

By the Committees on Rules; and 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 Section 61.13002, Florida Statutes, is repealed.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 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

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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 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.

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88 (12) "Nonparent" means an individual other than a deploying
89 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 from higher authority, that the servicemember is
93 subject to deployment on or about a specified date.

94 (14) "Other parent" means an individual who, in addition to
95 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 service.

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

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

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

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

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

116 (a) Active and reserve components of the Army, Navy, Air

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117 Force, Marine Corps, or Coast Guard of the United States.

118 (b) The United States Merchant Marine.

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

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

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

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

131 61.707 Jurisdiction.—

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

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

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

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

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

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

149 61.709 Notice requirement for deploying parent.-

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

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

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

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

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

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

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175 61.711 Duty to notify of change of address.—

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

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

189 61.713 General consideration in custody proceeding of
190 parent's service.—In a proceeding for custodial responsibility
191 of a child of a servicemember, a court may not consider a
192 parent's past deployment or possible future deployment in
193 determining the best interest of the child.

194 61.721 Form of custodial responsibility agreement.—

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

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

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

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

203 (b) Specify the allocation of caretaking authority among

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204 the deploying parent, the other parent, and any nonparent.

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

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

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

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

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

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

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

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

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

230 61.723 Nature of authority created by custodial
231 responsibility agreement.—

232 (1) An agreement granting custodial responsibility during

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

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

246 61.725 Modification of agreement.—

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

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

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

257 61.727 Power of attorney.—A deploying parent may, by power
258 of attorney, grant all or part of custodial responsibility to an
259 adult nonparent for the period of deployment if no other parent
260 possesses custodial responsibility, or if a court order
261 currently in effect prohibits contact between the child and the

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262 other parent. The deploying parent may revoke the power of
263 attorney by signing a revocation of the power of attorney.

264 61.729 Filing custodial responsibility agreement or power
265 of attorney with court.—An agreement or power of attorney must
266 be filed within a reasonable time with a court that has entered
267 an order in effect relating to custodial responsibility or child
268 support concerning the child who is the subject of the agreement
269 or power. The case number and heading of the pending case
270 concerning custodial responsibility or child support must be
271 provided to the court with the agreement or power.

272 61.733 Proceeding for temporary custody order.—

273 (1) After a deploying parent receives notice of deployment
274 and until the deployment terminates, a court may issue a
275 temporary order granting custodial responsibility unless
276 prohibited by the Servicemembers Civil Relief Act, Title 50,
277 Appendix U.S.C. ss. 501 et seq. A court may not issue a
278 permanent order granting custodial responsibility without the
279 consent of the deploying parent.

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

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

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291 61.735 Testimony by electronic means.—In a proceeding for a
292 temporary custody order, a deploying parent, servicemember, or
293 witness who is not reasonably able to appear in person may
294 appear, provide testimony, and present evidence by electronic
295 means unless the court finds good cause to require in-person
296 testimony.

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 accordance
311 with general law, if it is in the best interest of the child, a
312 court may grant caretaking authority to a nonparent who is an
313 adult family member of the child or an adult with whom the child
314 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

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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 the deploying parent is unable to exercise
327 decisionmaking authority, a court may grant part of that
328 authority to a nonparent who is an adult family member of the
329 child or an adult with whom the child has a close and
330 substantial relationship. If a court grants the authority to a
331 nonparent, the court shall specify the decisionmaking powers
332 granted.

333 61.741 Grant of limited contact.—A court shall grant
334 limited contact to a nonparent who is a family member of the
335 child or an individual with whom the child has a close and
336 substantial relationship on motion of a deploying parent and in
337 accordance with general law unless the court finds that limited
338 contact with a nonparent would not be in the best interest of
339 the child.

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 that time by written agreement of the
345 deploying parent and the other parent, or in the absence of such
346 an agreement, by court order. The grant does not create an
347 independent, continuing right to caretaking authority,
348 decisionmaking authority, or limited contact to an individual

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349 granted temporary custody.

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

355 (3) If a grant of authority is terminated in writing by
356 agreement of the deploying parent and the other parent, a copy
357 of the termination agreement shall be filed with the court and
358 the temporary custody order shall be modified to reflect the
359 termination. Thereafter the deploying parent and the other
360 parent may agree on alternative arrangements for custodial
361 responsibility in compliance with s. 61.721 or either parent may
362 seek an alternative arrangement for custodial responsibility
363 under s. 61.749.

364 61.745 Content of temporary custody order.—An order
365 granting custodial responsibility, when applicable, must:

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

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

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

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

377 (5) Provide for liberal communication between the deploying

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378 parent and the child during deployment, including through
379 electronic means, unless it is not in the best interest of the
380 child, and allocate any costs of communication.

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

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

390 61.747 Order for child support.—If a court has issued an
391 order granting caretaking authority, or an agreement granting
392 caretaking authority has been executed, the court may enter a
393 temporary order for child support authorized by general law if
394 the court has jurisdiction under the Uniform Interstate Family
395 Support Act.

396 61.749 Modifying or terminating grant of custodial
397 responsibility or limited contact to nonparent.—

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

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407 deployment, unless the grant has been terminated before that
408 time by court order.

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

411 61.761 Procedure for terminating temporary agreement
412 granting custodial responsibility.-

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

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

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

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

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

427 (4) If a temporary agreement granting custodial
428 responsibility was filed with a court pursuant to s. 61.729, an
429 agreement to terminate must be filed with the court within a
430 reasonable time after the deploying parent and other parent sign
431 the agreement. The case number and heading of the case
432 concerning custodial responsibility or child support must be
433 provided to the court with the agreement to terminate.

434 (5) A proceeding seeking to prevent termination of a
435 temporary order for custodial responsibility is governed by

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436 general law.

437 61.763 Visitation before termination of temporary grant of
438 custodial responsibility.—From the time a deploying parent
439 returns from deployment until a temporary agreement or order for
440 custodial responsibility is terminated, the court shall issue a
441 temporary order granting the deploying parent reasonable contact
442 with the child even if the time of contact exceeds the time the
443 deploying parent spent with the child before deployment unless
444 it is not in the best interest of the child.

445 61.771 Relation to electronic signatures in Global and
446 National Commerce Act.—This act modifies, limits, or supersedes
447 the Electronic Signatures in Global and National Commerce Act,
448 15 U.S.C. s. 7001 et seq., but does not modify, limit, or
449 supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or
450 authorize electronic delivery of any of the notices described in
451 s. 103(b) of that act, 15 U.S.C. s. 7003(b).

452 61.773 Applicability.—This act does not affect the validity
453 of a temporary court order concerning custodial responsibility
454 during deployment entered before July 1, 2018.

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