
DIGEST

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Henry Burns

HB No. 1156

Abstract: Enacts the "Military Parent and Child Custody Protection Act".

Proposed law provides definitions of "deploying parent", "deployment", and "order".

Proposed law prohibits the court from entering a final order modifying the terms of an existing custody or visitation order until 90 days after the termination of the deployment of a parent unless the matter was fully tried prior to the deployment.

Proposed law provides that deployment alone shall not constitute a material change in circumstances for the permanent modification of a custody or visitation order.

Proposed law provides that an existing order of custody or visitation may be temporarily modified to make reasonable accommodations necessary for the deployment, and it shall provide the deploying parent with custody or visitation during periods of military leave, if the court determines it is in the best interest of the child and if the existing order granted custody or visitation.

Proposed law requires the other parent to provide the court and the deploying parent with written notice 30 days prior to a change of address and telephone number.

Proposed law provides for an expedited hearing of any custody or visitation matters, upon the motion of either parent and for good cause shown, when military duties prevent the deploying parent from personally appearing at hearing.

Proposed law provides that a temporary modification terminates by operation of law upon the completion of deployment and requires the prior order to be reinstated.

Proposed law provides that if the other parent has relocated with the child in accordance with R.S. 9:355.1 et seq., custody or visitation shall be exercised where the child resides.

Proposed law authorizes the court to have an expedited hearing regarding the termination of the temporary order and the reinstatement of the prior order if immediate danger or irreparable harm to the child is alleged. Provides that the court may grant an ex parte order of temporary custody in accordance with C.C.P. Art. 3945.

Proposed law authorizes the court to delegate some or all visitation to a family member with a

substantial relationship to the child if it is in the best interest of the child. Proposed law requires the court to consider the factors in C.C. Art. 136 in making its determination.

Proposed law authorizes the court to allow the presentation of testimony and evidence by affidavit or electronic means in certain circumstances.

Proposed law provides that when there is no existing order of custody or visitation, upon the motion of either parent, the court shall expedite a hearing to establish a temporary order in accordance with this Subpart.

Proposed law requires cooperation between the parents and requires a deploying parent to provide a copy of the deployment orders to the other parent.

Proposed law provides for the appointment of counsel for the child when the court declines to grant or extend a stay of proceedings in accordance with the Servicemembers Civil Relief Act, 50 U.S.C. Appendix §521-522.

Proposed law provides that the absence of a child from this state during the deployment of a parent shall be a "temporary absence" for the purposes of the Uniform Child Custody Jurisdiction and Enforcement Act.

Proposed law provides for attorney fees and costs when either party causes unreasonable delays or fails to provide information in accordance with the provisions of proposed law.

Proposed law provides that the provisions of this Subpart shall not apply to any custody or visitation order requested in a verified petition alleging the applicability of the Domestic Abuse Assistance Act, Children's Code Article 1564, or the Post-Separation Family Violence Relief Act.

(Adds R.S. 9:359-359.13)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Changed the definition of "deploying parent" to include a parent whose custody or visitation rights have not been restricted by court order to supervised visitation only.
2. Provided that if a child custody or visitation matter has been fully tried by a court prior to the parent being deployed, the court may enter a final order.
3. Specified that deployment shall not constitute a material change in circumstances for the permanent modification of an order.

4. Provided that a temporary order shall grant reasonable custody or visitation if it is in the best interest of the child and if the existing order, with any restrictions, granted it prior to deployment.
5. Provided that either parent may request an expedited hearing if military duties prevent court appearances.
6. Authorized the court to grant an expedited hearing on the termination of the temporary order and the reinstatement of the prior order if immediate danger or irreparable harm are alleged and authorized the court to grant an ex parte temporary custody order in accordance with C.C.P. Art. 3945.
7. Deleted the requirement that the parent filing the motion shall bear the burden of proving that reinstatement of the prior order is not in the best interest of the child.
8. Provided that a court may delegate some or all of the deploying parent's custody or visitation if it is in the best interest of the child, using the factors in C.C. Art. 136.
9. Added that the delegation of visitation may also be terminated upon a showing that it is no longer in the best interest of the child.
10. Provided that the provisions of this Subpart shall not apply when the Domestic Abuse Assistance Act, Ch.C. Art. 1564, or the Post-Separation Family Violence Relief Act are applicable.