

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To amend Chapter 9 of Title 16 of the District of Columbia Official Code to grant deploying military parents judicial protections of child custody and visitation rights during periods of actual or imminent deployment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Military Parents’ Child Custody and Visitation Rights Act of 2012”.

Sec. 2. Chapter 9 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by inserting a new section designation “16-914.02. Child custody and visitation rights of parents during deployment for military service.” after the section designation “16-914.01. Retention of jurisdiction as to alimony, custody of children, and child support.”.

(b) A new section 16-914.02 is added to read as follows:
“§ 16-914.02. Child custody and visitation rights of parents during deployment for military service.

New
§ 16-914.02

“(a)(1) A deploying parent may file a motion with the court to request an expedited hearing for the purpose of obtaining a temporary child custody or visitation order when no court order exists as to the custody or visitation of the child of the deploying parent.

“(2) A deploying parent, or a non-deploying parent where the deploying parent is currently on deployment or has received a deployment order, may file a motion with the court to request a temporary child custody or visitation order modifying the terms of an existing child custody order or visitation order.

“(b)(1) Upon a motion as provided under subsection (a) of this section, the court may issue a temporary order to establish the terms for custody and visitation of the child of the deploying parent or modify the terms of an existing custody or visitation order for the child of the deploying parent to make reasonable accommodation for the deployment.

“(2) A temporary order issued pursuant to this subsection shall state:

“(A) That the basis of the order is the deployment of a military parent;

and

“(B) That the temporary order shall terminate and the permanent order

shall resume within 10 days after notification of the deploying parent's ability to resume custody or visitation unless the court finds that resumption of the custody or visitation order in effect before deployment is no longer in the child's best interest.

“(3) A temporary order issued pursuant to this subsection may require:

“(A) The non-deploying parent to reasonably accommodate the leave schedule of the deploying parent;

“(B) The non-deploying parent to facilitate opportunities for telephonic communication, electronic mail, or other electronic communication between the deploying parent and child during the deployment period; and

“(C) The deploying parent to provide the non-deploying parent with timely notice of leave of absence, unless the leave schedule of the deploying parent is changed without sufficient advance notice to allow the deploying parent to give timely notice to the non-deploying parent, in which case neither the court nor the non-deploying parent shall use the untimely notice to prevent contact between the deploying parent and the child or use the untimely notice as a basis in requesting or issuing a permanent order modifying an existing custody or visitation arrangement.

“(4)(A) Upon a motion of a deploying parent, or upon motion of a family member of the deploying parent with the consent of the deploying parent, the court may issue a temporary order to delegate all or a portion of the deploying parent's visitation rights to a family member with a close and substantial relationship to the child for the duration of the deployment if in the best interest of the child; provided, that:

“(i) The delegation of visitation rights or access to the child shall not create an entitlement or standing to assert separate rights to a liberty interest in the care and custody of the child for a person other than a parent; and

“(ii) A delegation of visitation rights or access to the child shall not exceed the visitation time granted to the deploying parent.

“(B) A temporary order delegating all or a portion of a deploying parent's visitation rights under this paragraph shall terminate by operation of law in accordance with paragraph (2)(B) of this subsection.

“(C) A person to whom visitation rights have been delegated by a temporary order issued under this paragraph shall have full legal standing to enforce that temporary order.

“(5) In issuing a temporary order under this subsection, the court shall ensure that the parties are advised of the possible availability of a modification of child support, and shall provide notice to the parties of how such a modification may be obtained. The court may also decide the issue of child support, in accordance with the child support guideline in section 16-916.01, during the hearing on the motion for a temporary order under this section.

“(6) For the purposes of this subsection, the non-deploying parent shall have the burden of proving that resumption of the permanent order is no longer in the child's best interest.

“(c) The court shall not issue a permanent order modifying the terms of an existing

custody or visitation order until 90 days after the termination of the deployment of a military parent. The court shall not consider the activation or deployment of a deploying parent as the sole factor in the court's decision of whether or not to grant or deny a petition for custody or visitation, and neither deployment nor the potential for future deployment of a military parent shall, by itself, be regarded as a material change in the circumstances of any existing custody or visitation order, or against the best interests of the child, for the court to issue a permanent order modifying the terms of an existing custody or visitation order.

“(d) The court, in any child custody or visitation proceeding between either 2 deploying parents or a deploying parent and a non-deploying parent, shall allow any deploying parent to present testimony or evidence relevant to the custody or visitation proceedings either by affidavit or electronically when deployment precludes the personal appearance of the deploying parent.

“(e) For the purposes of this section, the term:

“(1) “Activation” means the extension of United States Armed Forces to active military service of the United States. Activation does not include National Guard or Reserve annual training, inactive duty, drill weekends, or active duty within the District.

“(2) “Deploying parent” means a military parent who is on deployment or has received mandatory orders from military leadership to deploy with the United States Armed Forces.

“(3) “Deployment” means the compliance with military orders received by any member of the United States Armed Forces for active service, including service for combat operations, contingency operations, peacekeeping operations, temporary duty, and remote tours of duty.

“(4) “Military parent” means a member of the United States Armed Forces who is the parent of a minor child, including the biological, adoptive, or legal parent, whose parental rights have not been terminated or transferred to the District or another person through juvenile proceedings.

“(5) “Non-deploying parent” means a parent who is not a member of the United States Armed Forces, or is a military parent who is currently neither a deploying parent nor a parent that has received an imminent deployment or activation order.

“(6) “United States Armed Forces” means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, or any other Reserve component thereof.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

ENROLLED ORIGINAL

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia