

1 A bill to be entitled
2 An act relating to deployed parent custody and
3 visitation; creating part IV of ch. 61, F.S., entitled
4 "Uniform Deployed Parents Custody and Visitation Act";
5 providing definitions; providing remedies for
6 noncompliance; authorizing a court to issue certain
7 custodial orders only under certain jurisdiction;
8 providing notice requirements; providing requirements
9 for proceeding for custodial responsibility of a child
10 of a servicemember; providing requirements for
11 agreement forms, termination, modification, power of
12 attorney, and filing; providing requirements for
13 temporary orders of custodial responsibility;
14 authorizing electronic testimony in a proceeding for
15 temporary custody; providing for the effect of any
16 prior judicial order or agreement; authorizing a court
17 to grant caretaking authority or limited contact to a
18 nonparent under certain conditions; providing for the
19 termination of a grant of authority; providing
20 requirements for an order of temporary custody;
21 authorizing a court to enter a temporary order for
22 child support under certain circumstances; authorizing
23 a court to modify or terminate a temporary grant of
24 custodial responsibility; providing procedures for
25 termination of a temporary custodial responsibility

26 | agreement; providing for visitation; providing
 27 | construction; providing applicability; providing an
 28 | effective date.

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

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

36 | 61.703 Definitions.—As used in this part:

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

40 | (2) "Caretaking authority" means the right to live with
 41 | and care for a child on a day-to-day basis. The term includes
 42 | physical custody, parenting time, right to access, and
 43 | visitation.

44 | (3) "Child" means:

45 | (a) An individual who has not attained 18 years of age and
 46 | who has not had the disability of nonage removed under chapter
 47 | 743; or

48 | (b) An adult son or daughter by birth or adoption, or
 49 | designated by general law, who is the subject of a court order
 50 | concerning custodial responsibility.

51 (4) "Close and substantial relationship" means a
52 relationship in which a significant bond exists between a child
53 and a nonparent.

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

55 (6) "Custodial responsibility" includes all powers and
56 duties relating to caretaking authority and decisionmaking
57 authority for a child. The term includes physical custody, legal
58 custody, parenting time, right to access, visitation, and
59 authority to grant limited contact with a child.

60 (7) "Decisionmaking authority" means the power to make
61 important decisions regarding a child, including decisions
62 regarding the child's education, religious training, health
63 care, extracurricular activities, and travel. The term does not
64 include the power to make decisions that necessarily accompany a
65 grant of caretaking authority.

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

68 (a) A parent of a child; or

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

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

74 (a) Are designated as unaccompanied;

75 (b) Do not authorize dependent travel; or

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

78 (10) "Family member" means a sibling, aunt, uncle, cousin,
79 stepparent, or grandparent of a child or an individual recognized
80 to be in a familial relationship with a child.

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

84 (12) "Nonparent" means an individual other than a
85 deploying parent or other parent.

86 (13) "Other parent" means an individual who, in addition
87 to a deploying parent, is:

88 (a) A parent of a child; or

89 (b) An individual who has custodial responsibility for a
90 child.

91 (14) "Record" means information that is created in a
92 tangible medium or stored in an electronic or other medium and
93 is retrievable in perceivable form.

94 (15) "Return from deployment" means the conclusion of a
95 servicemember's deployment as specified in uniformed service
96 orders.

97 (16) "Servicemember" means a member of a uniformed service.

98 (17) "Sign" means, with the intent to authenticate or
99 adopt a record, to:

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

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

103 (18) "State" means a state of the United States, the
104 District of Columbia, Puerto Rico, the United States Virgin
105 Islands, or any territory or insular possession subject to the
106 jurisdiction of the United States.

107 (19) "Uniformed service" means any of the following:

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

110 (b) The United States Merchant Marine.

111 (c) The commissioned corps of the United States Public
112 Health Service.

113 (d) The commissioned corps of the National Oceanic and
114 Atmospheric Administration.

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

117 61.705 Remedies for noncompliance.—In addition to other
118 remedies authorized by general law, if a court finds that a
119 party to a proceeding acts in bad faith or intentionally fails to
120 comply with this part or a court order issued under this part,
121 the court may assess reasonable attorney fees and costs against
122 the party, and order other appropriate relief.

