

By Senator Passidomo

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1 A bill to be entitled
2 An act relating to deployed parent custody and
3 visitation; creating part IV of ch. 61, F.S., entitled
4 "Uniform Deployed Parents Custody and Visitation Act";
5 providing definitions; providing remedies for
6 noncompliance; authorizing a court to issue certain
7 custodial orders only under certain jurisdiction;
8 providing notice requirements; providing requirements
9 for proceeding for custodial responsibility of a child
10 of a servicemember; providing requirements for
11 agreement forms, termination, modification, power of
12 attorney, and filing; providing requirements for
13 temporary orders of custodial responsibility;
14 authorizing electronic testimony in a proceeding for
15 temporary custody; providing for the effect of any
16 prior judicial order or agreement; authorizing a court
17 to grant caretaking authority or limited contact to a
18 nonparent under certain conditions; providing for the
19 termination of a grant of authority; providing
20 requirements for an order of temporary custody;
21 authorizing a court to enter a temporary order for
22 child support under certain circumstances; authorizing
23 a court to modify or terminate a temporary grant of
24 custodial responsibility; providing procedures for
25 termination of a temporary custodial responsibility
26 agreement; providing for visitation; providing
27 construction; providing applicability; providing an
28 effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Part IV of chapter 61, Florida Statutes,
33 consisting of sections 61.703-61.773, Florida Statutes, is
34 created and entitled "Uniform Deployed Parents Custody and
35 Visitation Act."

36 61.703 Definitions.—As used in this part:

37 (1) "Adult" means an individual who has attained 18 years
38 of age or who has had the disability of nonage removed under
39 chapter 743.

40 (2) "Caretaking authority" means the right to live with and
41 care for a child on a day-to-day basis. The term includes
42 physical custody, parenting time, right to access, and
43 visitation.

44 (3) "Child" means:

45 (a) An individual who has not attained 18 years of age and
46 who has not had the disability of nonage removed under chapter
47 743; or

48 (b) An adult son or daughter by birth or adoption, or
49 designated by general law, who is the subject of a court order
50 concerning custodial responsibility.

51 (4) "Close and substantial relationship" means a
52 relationship in which a significant bond exists between a child
53 and a nonparent.

54 (5) "Court" means the court of legal jurisdiction.

55 (6) "Custodial responsibility" includes all powers and
56 duties relating to caretaking authority and decisionmaking
57 authority for a child. The term includes physical custody, legal
58 custody, parenting time, right to access, visitation, and

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59 authority to grant limited contact with a child.

60 (7) "Decisionmaking authority" means the power to make
61 important decisions regarding a child, including decisions
62 regarding the child's education, religious training, health
63 care, extracurricular activities, and travel. The term does not
64 include the power to make decisions that necessarily accompany a
65 grant of caretaking authority.

66 (8) "Deploying parent" means a servicemember who is
67 deployed or has been notified of impending deployment and is:

68 (a) A parent of a child; or

69 (b) An individual who has custodial responsibility for a
70 child.

71 (9) "Deployment" means the movement or mobilization of a
72 servicemember for more than 90 days but less than 18 months
73 pursuant to uniformed service orders that:

74 (a) Are designated as unaccompanied;

75 (b) Do not authorize dependent travel; or

76 (c) Otherwise do not permit the movement of family members
77 to the location to which the servicemember is deployed.

78 (10) "Family member" means a sibling, aunt, uncle, cousin,
79 stepparent, or grandparent of a child or an individual
80 recognized to be in a familial relationship with a child.

81 (11) "Limited contact" means the authority of a nonparent
82 to visit a child for a limited time. The term includes authority
83 to take the child to a place other than the child's residence.

84 (12) "Nonparent" means an individual other than a deploying
85 parent or other parent.

86 (13) "Other parent" means an individual who, in addition to
87 a deploying parent, is:

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88 (a) A parent of a child; or

89 (b) An individual who has custodial responsibility for a
90 child.

91 (14) "Record" means information that is created in a
92 tangible medium or stored in an electronic or other medium and
93 is retrievable in perceivable form.

94 (15) "Return from deployment" means the conclusion of a
95 servicemember's deployment as specified in uniformed service
96 orders.

97 (16) "Servicemember" means a member of a uniformed service.

98 (17) "Sign" means, with the intent to authenticate or adopt
99 a record, to:

100 (a) Execute or adopt a tangible symbol; or

101 (b) Attach to or logically associate with the record an
102 electronic symbol, sound, or process.

103 (18) "State" means a state of the United States, the
104 District of Columbia, Puerto Rico, the United States Virgin
105 Islands, or any territory or insular possession subject to the
106 jurisdiction of the United States.

107 (19) "Uniformed service" means any of the following:

108 (a) Active and reserve components of the Army, Navy, Air
109 Force, Marine Corps, or Coast Guard of the United States.

110 (b) The United States Merchant Marine.

111 (c) The commissioned corps of the United States Public
112 Health Service.

113 (d) The commissioned corps of the National Oceanic and
114 Atmospheric Administration.

115 (e) The National Guard of a state or territory of the
116 United States, Puerto Rico, or the District of Columbia.

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117 61.705 Remedies for noncompliance.—In addition to other
118 remedies authorized by general law, if a court finds that a
119 party to a proceeding acts in bad faith or intentionally fails
120 to comply with this part or a court order issued under this
121 part, the court may assess reasonable attorney fees and costs
122 against the party, and order other appropriate relief.

123 61.707 Jurisdiction.—

124 (1) A court may issue an order regarding custodial
125 responsibility only if the court has jurisdiction under the
126 Uniform Child Custody Jurisdiction and Enforcement Act.

127 (2) For purposes of the Uniform Child Custody Jurisdiction
128 and Enforcement Act, the residence of the deploying parent does
129 not change by reason of the deployment if:

130 (a) A court has issued a temporary order regarding
131 custodial responsibility.

132 (b) A court has issued a permanent order regarding
133 custodial responsibility before notice of deployment and the
134 parents modify that order temporarily by agreement.

135 (c) A court in another state has issued a temporary order
136 regarding custodial responsibility as a result of impending or
137 current deployment.

138 (3) This section does not prevent a court from exercising
139 temporary emergency jurisdiction under the Uniform Child Custody
140 Jurisdiction and Enforcement Act.

141 61.709 Notice requirement for deploying parent.—

142 (1) Except as otherwise provided in subsection (3), and
143 subject to subsection (2), a deploying parent shall notify in a
144 record to the other parent:

145 (a) A pending deployment not later than 7 days after

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146 receiving notice of deployment unless he or she is reasonably
147 prevented from doing so by the circumstances of service, in
148 which case the deploying parent shall provide notice as soon as
149 reasonably possible.

150 (b) A plan fulfilling each parent's share of custodial
151 responsibility during deployment provided as soon as reasonably
152 possible after notice of deployment is given under paragraph
153 (a).

154 (2) If a court order prohibits disclosure of the address or
155 contact information of the other parent, notice pursuant to
156 subsection (1) must be provided to the issuing court. If the
157 address of the other parent is available to the issuing court,
158 the court shall forward the notice to the other parent. The
159 court shall keep confidential the address or contact information
160 of the other parent.

161 (3) Notice pursuant to subsection (1) is not required if
162 both parents are living in the same residence and have actual
163 notice of the deployment or plan.

164 (4) In a proceeding regarding custodial responsibility, a
165 court may consider the reasonableness of a parent's efforts to
166 comply with this section.

167 61.711 Duty to notify of change of address.—

168 (1) Except as otherwise provided in subsection (2), an
169 individual granted custodial responsibility during deployment
170 must notify the deploying parent and any other individual with
171 custodial responsibility of a child of any change of mailing
172 address or residence until the grant is terminated. The
173 individual must provide the notice to any court that has issued
174 a custody or child support order concerning the child.

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175 (2) If a court order prohibits disclosure of the address or
176 contact information of an individual to whom custodial
177 responsibility has been granted, notice pursuant to subsection
178 (1) must be provided to the issuing court. The court shall keep
179 confidential the mailing address or residence of the individual
180 granted custodial responsibility.

181 61.713 General consideration in custody proceeding of
182 parent's service.—In a proceeding for custodial responsibility
183 of a child of a servicemember, a court may not consider a
184 parent's past deployment or possible future deployment in
185 determining the best interest of the child.

186 61.721 Form of custodial responsibility agreement.—

187 (1) The parents of a child may enter into a temporary
188 agreement granting custodial responsibility during deployment.

189 (2) The agreement must be in writing and signed by both
190 parents and any nonparent granted custodial responsibility.

191 (3) Subject to subsection (4), the agreement, if feasible,
192 must:

193 (a) Identify the destination, duration, and conditions of
194 the deployment that is the basis for the agreement.

195 (b) Specify the allocation of caretaking authority among
196 the deploying parent, the other parent, and any nonparent.

