

By the Committee on Judiciary; and Senator Passidomo

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1 A bill to be entitled
2 An act relating to deployed parent custody and
3 visitation; repealing s. 61.13002, F.S., relating to
4 temporary time-sharing modification and child support
5 modification due to military service; creating part IV
6 of ch. 61, F.S., entitled "Uniform Deployed Parents
7 Custody and Visitation Act"; providing definitions;
8 providing remedies for noncompliance; authorizing a
9 court to issue certain custodial orders only under
10 certain jurisdiction; providing notice requirements;
11 providing requirements for proceeding for custodial
12 responsibility of a child of a servicemember;
13 providing requirements for agreement forms,
14 termination, modification, power of attorney, and
15 filing; providing requirements for temporary orders of
16 custodial responsibility; authorizing electronic
17 testimony in a proceeding for temporary custody;
18 providing for the effect of any prior judicial order
19 or agreement; authorizing a court to grant caretaking
20 authority or limited contact to a nonparent under
21 certain conditions; providing for the termination of a
22 grant of authority; providing requirements for an
23 order of temporary custody; authorizing a court to
24 enter a temporary order for child support under
25 certain circumstances; authorizing a court to modify
26 or terminate a temporary grant of custodial
27 responsibility; providing procedures for termination
28 of a temporary custodial responsibility agreement;
29 providing for visitation; providing construction;

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30 providing applicability; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

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34 Section 1. Section 61.13002, Florida Statutes, is repealed.

35 Section 2. 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 and
44 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
55 relationship in which a significant bond exists between a child
56 and a nonparent.

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

58 (6) "Custodial responsibility" includes all powers and

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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 to be in a familial relationship with a child.

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

87 (12) "Nonparent" means an individual other than a deploying

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88 parent or other parent.

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

91 (a) A parent of a child; or

92 (b) An individual who has custodial responsibility for a
93 child.

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

97 (15) "Return from deployment" means the conclusion of a
98 servicemember's deployment as specified in uniformed service
99 orders.

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

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

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

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

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

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

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

113 (b) The United States Merchant Marine.

114 (c) The commissioned corps of the United States Public
115 Health Service.

116 (d) The commissioned corps of the National Oceanic and

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117 Atmospheric Administration.

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

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

126 61.707 Jurisdiction.—

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

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

133 (a) A court has issued a temporary order regarding
134 custodial responsibility.

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

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

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

144 61.709 Notice requirement for deploying parent.—

145 (1) Except as otherwise provided in subsection (3), and

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146 subject to subsection (2), a deploying parent shall notify in a
147 record to the other parent:

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

153 (b) A plan fulfilling each parent's share of custodial
154 responsibility during deployment provided as soon as reasonably
155 possible after notice of deployment is given under paragraph
156 (a).

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

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

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

170 61.711 Duty to notify of change of address.—

171 (1) Except as otherwise provided in subsection (2), an
172 individual granted custodial responsibility during deployment
173 must notify the deploying parent and any other individual with
174 custodial responsibility of a child of any change of mailing

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175 address or residence until the grant is terminated. The
176 individual must provide the notice to any court that has issued
177 a custody or child support order concerning the child.

178 (2) If a court order prohibits disclosure of the address or
179 contact information of an individual to whom custodial
180 responsibility has been granted, notice pursuant to subsection
181 (1) must be provided to the issuing court. The court shall keep
182 confidential the mailing address or residence of the individual
183 granted custodial responsibility.

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

189 61.721 Form of custodial responsibility agreement.—

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

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

194 (3) Subject to subsection (4), the agreement, if feasible,
195 must:

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

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

200 (c) Specify any decisionmaking authority that accompanies a
201 grant of caretaking authority.

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

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

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

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

211 (g) Specify contact between the deploying parent and child
212 during the time the deploying parent is on leave or is otherwise
213 available.

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

218 (i) Provide that the agreement will terminate according to
219 the procedures under this part after the deploying parent
220 returns from deployment.

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

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

225 61.723 Nature of authority created by custodial
226 responsibility agreement.—

227 (1) An agreement granting custodial responsibility during
228 deployment is temporary and terminates after the deploying
229 parent returns from deployment unless the agreement has been
230 terminated before that time by court order or modification under
231 s. 61.725. The agreement does not create an independent,
232 continuing right to caretaking authority, decisionmaking

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233 authority, or limited contact for an individual granted
234 custodial responsibility.

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

239 61.725 Modification of agreement.—

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

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

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

250 61.727 Power of attorney.—A deploying parent may, by power
251 of attorney, grant all or part of custodial responsibility to an
252 adult nonparent for the period of deployment if no other parent
253 possesses custodial responsibility, or if a court order
254 currently in effect prohibits contact between the child and the
255 other parent. The deploying parent may revoke the power of
256 attorney by signing a revocation of the power of attorney.

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

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262 or power. The case number and heading of the pending case
263 concerning custodial responsibility or child support must be
264 provided to the court with the agreement or power.

265 61.733 Proceeding for temporary custody order.—

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

273 (2) (a) At any time after a deploying parent receives notice
274 of deployment, either parent may file a motion regarding
275 custodial responsibility of a child during deployment. The
276 motion must be filed in a pending proceeding for custodial
277 responsibility in a court with jurisdiction under s. 61.707 or,
278 if a pending proceeding does not exist in a court with
279 jurisdiction under s. 61.707, the motion must be filed in a new
280 action for granting custodial responsibility during deployment.

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

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

289 61.737 Effect of prior judicial order or agreement.—In a
290 proceeding for a temporary grant of custodial responsibility:

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

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

301 61.739 Grant of caretaking authority to nonparent.—

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

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

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

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

318 (3) If the deploying parent is unable to exercise
319 decisionmaking authority, a court may grant part of that

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320 authority to a nonparent who is an adult family member of the
321 child or an adult with whom the child has a close and
322 substantial relationship. If a court grants the authority to a
323 nonparent, the court shall specify the decisionmaking powers
324 granted.

325 61.741 Grant of limited contact.—A court shall grant
326 limited contact to a nonparent who is a family member of the
327 child or an individual with whom the child has a close and
328 substantial relationship on motion of a deploying parent and in
329 accordance with general law unless the court finds that limited
330 contact with a nonparent would not be in the best interest of
331 the child.

332 61.743 Nature of authority created by temporary custody
333 order.—

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

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

344 61.745 Content of temporary custody order.—An order
345 granting custodial responsibility, when applicable, must:

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

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

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349 duration, and conditions of the deployment.

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

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

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

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

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

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

376 61.749 Modifying or terminating grant of custodial
377 responsibility or limited contact to nonparent.—

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

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

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

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

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

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

400 (b) On the date the agreement is signed by the deploying
401 parent and the other parent if the agreement to terminate does
402 not specify a date.

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

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

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

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

425 61.771 Relation to electronic signatures in Global and
426 National Commerce Act.—This act modifies, limits, or supersedes
427 the Electronic Signatures in Global and National Commerce Act,
428 15 U.S.C. s. 7001 et seq., but does not modify, limit, or
429 supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or
430 authorize electronic delivery of any of the notices described in
431 s. 103(b) of that act, 15 U.S.C. s. 7003(b).

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

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