123 61.707 Jurisdiction.—

124 (1) A court may issue an order regarding custodial
125 responsibility only if the court has jurisdiction under the

126 Uniform Child Custody Jurisdiction and Enforcement Act.

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

130 (a) A court has issued a temporary order regarding
 131 custodial responsibility.

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

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

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

141 61.709 Notice requirement for deploying parent.—

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

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

150 (b) A plan fulfilling each parent's share of custodial

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151 responsibility during deployment provided as soon as reasonably
152 possible after notice of deployment is given under paragraph
153 (a).

154 (2) If a court order prohibits disclosure of the address
155 or contact information of the other parent, notice pursuant to
156 subsection (1) must be provided to the issuing court. If the
157 address of the other parent is available to the issuing court,
158 the court shall forward the notice to the other parent. The court
159 shall keep confidential the address or contact information of the
160 other parent.

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

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

167 61.711 Duty to notify of change of address.—

168 (1) Except as otherwise provided in subsection (2), an
169 individual granted custodial responsibility during deployment
170 must notify the deploying parent and any other individual with
171 custodial responsibility of a child of any change of mailing
172 address or residence until the grant is terminated. The
173 individual must provide the notice to any court that has issued
174 a custody or child support order concerning the child.

175 (2) If a court order prohibits disclosure of the address

176 or contact information of an individual to whom custodial
177 responsibility has been granted, notice pursuant to subsection
178 (1) must be provided to the issuing court. The court shall keep
179 confidential the mailing address or residence of the individual
180 granted custodial responsibility.

181 61.713 General consideration in custody proceeding of
182 parent's service.—In a proceeding for custodial responsibility
183 of a child of a servicemember, a court may not consider a
184 parent's past deployment or possible future deployment in
185 determining the best interest of the child.

186 61.721 Form of custodial responsibility agreement.—

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

189 (2) The agreement must be in writing and signed by both
190 parents and any nonparent granted custodial responsibility.

191 (3) Subject to subsection (4), the agreement, if feasible,
192 must:

193 (a) Identify the destination, duration, and conditions of
194 the deployment that is the basis for the agreement.

195 (b) Specify the allocation of caretaking authority among
196 the deploying parent, the other parent, and any nonparent.

197 (c) Specify any decisionmaking authority that accompanies
198 a grant of caretaking authority.

199 (d) Specify any grant of limited contact to a nonparent.

200 (e) Provide a process to resolve any dispute that may arise

201 if custodial responsibility is shared by the other parent and a
202 nonparent, or by other nonparents.

203 (f) Specify the frequency, duration, and means, including
204 electronic means, by which the deploying parent will have contact
205 with the child, any role to be played by the other parent or
206 nonparent in facilitating the contact, and the allocation of any
207 costs of contact.

208 (g) Specify contact between the deploying parent and child
209 during the time the deploying parent is on leave or is otherwise
210 available.

211 (h) Acknowledge that the agreement does not modify any
212 existing child support obligation and that changing the terms of
213 the obligation during deployment requires modification in the
214 appropriate court.

215 (i) Provide that the agreement will terminate according to
216 the procedures under this part after the deploying parent returns
217 from deployment.

218 (j) Specify which parent is required to file the agreement
219 if the agreement must be filed pursuant to s. 61.729.

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

222 61.723 Nature of authority created by custodial
223 responsibility agreement.—

224 (1) An agreement granting custodial responsibility during
225 deployment is temporary and terminates after the deploying

226 parent returns from deployment unless the agreement has been
227 terminated before that time by court order or modification under
228 s. 61.725. The agreement does not create an independent,
229 continuing right to caretaking authority, decisionmaking
230 authority, or limited contact for an individual granted custodial
231 responsibility.

232 (2) A nonparent granted caretaking authority,
233 decisionmaking authority, or limited contact by agreement has
234 standing to enforce the agreement until it is terminated by court
235 order or under s. 61.761, or modified under s. 61.725.

236 61.725 Modification of agreement.—

237 (1) The parents of a child may modify an agreement granting
238 custodial responsibility by mutual consent.

