

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

SENATE BILL 792

5 By: Senator J. Hendren  
6

## For An Act To Be Entitled

8 AN ACT TO ENACT THE UNIFORM DEPLOYED PARENTS CUSTODY  
9 AND VISITATION ACT; AND FOR OTHER PURPOSES.  
10

### Subtitle

11 TO ENACT THE UNIFORM DEPLOYED PARENTS  
12 CUSTODY AND VISITATION ACT.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code Title 9 is amended to add an additional  
20 chapter to read as follows:  
21

#### Chapter 21 – Uniform Deployed Parents Custody and Visitation Act

##### Article 1 – General Provisions

###### 9-21-101. Short title.

22 This chapter may be cited as the Uniform Deployed Parents Custody and  
23 Visitation Act.  
24

###### 9-21-102. Definitions.

###### In this chapter:

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32 (1) “Adult” means an individual who has attained eighteen (18)  
33 years of age or an emancipated minor.

34 (2) “Caretaking authority” means the right to live with and care  
35 for a child on a day-to-day basis. The term includes physical custody,  
36 parenting time, right to access, and visitation.



1           (3) “Child” means:

2                   (A) an unemancipated individual who has not attained [18]  
3 years of age; or

4                   (B) an adult son or daughter by birth or adoption, or under  
5 law of this state other than this chapter, who is the subject of a court  
6 order concerning custodial responsibility.

7           (4) “Court” means a tribunal, including an administrative agency,  
8 authorized under law of this state other than this chapter to make, enforce,  
9 or modify a decision regarding custodial responsibility.

10           (5) “Custodial responsibility” includes all powers and duties  
11 relating to caretaking authority and decision-making authority for a child.  
12 The term includes physical custody, legal custody, parenting time, right to  
13 access, visitation, and authority to grant limited contact with a child.

14           (6) “Decision-making authority” means the power to make important  
15 decisions regarding a child, including decisions regarding the child’s  
16 education, religious training, health care, extracurricular activities, and  
17 travel. The term does not include the power to make decisions that  
18 necessarily accompany a grant of caretaking authority.

19           (7) “Deploying parent” means a service member, who is deployed or  
20 has been notified of impending deployment and is:

21                   (A) a parent of a child under law of this state other than  
22 this chapter; or

23                   (B) an individual who has custodial responsibility for a  
24 child under law of this state other than this chapter;

25           (8) “Deployment” means the movement or mobilization of a service  
26 member for more than ninety (90) days but less than eighteen (18) months  
27 pursuant to uniformed service orders that:

28                   (A) are designated as unaccompanied;

29                   (B) do not authorize dependent travel; or

30                   (C) otherwise do not permit the movement of family members  
31 to the location to which the service member is deployed.

32           (9) “Family member” means a sibling, aunt, uncle, cousin,  
33 stepparent, or grandparent of a child or an individual recognized to be in a  
34 familial relationship with a child under law of this state other than this  
35 chapter.

36           (10) “Limited contact” means the authority of a nonparent to

1 visit a child for a limited time. The term includes authority to take the  
2 child to a place other than the residence of the child.

3 (11) "Nonparent" means an individual other than a deploying  
4 parent or other parent.

5 (12) "Other parent" means an individual who, in common with a  
6 deploying parent, is:

7 (A) a parent of a child under law of this state other than  
8 this chapter; or

9 (B) an individual who has custodial responsibility for a child  
10 under law of this state other than this chapter.

11 (13) "Record" means information that is inscribed on a tangible  
12 medium or that is stored in an electronic or other medium and is retrievable  
13 in perceivable form.

14 (14) "Return from deployment" means the conclusion of a service  
15 member's deployment as specified in uniformed service orders.

16 (15) "Service member" means a member of a uniformed service.

17 (16) "Sign" means, with present intent to authenticate or adopt a  
18 record:

19 (A) to execute or adopt a tangible symbol; or

20 (B) to attach to or logically associate with the record an  
21 electronic symbol, sound, or process.

22 (17) "State" means a state of the United States, the District of  
23 Columbia, Puerto Rico, the United States Virgin Islands, or any territory or  
24 insular possession subject to the jurisdiction of the United States.

