

1 State of Arkansas
2 90th General Assembly
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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.

34
 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
11

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.

10
11 Article 4 – Return From Deployment
12

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.

35
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.