

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 1345

5 By: Representative Wood
6
7

For An Act To Be Entitled

9 AN ACT TO ENSURE THAT THE ORDERS OF CHILD CUSTODY
10 AND VISITATION FOR PARENTS WHO ARE MEMBERS OF THE
11 ARMED FORCES ARE NOT PERMANENTLY MODIFIED FOR THE
12 SOLE REASON OF THE PARENT'S MILITARY
13 MOBILIZATION; TO ALLOW COURTS TO TEMPORARILY
14 MODIFY ORDERS OF CHILD CUSTODY AND VISITATION FOR
15 PARENTS WHO ARE MILITARY MOBILIZED; AND FOR OTHER
16 PURPOSES.
17

Subtitle

18
19 TO PROVIDE FLEXIBILITY FOR COURTS IN
20 MODIFYING ORDERS OF CHILD CUSTODY AND
21 VISITATION FOR PARENTS WHO ARE MEMBERS
22 OF THE ARMED FORCES AND WHO ARE MILITARY
23 MOBILIZED.
24
25

26 WHEREAS, members of the armed forces of the United States play a vital
27 role in our national security and in the security and safety of the State of
28 Arkansas; and
29

30 WHEREAS, it is vital to the short-term and long-term interests of the
31 armed forces of the United States, and therefore the nation and this state,
32 to attract and retain qualified, competent people; a substantial number of
33 Arkansas adults have children from relationships that have terminated through
34 divorce or otherwise; and it is contrary to public policy to discourage these
35 adults from service in the armed forces; and
36



1 WHEREAS, recent national emergencies have demonstrated that
 2 noncustodial parents will sometimes attempt to use a custodial parent's
 3 military mobilization, in and of itself, as a "material change in
 4 circumstances" to attempt to justify a change in custody; and

5
 6 WHEREAS, recent national emergencies have demonstrated that parents
 7 with physical custody of a child or children will sometimes use the fact of
 8 the noncustodial parent's military mobilization as an excuse to deny or
 9 curtail the visitation of the noncustodial parent; such visitation is even
 10 more critical to both parent and child during military mobilization and
 11 deployment than it would be under normal circumstances; and

12
 13 WHEREAS, periods of military mobilization and deployment are stressful
 14 enough for a service member and his or her children without facing the added
 15 stress of court proceedings and of potentially losing custody rights or
 16 visitation rights; and

17
 18 WHEREAS, children of members of the armed forces of the United States
 19 should not view service to their country as a negative experience to be
 20 avoided,

21
 22 NOW THEREFORE,

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24
 25 SECTION 1. Arkansas Code Title 9, Chapter 13, Subchapter 1 is amended
 26 to add an additional section to read as follows:

27 9-13-110. Parents who are members of the armed services.

28 (a) As used in this section:

29 (1) "Armed forces" means the National Guard and the reserve
 30 components of the armed forces, the United States Army, the United States
 31 Navy, the United States Marine Corps, the United States Coast Guard, and the
 32 United States Air Force, and any other branch of the military and naval
 33 forces or auxiliaries of the United States or Arkansas; and

34 (2) "Mobilized parent" means a parent who:

35 (A) Is a member of the armed forces; and

36 (B) Is called to active duty or receives orders for duty

1 that is outside the state or country.

2 (b) A court shall not permanently modify an order for child custody or
 3 visitation solely on the basis that one (1) of the parents is a mobilized
 4 parent.

5 (c)(1) A court of competent jurisdiction shall determine whether a
 6 temporary modification to an order for child custody or visitation is
 7 appropriate for a child or children of a mobilized parent.

8 (2) The determination under this subsection (c) includes
 9 consideration of any and all circumstances that are necessary to maximize the
 10 mobilized parent's time and contact with his or her child that is consistent
 11 with the best interest of the child, including without limitation:

12 (A) The ordered length of the mobilized parent's call to
 13 active duty;

14 (B) The mobilized parent's duty station or stations;

15 (C) The opportunity that the mobilized parent will have
 16 for contact with the child through a leave, a pass, or other authorized
 17 absence from duty;

18 (D) The contact that the mobilized parent has had with the
 19 child before the call to active military duty;

20 (E) The nature of the military mission, if known; and

21 (F) Any other factor that the court deems appropriate
 22 under the circumstances.

23 (d) This section shall not limit the power of a court of competent
 24 jurisdiction to permanently modify an order of child custody or visitation in
 25 the event that a parent volunteers for permanent military duty as a career
 26 choice regardless of whether the parent volunteered for permanent military
 27 duty while a member of the armed forces.

28
 29 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
 30 General Assembly of the State of Arkansas that members of the armed forces
 31 are spending inordinate time and energy dealing with issues of child custody
 32 and visitation as a sole consequence of being mobilized in support of
 33 national emergencies; that such issues detract and degrade from morale,
 34 training, military readiness, and mission accomplishment and, therefore, have
 35 a direct adverse impact on the security of the United States and this state;
 36 that recent national military mobilizations of Arkansas members of the armed

1 forces have magnified these problems; that adding the stress of potential
2 permanent changes in custody or visitation during a time when a parent is
3 mobilized to military service is generally not in the best interest of the
4 child, and that this act is immediately necessary to protect the security of
5 the United States and the State of Arkansas and to protect the best interests
6 of children. Therefore, an emergency is declared to exist and this act being
7 necessary for the preservation of the public peace, health, and safety shall
8 become effective on:

9 (1) The date of its approval by the Governor;

10 (2) If the bill is neither approved nor vetoed by the Governor,
11 the expiration of the period of time during which the Governor may veto the
12 bill; or

13 (3) If the bill is vetoed by the Governor and the veto is
14 overridden, the date the last house overrides the veto.