25 (18) "Uniformed service" means:

26 (A) active and reserve components of the Army, Navy, Air  
27 Force, Marine Corps, or Coast Guard of the United States;

28 (B) the United States Merchant Marine;

29 (C) the commissioned corps of the United States Public  
30 Health Service;

31 (D) the commissioned corps of the National Oceanic and  
32 Atmospheric Administration of the United States; or

33 (E) the National Guard of a state.

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35 9-21-103. Remedies for noncompliance.

36 In addition to other remedies under law of this state other than this

1 chapter, if a court finds that a party to a proceeding under this chapter has  
2 acted in bad faith or intentionally failed to comply with this chapter or a  
3 court order issued under this chapter, the court may assess reasonable  
4 attorney's fees and costs against the party and order other appropriate  
5 relief.

6  
7 9-21-104. Jurisdiction.

8 (a) A court may issue an order regarding custodial responsibility under  
9 this chapter only if the court has jurisdiction under the Uniform Child-  
10 Custody Jurisdiction and Enforcement Act, § 9-19-101 et seq.

11 (b) If a court has issued a temporary order regarding custodial  
12 responsibility pursuant to Article 3, the residence of the deploying parent  
13 is not changed by reason of the deployment for the purposes of the Uniform  
14 Child-Custody Jurisdiction and Enforcement Act, § 9-19-101 et seq., during  
15 the deployment.

16 (c) If a court has issued a permanent order regarding custodial  
17 responsibility before notice of deployment and the parents modify that order  
18 temporarily by agreement pursuant to Article 2, the residence of the  
19 deploying parent is not changed by reason of the deployment for the purposes  
20 of the Uniform Child-Custody Jurisdiction and Enforcement Act, § 9-19-101 et  
21 seq.

22 (d) If a court in another state has issued a temporary order regarding  
23 custodial responsibility as a result of impending or current deployment, the  
24 residence of the deploying parent is not changed by reason of the deployment  
25 for the purposes of the Uniform Child Custody Jurisdiction and Enforcement  
26 Act, § 9-19-101 et seq.

27 (e) This section does not prevent a court from exercising temporary  
28 emergency jurisdiction under the Uniform Child Custody Jurisdiction and  
29 Enforcement Act, § 9-19-101 et seq.

30  
31 9-21-105. Notification required of deploying parent.

32 (a) Except as otherwise provided in subsection (d) and subject to  
33 subsection (c), a deploying parent shall notify in a record the other parent  
34 of a pending deployment not later than seven (7) days after receiving notice  
35 of deployment unless reasonably prevented from doing so by the circumstances  
36 of service. If the circumstances of service prevent giving notification

1 within the seven (7) days, the deploying parent shall give the notification  
2 as soon as reasonably possible.

3 (b) Except as otherwise provided in subsection (d) and subject to  
4 subsection (c), each parent shall provide in a record the other parent with a  
5 plan for fulfilling that parent's share of custodial responsibility during  
6 deployment. Each parent shall provide the plan as soon as reasonably  
7 possible after notification of deployment is given under subsection (a).

8 (c) If a court order currently in effect prohibits disclosure of the  
9 address or contact information of the other parent, notification of  
10 deployment under subsection (a), or notification of a plan for custodial  
11 responsibility during deployment under subsection (b), may be made only to  
12 the issuing court. If the address of the other parent is available to the  
13 issuing court, the court shall forward the notification to the other parent.  
14 The court shall keep confidential the address or contact information of the  
15 other parent.

16 (d) Notification in a record under subsection (a) or (b) is not  
17 required if the parents are living in the same residence and both parents  
18 have actual notice of the deployment or plan.

19 (e) In a proceeding regarding custodial responsibility, a court may  
20 consider the reasonableness of a parent's efforts to comply with this  
21 section.

22  
23 9-21-106. Duty to notify of change of address.

24 (a) Except as otherwise provided in subsection (b), an individual to  
25 whom custodial responsibility has been granted during deployment pursuant to  
26 Article 2 or 3 shall notify the deploying parent and any other individual  
27 with custodial responsibility of a child of any change of the individual's  
28 mailing address or residence until the grant is terminated. The individual  
29 shall provide the notice to any court that has issued a custody or child  
30 support order concerning the child which is in effect.

31 (b) If a court order currently in effect prohibits disclosure of the  
32 address or contact information of an individual to whom custodial  
33 responsibility has been granted, a notification under subsection (a) may be  
34 made only to the court that issued the order. The court shall keep  
35 confidential the mailing address or residence of the individual to whom  
36 custodial responsibility has been granted.

1  
2 9-21-107. General consideration in custody proceeding of parent's  
3 military service.

4 In a proceeding for custodial responsibility of a child of a service  
5 member, a court may not consider a parent's past deployment or possible  
6 future deployment in itself in determining the best interest of the child but  
7 may consider any significant impact on the best interest of the child of the  
8 parent's past or possible future deployment.

9  
10 Article 2 – Agreement Addressing Custodial Responsibility During Deployment  
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12 9-21-201. Form of agreement.

13 (a) The parents of a child may enter into a temporary agreement under  
14 this Article granting custodial responsibility during deployment.

15 (b) An agreement under subsection (a) must be:

16 (1) in writing; and

17 (2) signed by both parents and any nonparent to whom custodial  
18 responsibility is granted.

19 (c) Subject to subsection (d), an agreement under subsection (a), if  
20 feasible, must:

21 (1) identify the destination, duration, and conditions of the  
22 deployment that is the basis for the agreement;

23 (2) specify the allocation of caretaking authority among the  
24 deploying parent, the other parent, and any nonparent;

25 (3) specify any decision-making authority that accompanies a  
26 grant of caretaking authority;

27 (4) specify any grant of limited contact to a nonparent;

28 (5) if under the agreement custodial responsibility is shared by  
29 the other parent and a nonparent, or by other nonparents, provide a process  
30 to resolve any dispute that may arise;

31 (6) specify the frequency, duration, and means, including  
32 electronic means, by which the deploying parent will have contact with the  
33 child, any role to be played by the other parent in facilitating the contact,  
34 and the allocation of any costs of contact;

35 (7) specify the contact between the deploying parent and child  
36 during the time the deploying parent is on leave or is otherwise available;

1           (8) acknowledge that any party's child-support obligation cannot  
2 be modified by the agreement, and that changing the terms of the obligation  
3 during deployment requires modification in the appropriate court;

4           (9) provide that the agreement will terminate according to the  
5 procedures under Article 4 after the deploying parent returns from  
6 deployment; and

7           (10) if the agreement must be filed pursuant to § 9-21-205,  
8 specify which parent is required to file the agreement.

9           (d) The omission of any of the items specified in subsection (c) does  
10 not invalidate an agreement under this section.

11  
12           9-21-202. Nature of authority created by agreement.

13           (a) An agreement under this Article is temporary and terminates  
14 pursuant to Article 4 after the deploying parent returns from deployment,  
15 unless the agreement has been terminated before that time by court order or  
16 modification under § 9-21-203. The agreement does not create an independent,  
17 continuing right to caretaking authority, decision-making authority, or  
18 limited contact in an individual to whom custodial responsibility is given.

19           (b) A nonparent who has caretaking authority, decision-making  
20 authority, or limited contact by an agreement under this Article has standing  
21 to enforce the agreement until it has been terminated by court order, by  
22 modification under § 9-21-203, or under Article 4.

23  
24           9-21-203. Modification of agreement.

25           (a) By mutual consent, the parents of a child may modify an agreement  
26 regarding custodial responsibility made pursuant to this Article.

27           (b) If an agreement is modified under subsection (a) before deployment  
28 of a deploying parent, the modification must be in writing and signed by both  
29 parents and any nonparent who will exercise custodial responsibility under  
30 the modified agreement.

31           (c) If an agreement is modified under subsection (a) during deployment  
32 of a deploying parent, the modification must be agreed to in a record by both  
33 parents and any nonparent who will exercise custodial responsibility under  
34 the modified agreement.

35  
36           9-21-204. Power of attorney.





1  
2 9-21-303. Expedited hearing.

3 If a motion to grant custodial responsibility is filed under § 9-21-  
4 302(b) before a deploying parent deploys, the court shall conduct an  
5 expedited hearing.

6  
7 9-21-304. Testimony by electronic means.

8 In a proceeding under this Article, a party or witness who is not  
9 reasonably available to appear personally may appear, provide testimony, and  
10 present evidence by electronic means unless the court finds good cause to  
11 require a personal appearance.

12  
13 9-21-305. Effect of prior judicial order or agreement.

14 In a proceeding for a grant of custodial responsibility pursuant to  
15 this Article, the following rules apply:

16 (1) A prior judicial order designating custodial responsibility  
17 in the event of deployment is binding on the court unless the circumstances  
18 meet the requirements of law of this state other than this chapter for  
19 modifying a judicial order regarding custodial responsibility.

20 (2) The court shall enforce a prior written agreement between the  
21 parents for designating custodial responsibility in the event of deployment,  
22 including an agreement executed under Article 2, unless the court finds that  
23 the agreement is contrary to the best interest of the child.

24  
25 9-21-306. Grant of caretaking or decision-making authority to  
26 nonparent.

27 (a) On motion of a deploying parent and in accordance with law of this  
28 state other than this chapter, if it is in the best interest of the child, a  
29 court may grant caretaking authority to a nonparent who is an adult family  
30 member of the child or an adult with whom the child has a close and  
31 substantial relationship.

32 (b) Unless a grant of caretaking authority to a nonparent under  
33 subsection (a) is agreed to by the other parent, the grant is limited to an  
34 amount of time not greater than:

35 (1) the amount of time granted to the deploying parent under a  
36 permanent custody order, but the court may add unusual travel time necessary

1 to transport the child; or

2 (2) in the absence of a permanent custody order that is currently  
3 in effect, the amount of time that the deploying parent habitually cared for  
4 the child before being notified of deployment, but the court may add unusual  
5 travel time necessary to transport the child.

6 (c) A court may grant part of a deploying parent's decision-making  
7 authority, if the deploying parent is unable to exercise that authority, to a  
8 nonparent who is an adult family member of the child or an adult with whom  
9 the child has a close and substantial relationship. If a court grants the  
10 authority to a nonparent, the court shall specify the decision-making powers  
11 granted, including decisions regarding the child's education, religious  
12 training, health care, extracurricular activities, and travel.

13  
14 9-21-307. Grant of limited contact.

15 On motion of a deploying parent, and in accordance with law of this  
16 state other than this chapter, unless the court finds that the contact would  
17 be contrary to the best interest of the child, a court shall grant limited  
18 contact to a nonparent who is a family member of the child or an individual  
19 with whom the child has a close and substantial relationship.

20  
21 9-21-308. Nature of authority created by temporary custody order.

22 (a) A grant of authority under this Article is temporary and terminates  
23 under Article 4 after the return from deployment of the deploying parent,  
24 unless the grant has been terminated before that time by court order. The  
25 grant does not create an independent, continuing right to caretaking  
26 authority, decision-making authority, or limited contact in an individual to  
27 whom it is granted.

28 (b) A nonparent granted caretaking authority, decision-making  
29 authority, or limited contact under this Article has standing to enforce the  
30 grant until it is terminated by court order or under Article 4.

31  
32 9-21-309. Content of temporary custody order.

33 (a) An order granting custodial responsibility under this Article must:

34 (1) designate the order as temporary; and

35 (2) identify to the extent feasible the destination, duration,  
36 and conditions of the deployment.

1           (b) If applicable, an order for custodial responsibility under this  
2 Article must:

3           (1) specify the allocation of caretaking authority, decision-  
4 making authority, or limited contact among the deploying parent, the other  
5 parent, and any nonparent;

6           (2) if the order divides caretaking or decision-making authority  
7 between individuals, or grants caretaking authority to one individual and  
8 limited contact to another, provide a process to resolve any dispute that may  
9 arise;

10           (3) provide for liberal communication between the deploying  
11 parent and the child during deployment, including through electronic means,  
12 unless contrary to the best interest of the child, and allocate any costs of  
13 communications;

14           (4) provide for liberal contact between the deploying parent and  
15 the child during the time the deploying parent is on leave or otherwise  
16 available, unless contrary to the best interest of the child;

17           (5) provide for reasonable contact between the deploying parent  
18 and the child after return from deployment until the temporary order is  
19 terminated, even if the time of contact exceeds the time the deploying parent  
20 spent with the child before entry of the temporary order; and

21           (6) provide that the order will terminate pursuant to Article 4  
22 after the deploying parent returns from deployment.

23  
24           9-21-310. Order for child support.

25           If a court has issued an order granting caretaking authority under this  
26 Article, or an agreement granting caretaking authority has been executed  
27 under Article 2, the court may enter a temporary order for child support  
28 consistent with law of this state other than this chapter if the court has  
29 jurisdiction under the Uniform Interstate Family Support Act, § 9-17-101 et  
30 seq.

31  
32           9-21-311. Modifying or terminating grant of custodial responsibility  
33 to nonparent.

