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AN ACT

RELATING TO DOMESTIC RELATIONS; ENACTING THE DEPLOYED PARENTS
CUSTODY AND VISITATION ACT; ESTABLISHING PROCEDURES FOR
MODIFYING EXISTING CUSTODY, TIME-SHARING OR VISITATION ORDERS
FOR CHILDREN OF SERVICE MEMBERS; PROHIBITING ENTRY OF FINAL
ORDERS MODIFYING EXISTING CHILD CUSTODY, TIME-SHARING OR
VISITATION ORDERS WHILE A SERVICE MEMBER IS UNAVAILABLE
PURSUANT TO MILITARY ORDERS; PROHIBITING THE MODIFICATION OF
EXISTING CHILD CUSTODY, TIME-SHARING OR VISITATION ORDERS
SOLELY BECAUSE A SERVICE MEMBER IS ABSENT OR MIGHT BE ABSENT
PURSUANT TO MILITARY ORDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the
"Deployed Parents Custody and Visitation Act".

SECTION 2. DEFINITIONS.--As used in the Deployed
Parents Custody and Visitation Act:

A. "adult" means an individual who has attained
eighteen years of age or is an emancipated minor;

B. "caretaking authority" means the right to live
with and care for a child on a day-to-day basis. "Caretaking
authority" includes physical custody, parenting time, right
to access and visitation;

C. "child" means:

(1) an unemancipated individual who has not

1 attained eighteen years of age; or

2 (2) an adult son or daughter by birth or
3 adoption, or under law of this state other than the Deployed
4 Parents Custody and Visitation Act, who is the subject of a
5 court order concerning custodial responsibility;

6 D. "court" means a tribunal, including an
7 administrative agency, authorized under law of this state
8 other than the Deployed Parents Custody and Visitation Act,
9 to make, enforce or modify a decision regarding custodial
10 responsibility;

11 E. "custodial responsibility" includes all powers
12 and duties relating to caretaking authority and
13 decision-making authority for a child. "Custodial
14 responsibility" includes physical custody, legal custody,
15 parenting time, right to access, visitation and authority to
16 grant limited contact with a child;

17 F. "decision-making authority" means the power to
18 make important decisions regarding a child, including
19 decisions regarding the child's education, religious
20 training, health care, extracurricular activities and travel.
21 "Decision-making authority" does not include the power to
22 make decisions that necessarily accompany a grant of
23 caretaking authority;

24 G. "deploying parent" means a service member who
25 is deployed or has been notified of impending deployment and

1 is:

2 (1) a parent of a child under law of this
3 state other than the Deployed Parents Custody and Visitation
4 Act; or

5 (2) an individual who has custodial
6 responsibility for a child under law of this state other than
7 the Deployed Parents Custody and Visitation Act;

8 H. "deployment" means the movement or mobilization
9 of a service member for more than ninety days but less than
10 eighteen months pursuant to uniformed service orders that:

11 (1) are designated as unaccompanied;

12 (2) do not authorize dependent travel; or

13 (3) otherwise do not permit the movement of
14 family members to the location to which the service member is
15 deployed;

16 I. "family member" means a sibling, aunt, uncle,
17 cousin, stepparent or grandparent of a child or an individual
18 recognized to be in a familial relationship with a child
19 under law of this state other than the Deployed Parents
20 Custody and Visitation Act;

21 J. "limited contact" means the authority of a
22 nonparent to visit a child for a limited time. "Limited
23 contact" includes authority to take the child to a place
24 other than the residence of the child;

25 K. "nonparent" means an individual other than a

1 deploying parent or other parent;

2 L. "other parent" means an individual who, in
3 common with a deploying parent, is:

4 (1) a parent of a child under law of this
5 state other than the Deployed Parents Custody and Visitation
6 Act; or

7 (2) an individual who has custodial
8 responsibility for a child under law of this state other than
9 the Deployed Parents Custody and Visitation Act;

10 M. "record" means information that is inscribed on
11 a tangible medium or that is stored in an electronic or other
12 medium and is retrievable in perceivable form;

13 N. "return from deployment" means the conclusion
14 of a service member's deployment as specified in uniformed
15 service orders;

16 O. "service member" means a member of a uniformed
17 service;

18 P. "sign" means with present intent to
19 authenticate or adopt a record to:

20 (1) execute or adopt a tangible symbol; or

21 (2) attach to or logically associate with
22 the record an electronic symbol, sound or process;

23 Q. "state" means a state of the United States, the
24 District of Columbia, Puerto Rico, the United States Virgin
25 Islands or any territory or insular possession subject to the

1 jurisdiction of the United States; and

2 R. "uniformed service" means:

3 (1) active and reserve components of the
4 army, navy, air force, marine corps or coast guard of the
5 United States;

6 (2) the United States merchant marine;

7 (3) the commissioned corps of the United
8 States public health service;

9 (4) the commissioned corps of the national
10 oceanic and atmospheric administration of the United States;
11 or

12 (5) the national guard of a state.

13 SECTION 3. RESIDENCE UNCHANGED BY DEPLOYMENT.--

14 A. If a court has issued a temporary order
15 regarding custodial responsibility pursuant to the Deployed
16 Parents Custody and Visitation Act, the residence of the
17 deploying parent is not considered to be changed by reason of
18 the deployment for the purposes of the Uniform Child-Custody
19 Jurisdiction and Enforcement Act during the deployment.

20 B. If a court has issued a permanent order
21 regarding custodial responsibility before notice of
22 deployment and the parents modify that order temporarily by
23 agreement pursuant to the Deployed Parents Custody and
24 Visitation Act, the residence of the deploying parent is not
25 considered to be changed by reason of the deployment for the

1 purposes of the Uniform Child-Custody Jurisdiction and
2 Enforcement Act.

3 C. If a court in another state has issued a
4 temporary order regarding custodial responsibility as a
5 result of impending or current deployment, the residence of
6 the deploying parent is not considered to be changed by
7 reason of the deployment for the purposes of the Uniform
8 Child-Custody Jurisdiction and Enforcement Act.

9 SECTION 4. NOTIFICATION REQUIRED OF DEPLOYING PARENT.--

10 A. Except as otherwise provided in Subsection D of
11 this section and subject to Subsection C of this section, a
12 deploying parent shall notify in a record the other parent of
13 a pending deployment not later than seven days after
14 receiving notice of deployment unless reasonably prevented
15 from doing so by the circumstances of service.

16 B. Except as otherwise provided in Subsection D of
17 this section and subject to Subsection C of this section,
18 each parent shall provide in a record the other parent with a
19 plan for fulfilling that parent's share of custodial
20 responsibility during deployment. Each parent shall provide
21 the plan as soon as reasonably possible after notification of
22 deployment.

23 C. If a court order currently in effect prohibits
24 disclosure of the address or contact information of the other
25 parent, notification of deployment pursuant to Subsection A

1 of this section or notification of a plan for custodial
2 responsibility during deployment pursuant to Subsection B of
3 this section may be made only to the issuing court. If the
4 address of the other parent is available to the issuing
5 court, the court shall forward the notification to the other
6 parent. The court shall keep confidential the address or
7 contact information of the other parent.

8 D. Notification in a record under Subsection A or
9 B of this section is not required if the parents are living
10 in the same residence and both parents have actual notice of
11 the deployment or plan.

12 SECTION 5. DUTY TO NOTIFY OF CHANGE OF ADDRESS.--

13 A. Except as otherwise provided in Subsection B of
14 this section, an individual to whom custodial responsibility
15 has been granted during deployment pursuant to the Deployed
16 Parents Custody and Visitation Act shall notify the deploying
17 parent and any other individual with custodial responsibility
18 of a child of any change of the individual's mailing address
19 or residence until the custodial responsibility is
20 terminated.

21 B. If a court order currently in effect prohibits
22 disclosure of the address or contact information of an
23 individual to whom custodial responsibility has been granted,
24 a notification pursuant to Subsection A of this section may
25 be made only to the court that issued the order. The court

1 shall keep confidential the mailing address or residence of
2 the individual to whom custodial responsibility has been
3 granted.

4 SECTION 6. GENERAL CONSIDERATION IN CUSTODY PROCEEDING
5 OF PARENT'S MILITARY SERVICE.--In a proceeding for custodial
6 responsibility of a child of a service member, a court shall
7 not consider a parent's past deployment or possible future
8 deployment in itself in determining the best interest of the
9 child.

10 SECTION 7. AGREEMENT ADDRESSING CUSTODIAL
11 RESPONSIBILITY DURING DEPLOYMENT--FORM OF AGREEMENT.--

12 A. The parents of a child may enter into a
13 temporary agreement granting custodial responsibility during
14 deployment under the Deployed Parents Custody and Visitation
15 Act.

16 B. A temporary agreement pursuant to Subsection A
17 of this section shall be:

18 (1) in writing; and

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

21 SECTION 8. NATURE OF AUTHORITY CREATED BY AGREEMENT.--

22 A. An agreement under the Deployed Parents Custody
23 and Visitation Act is temporary and terminates pursuant to
24 that act after the deploying parent returns from deployment,
25 unless the agreement has been terminated before that time by

1 court order. The agreement does not create an independent,
2 continuing right to caretaking authority, decision-making
3 authority or limited contact in an individual to whom
4 custodial responsibility is given.

5 B. A nonparent who has caretaking authority,
6 decision-making authority or limited contact by an agreement
7 pursuant to the Deployed Parents Custody and Visitation Act
8 has standing to enforce the agreement until it has been
9 terminated by court order.

10 SECTION 9. EXPEDITED HEARING.--If a motion to grant
11 custodial responsibility is filed pursuant to the Deployed
12 Parents Custody and Visitation Act before a deploying parent
13 deploys, the court shall conduct an expedited hearing.

14 SECTION 10. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2014. _____

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