 with whom the child has a close and substantial relationship. In
297 the case of an adult with whom the child has a close and
298 substantial relationship, the best interest of the child must be
299 established by clear and convincing evidence.

300 (2) Unless a grant of caretaking authority to a nonparent
301 is agreed to by the other parent, the grant is limited to an
302 amount of time that may not exceed:

303 (a) The amount of time granted to the deploying parent
304 under a permanent custody order; however, the court may add
305 travel time necessary to transport the child; or

306 (b) In the absence of a permanent custody order that is
307 currently in effect, the amount of time the deploying parent

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308 habitually cared for the child before being notified of
309 deployment; however, the court may add travel time necessary to
310 transport the child.

311 (3) If, due to the operational constraints of the
312 deployment, or a portion thereof, the deploying parent is unable
313 to exercise decisionmaking authority and if it is in the best
314 interest of the child, a court may grant part of that authority
315 to a nonparent who is an adult family member of the child or an
316 adult with whom the child has a close and substantial
317 relationship. In the case of an adult with whom the child has a
318 close and substantial relationship, the best interest of the
319 child must be established by clear and convincing evidence. A
320 grant of decisionmaking authority to a nonparent must be
321 narrowly drawn to the reasonably foreseeable needs of the child
322 during the time that the deploying parent is unable to exercise
323 such authority and must consider the role of the other parent.
324 If a court grants the authority to a nonparent, the court shall
325 specify the decisionmaking powers granted and the duration of
326 such grant, which shall not exceed the length of time in which
327 the deploying parent is unable to exercise decisionmaking
328 authority. Except as otherwise specified in this subsection, the
329 deploying parent retains his or her decisionmaking authority for
330 the child during deployment.

331 61.741 Grant of limited contact.—A court shall grant
332 limited contact to a nonparent who is a family member of the

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333 child or an individual with whom the child has a close and
334 substantial relationship on motion of a deploying parent and in
335 accordance with general law unless the court finds that limited
336 contact with a nonparent would not be in the best interest of
337 the child. In the case of an adult with whom the child has a
338 close and substantial relationship, the best interest of the
339 child must be established by clear and convincing evidence.

340 61.743 Nature of authority created by temporary custody
341 order.-

342 (1) A grant of authority is temporary and terminates after
343 the deploying parent returns from deployment unless the grant
344 has been terminated before the return of the deploying parent by
345 a written agreement signed by both the deploying parent and the
346 other parent, or, in the absence of such an agreement, by court
347 order. The grant does not create any independent, continuing
348 right to caretaking authority, decisionmaking authority, or
349 limited contact to an individual granted temporary custody.

350 (2) A nonparent granted temporary caretaking authority,
351 decisionmaking authority, or limited contact has standing only
352 to enforce the grant until it is terminated by a written
353 agreement signed by both the deploying parent and the other
354 parent, or, in the absence of such an agreement, by court order
355 or under this part.

356 (3) If a grant of temporary authority is terminated by a
357 written agreement signed by both the deploying parent and the

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358 other parent, a copy of the termination agreement shall be filed
359 with the court and the temporary custody order shall be modified
360 to reflect the termination. Thereafter, the deploying parent and
361 the other parent may agree on alternative arrangements for
362 custodial responsibility in compliance with s. 61.721 or either
363 parent may seek an alternative arrangement for custodial
364 responsibility under s. 61.749.

365 61.745 Content of temporary custody order.—An order
366 granting custodial responsibility, when applicable, must:

367 (1) Designate the order as temporary and provide for
368 termination after the deploying parent returns from deployment.

369 (2) Identify, to the extent feasible, the destination,
370 duration, and conditions of the deployment.

371 (3) Specify the allocation of caretaking authority,
372 decisionmaking authority, or limited contact among the deploying
373 parent, the other parent, and any nonparent.

374 (4) Provide a process to resolve any dispute that may
375 arise if the order divides caretaking or decisionmaking
376 authority between individuals, or grants caretaking authority to
377 one individual and limited contact to another individual.

378 (5) Provide for liberal communication between the
379 deploying parent and the child during deployment, including
380 through electronic means, unless it is not in the best interest
381 of the child, and allocate any costs of communication.

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382 (6) Provide for liberal contact between the deploying
383 parent and the child during the time the deploying parent is on
384 leave or otherwise available, unless it is not in the best
385 interest of the child.

386 (7) Provide for reasonable contact between the deploying
387 parent and the child after the parent's return from deployment
388 until the temporary order is terminated, even if the time of
389 contact exceeds the time the deploying parent spent with the
390 child before entry of the temporary order.

391 61.747 Order for child support.—If a court has issued an
392 order granting caretaking authority, or an agreement granting
393 caretaking authority has been executed, the court may enter a
394 temporary order for child support authorized by general law if
395 the court has jurisdiction under the Uniform Interstate Family
396 Support Act.

397 61.749 Modifying or terminating temporary grant of
398 custodial responsibility or limited contact to nonparent.—

399 (1) Except for an agreement under s. 61.723, or as
400 otherwise provided in subsection (2), and consistent with the
401 Servicemembers Civil Relief Act, Title 50, Appendix U.S.C. ss.
402 501 et seq, a court may modify or terminate a temporary grant of
403 custodial responsibility on motion of a deploying parent, other
404 parent, or any nonparent granted caretaking authority if the
405 modification or termination is consistent with this part and is
406 in the best interest of the child. A modification is temporary

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407 and terminates after the deploying parent returns from
408 deployment, unless the grant has been terminated before that
409 time by court order.

410 (2) The court shall terminate a grant of limited contact
411 on motion of a deploying parent.

412 61.761 Procedure for terminating temporary agreement
413 granting custodial responsibility.—

414 (1) After a deploying parent returns from deployment, a
415 deploying parent and the other parent may file with the court an
416 agreement to terminate a temporary order for custodial
417 responsibility.

418 (2) After an agreement has been filed, it shall terminate:

419 (a) On the date specified on an agreement to terminate
420 under subsection (1); or

421 (b) On the date the agreement is signed by the deploying
422 parent and the other parent if the agreement to terminate does
423 not specify a date.

424 (3) In the absence of an agreement to terminate under
425 subsection (1), a temporary agreement granting custodial
426 responsibility automatically terminates 30 days after the
427 deploying parent gives notice of return from deployment to the
428 other parent.

429 (4) If a temporary agreement granting custodial
430 responsibility was filed with a court pursuant to s. 61.729, an
431 agreement to terminate must be filed with the court within a

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432 reasonable time after the deploying parent and other parent sign
433 the agreement. The case number and heading of the case concerning
434 custodial responsibility or child support must be provided to the
435 court with the agreement to terminate.

436 (5) A proceeding seeking to prevent termination of a
437 temporary order for custodial responsibility is governed by
438 general law.

439 61.763 Visitation before termination of temporary grant of
440 custodial responsibility.—From the time a deploying parent
441 returns from deployment until a temporary agreement or order for
442 custodial responsibility is terminated, the court shall issue a
443 temporary order granting the deploying parent reasonable contact
444 with the child even if the time of contact exceeds the time the
445 deploying parent spent with the child before deployment unless it
446 is not in the best interest of the child.

447 61.771 Relation to electronic signatures in Global and
448 National Commerce Act.—This act modifies, limits, or supersedes
449 the Electronic Signatures in Global and National Commerce Act,
450 15 U.S.C. s. 7001 et seq., but does not modify, limit, or
451 supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or
452 authorize electronic delivery of any of the notices described in
453 s. 103(b) of that act, 15 U.S.C. s. 7003(b).

454 61.773 Applicability.—This act does not affect the
455 validity of a temporary agreement or court order concerning

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456 custodial responsibility during deployment entered before July
457 1, 2018.

458 Section 2. Section 61.13002, Florida Statutes, is
459 repealed.

460 Section 3. This act shall take effect July 1, 2018.

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463 **T I T L E A M E N D M E N T**

464 Remove everything before the enacting clause and insert:

465 A bill to be entitle

466 An act relating to deployed parent custody and
467 visitation; creating part IV of ch. 61, F.S., entitled
468 "Uniform Deployed Parents Custody and Visitation Act";
469 providing definitions; providing remedies for
470 noncompliance; authorizing a court to issue certain
471 custodial orders only under certain jurisdiction;
472 providing notice requirements; providing requirements
473 for a proceeding for custodial responsibility of a
474 child of a servicemember; providing requirements for
475 agreement forms, termination, modification, power of
476 attorney, and filing; providing requirements for
477 temporary orders granting custodial responsibility;
478 authorizing telephonic, electronic, and web-based
479 appearance, testimony, and evidence in a proceeding
480 for temporary custody; requiring certain witnesses to

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481 be sworn in by specified officers; providing for the
482 effect of any prior judicial order or agreement;
483 authorizing a court to grant temporary caretaking
484 authority or limited contact to certain nonparents
485 under certain conditions; providing for the
486 termination of a grant of authority; providing
487 requirements for a temporary custody order;
488 authorizing a court to enter a temporary order for
489 child support and modify or terminate a temporary
490 grant of custodial responsibility under certain
491 circumstances; providing procedures for terminating a
492 temporary custodial responsibility agreement;
493 providing for visitation before such termination;
494 providing construction; providing applicability;
495 repealing s. 61.13002, F.S., relating to temporary
496 time-sharing modification and child support
497 modification due to military service; providing an
498 effective date.

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