239 (2) If an agreement is modified before deployment of a
240 deploying parent, the modification must be in writing and signed
241 by both parents and any nonparent granted custodial
242 responsibility under the modified agreement.

243 (3) If an agreement is modified during deployment of a
244 deploying parent, the modification must be agreed to in a record
245 by both parents and any nonparent granted custodial
246 responsibility.

247 61.727 Power of attorney.—A deploying parent may, by power
248 of attorney, grant all or part of custodial responsibility to an
249 adult nonparent for the period of deployment if no other parent
250 possesses custodial responsibility, or if a court order

251 currently in effect prohibits contact between the child and the
252 other parent. The deploying parent may revoke the power of
253 attorney by signing a revocation of the power of attorney.

254 61.729 Filing custodial responsibility agreement or power
255 of attorney with court.—An agreement or power of attorney must
256 be filed within a reasonable time with a court that has entered
257 an order in effect relating to custodial responsibility or child
258 support concerning the child who is the subject of the agreement
259 or power. The case number and heading of the pending case
260 concerning custodial responsibility or child support must be
261 provided to the court with the agreement or power.

262 61.733 Proceeding for temporary custody order.—

263 (1) After a deploying parent receives notice of deployment
264 and until the deployment terminates, a court may issue a
265 temporary order granting custodial responsibility unless
266 prohibited by the Servicemembers Civil Relief Act, Title 50,
267 Appendix U.S.C. ss. 501 et seq. A court may not issue a
268 permanent order granting custodial responsibility without the
269 consent of the deploying parent.

270 (2) (a) At any time after a deploying parent receives
271 notice of deployment, either parent may file a motion regarding
272 custodial responsibility of a child during deployment. The
273 motion must be filed in a pending proceeding for custodial
274 responsibility in a court with jurisdiction under s. 61.707 or,
275 if a pending proceeding does not exist in a court with

276 jurisdiction under s. 61.707, the motion must be filed in a new
277 action for granting custodial responsibility during deployment.

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

281 61.735 Testimony by electronic means.—In a proceeding for
282 a temporary custody order, a party or witness who is not
283 reasonably able to appear in person may appear, provide
284 testimony, and present evidence by electronic means unless the
285 court finds good cause to require in-person testimony.

286 61.737 Effect of prior judicial order or agreement.—In a
287 proceeding for a temporary grant of custodial responsibility:

288 (1) A prior judicial order granting custodial
289 responsibility in the event of deployment is binding on the court
290 unless circumstances meet the requirements authorized by general
291 law for modifying a judicial order regarding custodial
292 responsibility.

293 (2) The court shall enforce a prior written agreement
294 between the parents for granting custodial responsibility in the
295 event of deployment, including an agreement for custodial
296 responsibility during deployment, unless the court finds that
297 the agreement is not in the best interest of the child.

298 61.739 Grant of caretaking authority to nonparent.—

299 (1) Upon the motion of a deploying parent and in
300 accordance with general law, if it is in the best interest of

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301 the child, a court may grant caretaking authority to a
302 nonparent who is an adult family member of the child or an
303 adult with whom the child has a close and substantial
304 relationship.

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

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

311 (b) In the absence of a permanent custody order that is
312 currently in effect, the amount of time the deploying parent
313 habitually cared for the child before being notified of
314 deployment; however, the court may add travel time necessary
315 to transport the child.

316 (3) If the deploying parent is unable to exercise
317 decisionmaking authority, a court may grant part of that
318 authority to a nonparent who is an adult family member of the
319 child or an adult with whom the child has a close and
320 substantial relationship. If a court grants the authority to a
321 nonparent, the court shall specify the decisionmaking powers
322 granted.

323 61.741 Grant of limited contact.—A court shall grant
324 limited contact to a nonparent who is a family member of the
325 child or an individual with whom the child has a close and

326 substantial relationship on motion of a deploying parent and in
327 accordance with general law unless the court finds that limited
328 contact with a nonparent would not be in the best interest of
329 the child.

330 61.743 Nature of authority created by temporary custody
331 order.-

332 (1) A grant of authority is temporary and terminates after
333 the deploying parent returns from deployment unless the grant
334 has been terminated before that time by court order. The grant
335 does not create an independent, continuing right to caretaking
336 authority, decisionmaking authority, or limited contact to an
337 individual granted temporary custody.

