

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 telephonic, electronic, and web-based
15 appearance, testimony, and evidence in a proceeding
16 for temporary custody; providing for the effect of any
17 prior judicial order or agreement; authorizing a court
18 to grant caretaking authority or limited contact to a
19 nonparent under certain conditions; providing for the
20 termination of a grant of authority; providing
21 requirements for an order of temporary custody;
22 authorizing a court to enter a temporary order for
23 child support under certain circumstances; authorizing
24 a court to modify or terminate a temporary grant of
25 custodial responsibility; providing procedures for

26 termination of a temporary custodial responsibility
 27 agreement; providing for visitation; providing
 28 construction; providing applicability; repealing s.
 29 61.13002, F.S., relating to temporary time-sharing
 30 modification and child support modification due to
 31 military service; providing an effective date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

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

39 61.703 Definitions.—As used in this part:

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

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

47 (3) "Child" means:

48 (a) An individual who has not attained 18 years of age and
 49 who has not had the disability of nonage removed under chapter
 50 743; or

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

54 (4) "Close and substantial relationship" means a positive
55 relationship of substantial duration and depth in which a
56 significant bond exists between a child and a nonparent.

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

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

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

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

71 (a) A parent of a child; or

72 (b) An individual who has custodial responsibility for a
73 child.

74 (9) "Deployment" means the movement or mobilization of a
75 servicemember for more than 90 days but less than 18 months

76 pursuant to uniformed service orders that:

77 (a) Are designated as unaccompanied;

78 (b) Do not authorize dependent travel; or

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

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

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

88 (12) "Nonparent" means an individual other than a
89 deploying parent or other parent.

90 (13) "Notice of deployment" means official notification to
91 a servicemember, through orders or other written or electronic
92 communication, that the servicemember is subject to deployment
93 on or about a specified date.

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

96 (a) A parent of a child; or

97 (b) An individual who has custodial responsibility for a
98 child.

99 (15) "Record" means information that is created in a
100 tangible medium or stored in an electronic or other medium and

101 is retrievable in perceivable form.

102 (16) "Return from deployment" means the conclusion of a
103 servicemember's deployment as specified in uniformed service
104 orders.

105 (17) "Servicemember" means a member of a uniformed
106 service.

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

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

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

112 (19) "State" means a state of the United States, the
113 District of Columbia, Puerto Rico, the United States Virgin
114 Islands, or any territory or insular possession subject to the
115 jurisdiction of the United States.

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

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

119 (b) The United States Merchant Marine.

120 (c) The commissioned corps of the United States Public
121 Health Service.

122 (d) The commissioned corps of the National Oceanic and
123 Atmospheric Administration.

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

126 61.705 Remedies for noncompliance.—In addition to other
127 remedies authorized by general law, if a court finds that a
128 party to a proceeding acts in bad faith or intentionally fails to
129 comply with this part or a court order issued under this part,
130 the court may assess reasonable attorney fees and costs against
131 the party, and order other appropriate relief.

132 61.707 Jurisdiction.—

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

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

139 (a) A court has issued a temporary order regarding
140 custodial responsibility.

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

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

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

150 61.709 Notice requirement for deploying parent.—

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

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

159 (b) A plan fulfilling each parent's share of custodial
160 responsibility during deployment provided as soon as reasonably
161 possible after notice of deployment is given under paragraph
162 (a).

163 (2) If a court order prohibits disclosure of the address
164 or contact information of the other parent, notice pursuant to
165 subsection (1) must be provided to the issuing court. If the
166 address of the other parent is available to the issuing court,
167 the court shall forward the notice to the other parent. The court
168 shall keep confidential the address or contact information of the
169 other parent.

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

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

176 61.711 Duty to notify of change of address.—

177 (1) Except as otherwise provided in subsection (2), an
178 individual granted custodial responsibility during deployment
179 must notify the deploying parent and any other individual with
180 custodial responsibility of a child of any change of mailing
181 address or residence until the grant is terminated. The
182 individual must provide the notice to any court that has issued
183 a custody or child support order concerning the child.