34           (a) Except for an order under § 9-21-305, except as otherwise provided  
35 in subsection (b), and consistent with the Servicemembers Civil Relief Act,  
36 50 U.S.C. Appendix Sections 521 and 522, on motion of a deploying or other

1 parent or any nonparent to whom caretaking authority, decision-making  
2 authority, or limited contact has been granted, the court may modify or  
3 terminate the grant if the modification or termination is consistent with  
4 this Article and it is in the best interest of the child. A modification is  
5 temporary and terminates pursuant to Article 4 after the deploying parent  
6 returns from deployment, unless the grant has been terminated before that  
7 time by court order.

8 (b) On motion of a deploying parent, the court shall terminate a grant  
9 of limited contact.

#### 11 Article 4 – Return From Deployment

13 9-21-401. Procedure for terminating temporary grant of custodial  
14 responsibility established by agreement.

15 (a) At any time after return from deployment, a temporary agreement  
16 granting custodial responsibility under Article 2 may be terminated by an  
17 agreement to terminate signed by the deploying parent and the other parent.

18 (b) A temporary agreement under Article 2 granting custodial  
19 responsibility terminates:

20 (1) if an agreement to terminate under subsection (a) specifies a  
21 date for termination, on that date; or

22 (2) if the agreement to terminate does not specify a date, on the  
23 date the agreement to terminate is signed by the deploying parent and the  
24 other parent.

25 (c) In the absence of an agreement under subsection (a) to terminate, a  
26 temporary agreement granting custodial responsibility terminates under  
27 Article 2 sixty (60) days after the deploying parent gives notice to the  
28 other parent that the deploying parent returned from deployment.

29 (d) If a temporary agreement granting custodial responsibility was  
30 filed with a court pursuant to § 9-21-205, an agreement to terminate the  
31 temporary agreement also must be filed with that court within a reasonable  
32 time after the signing of the agreement. The case number and heading of the  
33 case concerning custodial responsibility or child support must be provided to  
34 the court with the agreement to terminate.

36 9-21-402. Consent procedure for terminating temporary grant of

1 custodial responsibility established by court order.

2 At any time after a deploying parent returns from deployment, the  
3 deploying parent and the other parent may file with the court an agreement to  
4 terminate a temporary order for custodial responsibility issued under Article  
5 3. After an agreement has been filed, the court shall issue an order  
6 terminating the temporary order effective on the date specified in the  
7 agreement. If a date is not specified, the order is effective immediately.

8  
9 9-21-403. Visitation before termination of temporary grant of  
10 custodial responsibility.

11 After a deploying parent returns from deployment until a temporary  
12 agreement or order for custodial responsibility established under Article 2  
13 or 3 is terminated, the court shall issue a temporary order granting the  
14 deploying parent reasonable contact with the child unless it is contrary to  
15 the best interest of the child, even if the time of contact exceeds the time  
16 the deploying parent spent with the child before deployment.

17  
18 9-21-404. Termination by operation of law of temporary grant of  
19 custodial responsibility established by court order.

20 (a) If an agreement between the parties to terminate a temporary order  
21 for custodial responsibility under Article 3 has not been filed, the order  
22 terminates sixty (60) days after the deploying parent gives notice to the  
23 other parent and any nonparent granted custodial responsibility that the  
24 deploying parent has returned from deployment.

25 (b) A proceeding seeking to prevent termination of a temporary order  
26 for custodial responsibility is governed by law of this state other than this  
27 chapter.

28  
29 Article 5 – Miscellaneous Provisions

30  
31 9-21-501. Uniformity of application and construction.

32 In applying and construing this uniform act, consideration must be  
33 given to the need to promote uniformity of the law with respect to its  
34 subject matter among states that enact it.

35  
36 9-21-502. Relation to Electronic Signatures in Global and National

1 Commerce Act.

2 This chapter modifies, limits, or supersedes the Electronic Signatures  
3 in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does  
4 not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section  
5 7001(c), or authorize electronic delivery of any of the notices described in  
6 Section 103(b) of that act, 15 U.S.C. Section 7003(b).

7  
8 9-21-503. Savings clause.

9 This chapter does not affect the validity of a temporary court order  
10 concerning custodial responsibility during deployment which was entered  
11 before the effective date of this chapter.

12  
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14 **APPROVED: 04/07/2015**