338 (2) A nonparent granted caretaking authority,
339 decisionmaking authority, or limited contact has standing to
340 enforce the grant until it is terminated by court order or under
341 this part.

342 61.745 Content of temporary custody order.-An order
343 granting custodial responsibility, when applicable, must:

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

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

348 (3) Specify the allocation of caretaking authority,
349 decisionmaking authority, or limited contact among the
350 deploying parent, the other parent, and any nonparent.

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

355 (5) Provide for liberal communication between the
356 deploying parent and the child during deployment, including
357 through electronic means, unless it is not in the best
358 interest of the child, and allocate any costs of
359 communication.

360 (6) Provide for liberal contact between the deploying
361 parent and the child during the time the deploying parent is
362 on leave or otherwise available, unless it is not in the best
363 interest of the child.

364 (7) Provide for reasonable contact between the deploying
365 parent and the child after the parent's return from deployment
366 until the temporary order is terminated, even if the time of
367 contact exceeds the time the deploying parent spent with the
368 child before entry of the temporary order.

369 61.747 Order for child support.—If a court has issued an
370 order granting caretaking authority, or an agreement granting
371 caretaking authority has been executed, the court may enter a
372 temporary order for child support authorized by general law if
373 the court has jurisdiction under the Uniform Interstate Family
374 Support Act.

375 61.749 Modifying or terminating grant of custodial

376 responsibility or limited contact to nonparent.-

377 (1) Except for an agreement under s. 61.723, or as
378 otherwise provided in subsection (2), and consistent with the
379 Servicemembers Civil Relief Act, Title 50, Appendix U.S.C. ss.
380 501 et seq, a court may modify or terminate a temporary grant of
381 custodial responsibility on motion of a deploying parent, other
382 parent, or any nonparent granted caretaking authority if the
383 modification or termination is consistent with this part and is
384 in the best interest of the child. A modification is temporary
385 and terminates after the deploying parent returns from
386 deployment, unless the grant has been terminated before that time
387 by court order.

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

390 61.761 Procedure for terminating temporary agreement
391 granting custodial responsibility.-

392 (1) After a deploying parent returns from deployment, a
393 deploying parent and the other parent may file with the court an
394 agreement to terminate a temporary order for custodial
395 responsibility.

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

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

399 (b) On the date the agreement is signed by the deploying
400 parent and the other parent if the agreement to terminate does

401 not specify a date.

402 (3) In the absence of an agreement to terminate under (1),
403 a temporary agreement granting custodial responsibility
404 terminates 60 days after the deploying parent gives notice of
405 return from deployment to the other parent.

406 (4) If a temporary agreement granting custodial
407 responsibility was filed with a court pursuant to s. 61.729, an
408 agreement to terminate must be filed with the court within a
409 reasonable time after the deploying parent and other parent sign
410 the agreement. The case number and heading of the case concerning
411 custodial responsibility or child support must be provided to the
412 court with the agreement to terminate.

413 (5) A proceeding seeking to prevent termination of a
414 temporary order for custodial responsibility is governed by
415 general law.

416 61.763 Visitation before termination of temporary grant of
417 custodial responsibility.—From the time a deploying parent
418 returns from deployment until a temporary agreement or order for
419 custodial responsibility is terminated, the court shall issue a
420 temporary order granting the deploying parent reasonable contact
421 with the child even if the time of contact exceeds the time the
422 deploying parent spent with the child before deployment unless it
423 is not in the best interest of the child.

424 61.771 Relation to electronic signatures in Global and
425 National Commerce Act.—This act modifies, limits, or supersedes

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426 | the Electronic Signatures in Global and National Commerce Act,
427 | 15 U.S.C. s. 7001 et seq., but does not modify, limit, or
428 | supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or
429 | authorize electronic delivery of any of the notices described in
430 | s. 103(b) of that act, 15 U.S.C. s. 7003(b).

431 | 61.773 Applicability.—This act does not affect the
432 | validity of a temporary court order concerning custodial
433 | responsibility during deployment entered before July 1, 2018.

434 | Section 2. This act shall take effect July 1, 2018.