184 (2) If a court order prohibits disclosure of the address
185 or contact information of an individual to whom custodial
186 responsibility has been granted, notice pursuant to subsection
187 (1) must be provided to the issuing court. The court shall keep
188 confidential the mailing address or residence of the individual
189 granted custodial responsibility.

190 61.713 General consideration in custody proceeding of
191 parent's service.—In a proceeding for custodial responsibility
192 of a child of a servicemember, a court may not consider a
193 parent's past deployment or possible future deployment in
194 determining the best interest of the child.

195 61.721 Form of custodial responsibility agreement.—

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

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

200 (3) Subject to subsection (4), the agreement, if feasible,

201 must:

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

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

206 (c) Specify any decisionmaking authority that accompanies
207 a grant of caretaking authority.

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

209 (e) Provide a process to resolve any dispute that may arise
210 if custodial responsibility is shared by the other parent and a
211 nonparent, or by other nonparents.

212 (f) Specify the frequency, duration, and means, including
213 electronic means, by which the deploying parent will have contact
214 with the child, any role to be played by the other parent or
215 nonparent in facilitating the contact, and the allocation of any
216 costs of contact.

217 (g) Specify contact between the deploying parent and child
218 during the time the deploying parent is on leave or is otherwise
219 available.

220 (h) Acknowledge that the agreement does not modify any
221 existing child support obligation and that changing the terms of
222 the obligation during deployment requires modification in the
223 appropriate court.

224 (i) Provide that the agreement will terminate according to
225 the procedures under this part after the deploying parent returns

226 from deployment.

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

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

231 61.723 Nature of authority created by custodial
232 responsibility agreement.—

233 (1) An agreement granting custodial responsibility during
234 deployment is temporary and terminates after the deploying
235 parent returns from deployment unless the agreement has been
236 terminated before that time by court order or modification under
237 s. 61.725. The agreement does not create an independent,
238 continuing right to caretaking authority, decisionmaking
239 authority, or limited contact for an individual granted custodial
240 responsibility.

241 (2) A nonparent granted caretaking authority,
242 decisionmaking authority, or limited contact by agreement has
243 standing to enforce the agreement until it is terminated by a
244 written agreement signed by both the deploying parent and the
245 other parent, or, in the absence of such agreement, by court
246 order or under s. 61.761, or modified under s. 61.725.

247 61.725 Modification of agreement.—

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

250 (2) If an agreement is modified before deployment of a

251 deploying parent, the modification must be in writing and signed
252 by both parents and any nonparent granted custodial
253 responsibility under the modified agreement.

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

258 61.727 Power of attorney.—A deploying parent may, by power
259 of attorney, grant all or part of custodial responsibility to an
260 adult nonparent for the period of deployment if no other parent
261 possesses custodial responsibility, or if a court order
262 currently in effect prohibits contact between the child and the
263 other parent. The deploying parent may revoke the power of
264 attorney by signing a revocation of the power of attorney.

265 61.729 Filing custodial responsibility agreement or power
266 of attorney with court.—An agreement or power of attorney must
267 be filed within a reasonable time with a court that has entered
268 an order in effect relating to custodial responsibility or child
269 support concerning the child who is the subject of the agreement
270 or power. The case number and heading of the pending case
271 concerning custodial responsibility or child support must be
272 provided to the court with the agreement or power.

273 61.733 Proceeding for temporary custody order.—

274 (1) After a deploying parent receives notice of deployment
275 and until the deployment terminates, a court may issue a

276 temporary order granting custodial responsibility unless
277 prohibited by the Servicemembers Civil Relief Act, Title 50,
278 Appendix U.S.C. ss. 501 et seq. A court may not issue a
279 permanent order granting custodial responsibility without the
280 consent of the deploying parent.

281 (2) (a) At any time after a deploying parent receives
282 notice of deployment, either parent may file a motion regarding
283 custodial responsibility of a child during deployment. The
284 motion must be filed in a pending proceeding for custodial
285 responsibility in a court with jurisdiction under s. 61.707 or,
286 if a pending proceeding does not exist in a court with
287 jurisdiction under s. 61.707, the motion must be filed in a new
288 action for granting custodial responsibility during deployment.

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

292 61.735 Testimony by electronic means.—In a proceeding for
293 a temporary custody order, a deploying parent or servicemember
294 witness who is not reasonably able to appear in person may
295 appear, provide testimony, and present evidence by telephonic,
296 electronic, or web-based means.

297 61.737 Effect of prior judicial order or agreement.—In a
298 proceeding for a temporary grant of custodial responsibility:

299 (1) A prior judicial order granting custodial
300 responsibility in the event of deployment is binding on the

301 court unless circumstances meet the requirements authorized by
302 general law for modifying a judicial order regarding custodial
303 responsibility.

304 (2) The court shall enforce a prior written agreement
305 between the parents for granting custodial responsibility in the
306 event of deployment, including an agreement for custodial
307 responsibility during deployment, unless the court finds that
308 the agreement is not in the best interest of the child.

309 61.739 Grant of caretaking authority to nonparent.—

310 (1) Upon the motion of a deploying parent and in
311 accordance with general law, if it is in the best interest of
312 the child, a court may grant caretaking authority to a nonparent
313 who is an adult family member of the child or an adult with whom
314 the child has a close and substantial relationship.

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

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

321 (b) In the absence of a permanent custody order that is
322 currently in effect, the amount of time the deploying parent
323 habitually cared for the child before being notified of
324 deployment; however, the court may add travel time necessary to
325 transport the child.

326 (3) If, due to the operational constraints of the
327 deployment, or a portion thereof, the deploying parent is unable
328 to exercise decisionmaking authority, a court may grant part of
329 that authority to a nonparent who is an adult family member of
330 the child or an adult with whom the child has a close and
331 substantial relationship. A grant of decisionmaking authority to
332 a nonparent must be narrowly drawn to the reasonably foreseeable
333 needs of the child during the time that the deploying parent is
334 unable to exercise such authority. If a court grants the
335 authority to a nonparent, the court shall specify the
336 decisionmaking powers granted and the duration of such grant.
337 Except as otherwise specified in this subsection, the deploying
338 parent retains his or her decisionmaking authority.

339 61.741 Grant of limited contact.—A court shall grant
340 limited contact to a nonparent who is a family member of the
341 child or an individual with whom the child has a close and
342 substantial relationship on motion of a deploying parent and in
343 accordance with general law unless the court finds that limited
344 contact with a nonparent would not be in the best interest of
345 the child.

346 61.743 Nature of authority created by temporary custody
347 order.—

348 (1) A grant of authority is temporary and terminates after
349 the deploying parent returns from deployment unless the grant
350 has been terminated before the return of the deploying parent by

351 a written agreement signed by both the deploying parent and the
352 other parent, or, in the absence of such an agreement, by court
353 order. The grant does not create an independent, continuing
354 right to caretaking authority, decisionmaking authority, or
355 limited contact to an individual granted temporary custody.

356 (2) A nonparent granted caretaking authority,
357 decisionmaking authority, or limited contact has standing to
358 enforce the grant until it is terminated by a written agreement
359 signed by both the deploying parent and the other parent, or, in
360 the absence of such an agreement, by court order or under this
361 part.

362 (3) If a grant of authority is terminated by a written
363 agreement signed by both the deploying parent and the other
364 parent, a copy of the termination agreement shall be filed with
365 the court and the temporary custody order shall be modified to
366 reflect the termination. Thereafter, the deploying parent and
367 the other parent may agree on alternative arrangements for
368 custodial responsibility in compliance with s. 61.721 or either
369 parent may seek an alternative arrangement for custodial
370 responsibility under s. 61.749.

371 61.745 Content of temporary custody order.—An order
372 granting custodial responsibility, when applicable, must:

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

375 (2) Identify, to the extent feasible, the destination,

376 duration, and conditions of the deployment.

377 (3) Specify the allocation of caretaking authority,
378 decisionmaking authority, or limited contact among the deploying
379 parent, the other parent, and any nonparent.

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

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

388 (6) Provide for liberal contact between the deploying
389 parent and the child during the time the deploying parent is on
390 leave or otherwise available, unless it is not in the best
391 interest of the child.

392 (7) Provide for reasonable contact between the deploying
393 parent and the child after the parent's return from deployment
394 until the temporary order is terminated, even if the time of
395 contact exceeds the time the deploying parent spent with the
396 child before entry of the temporary order.

397 61.747 Order for child support.—If a court has issued an
398 order granting caretaking authority, or an agreement granting
399 caretaking authority has been executed, the court may enter a
400 temporary order for child support authorized by general law if

401 the court has jurisdiction under the Uniform Interstate Family
402 Support Act.

403 61.749 Modifying or terminating grant of custodial
404 responsibility or limited contact to nonparent.-

405 (1) Except for an agreement under s. 61.723, or as
406 otherwise provided in subsection (2), and consistent with the
407 Servicemembers Civil Relief Act, Title 50, Appendix U.S.C. ss.
408 501 et seq, a court may modify or terminate a temporary grant of
409 custodial responsibility on motion of a deploying parent, other
410 parent, or any nonparent granted caretaking authority if the
411 modification or termination is consistent with this part and is
412 in the best interest of the child. A modification is temporary
413 and terminates after the deploying parent returns from
414 deployment, unless the grant has been terminated before that
415 time by court order.

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

418 61.761 Procedure for terminating temporary agreement
419 granting custodial responsibility.-

420 (1) After a deploying parent returns from deployment, a
421 deploying parent and the other parent may file with the court an
422 agreement to terminate a temporary order for custodial
423 responsibility.

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

425 (a) On the date specified on an agreement to terminate

426 under subsection (1); or

427 (b) On the date the agreement is signed by the deploying
428 parent and the other parent if the agreement to terminate does
429 not specify a date.

430 (3) In the absence of an agreement to terminate under (1),
431 a temporary agreement granting custodial responsibility
432 terminates 30 days after the deploying parent gives notice of
433 return from deployment to the other parent.

434 (4) If a temporary agreement granting custodial
435 responsibility was filed with a court pursuant to s. 61.729, an
436 agreement to terminate must be filed with the court within a
437 reasonable time after the deploying parent and other parent sign
438 the agreement. The case number and heading of the case concerning
439 custodial responsibility or child support must be provided to the
440 court with the agreement to terminate.

441 (5) A proceeding seeking to prevent termination of a
442 temporary order for custodial responsibility is governed by
443 general law.

444 61.763 Visitation before termination of temporary grant of
445 custodial responsibility.—From the time a deploying parent
446 returns from deployment until a temporary agreement or order for
447 custodial responsibility is terminated, the court shall issue a
448 temporary order granting the deploying parent reasonable contact
449 with the child even if the time of contact exceeds the time the
450 deploying parent spent with the child before deployment unless it

451 is not in the best interest of the child.

452 61.771 Relation to electronic signatures in Global and
453 National Commerce Act.—This act modifies, limits, or supersedes
454 the Electronic Signatures in Global and National Commerce Act,
455 15 U.S.C. s. 7001 et seq., but does not modify, limit, or
456 supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or
457 authorize electronic delivery of any of the notices described in
458 s. 103(b) of that act, 15 U.S.C. s. 7003(b).

459 61.773 Applicability.—This act does not affect the
460 validity of a temporary court order concerning custodial
461 responsibility during deployment entered before July 1, 2018.

462 Section 2. Section 61.13002, Florida Statutes, is
463 repealed.

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