197 (c) Specify any decisionmaking authority that accompanies a
198 grant of caretaking authority.

199 (d) Specify any grant of limited contact to a nonparent.

200 (e) Provide a process to resolve any dispute that may arise
201 if custodial responsibility is shared by the other parent and a
202 nonparent, or by other nonparents.

203 (f) Specify the frequency, duration, and means, including

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204 electronic means, by which the deploying parent will have
205 contact with the child, any role to be played by the other
206 parent or nonparent in facilitating the contact, and the
207 allocation of any costs of contact.

208 (g) Specify contact between the deploying parent and child
209 during the time the deploying parent is on leave or is otherwise
210 available.

211 (h) Acknowledge that the agreement does not modify any
212 existing child support obligation and that changing the terms of
213 the obligation during deployment requires modification in the
214 appropriate court.

215 (i) Provide that the agreement will terminate according to
216 the procedures under this part after the deploying parent
217 returns from deployment.

218 (j) Specify which parent is required to file the agreement
219 if the agreement must be filed pursuant to s. 61.729.

220 (4) The omission of any item in subsection (3) does not
221 invalidate the agreement.

222 61.723 Nature of authority created by custodial
223 responsibility agreement.—

224 (1) An agreement granting custodial responsibility during
225 deployment is temporary and terminates after the deploying
226 parent returns from deployment unless the agreement has been
227 terminated before that time by court order or modification under
228 s. 61.725. The agreement does not create an independent,
229 continuing right to caretaking authority, decisionmaking
230 authority, or limited contact for an individual granted
231 custodial responsibility.

232 (2) A nonparent granted caretaking authority,

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233 decisionmaking authority, or limited contact by agreement has
234 standing to enforce the agreement until it is terminated by
235 court order or under s. 61.761, or modified under s. 61.725.

236 61.725 Modification of agreement.—

237 (1) The parents of a child may modify an agreement granting
238 custodial responsibility by mutual consent.

239 (2) If an agreement is modified before deployment of a
240 deploying parent, the modification must be in writing and signed
241 by both parents and any nonparent granted custodial
242 responsibility under the modified agreement.

243 (3) If an agreement is modified during deployment of a
244 deploying parent, the modification must be agreed to in a record
245 by both parents and any nonparent granted custodial
246 responsibility.

247 61.727 Power of attorney.—A deploying parent may, by power
248 of attorney, grant all or part of custodial responsibility to an
249 adult nonparent for the period of deployment if no other parent
250 possesses custodial responsibility, or if a court order
251 currently in effect prohibits contact between the child and the
252 other parent. The deploying parent may revoke the power of
253 attorney by signing a revocation of the power of attorney.

254 61.729 Filing custodial responsibility agreement or power
255 of attorney with court.—An agreement or power of attorney must
256 be filed within a reasonable time with a court that has entered
257 an order in effect relating to custodial responsibility or child
258 support concerning the child who is the subject of the agreement
259 or power. The case number and heading of the pending case
260 concerning custodial responsibility or child support must be
261 provided to the court with the agreement or power.

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262 61.733 Proceeding for temporary custody order.-

263 (1) After a deploying parent receives notice of deployment
264 and until the deployment terminates, a court may issue a
265 temporary order granting custodial responsibility unless
266 prohibited by the Servicemembers Civil Relief Act, Title 50,
267 Appendix U.S.C. ss. 501 et seq. A court may not issue a
268 permanent order granting custodial responsibility without the
269 consent of the deploying parent.

270 (2) (a) At any time after a deploying parent receives notice
271 of deployment, either parent may file a motion regarding
272 custodial responsibility of a child during deployment. The
273 motion must be filed in a pending proceeding for custodial
274 responsibility in a court with jurisdiction under s. 61.707 or,
275 if a pending proceeding does not exist in a court with
276 jurisdiction under s. 61.707, the motion must be filed in a new
277 action for granting custodial responsibility during deployment.

278 (b) If a motion to grant custodial responsibility is filed
279 under paragraph (a) before a deploying parent deploys, the court
280 shall conduct an expedited hearing.

281 61.735 Testimony by electronic means.-In a proceeding for a
282 temporary custody order, a party or witness who is not
283 reasonably able to appear in person may appear, provide
284 testimony, and present evidence by electronic means unless the
285 court finds good cause to require in-person testimony.

286 61.737 Effect of prior judicial order or agreement.-In a
287 proceeding for a temporary grant of custodial responsibility:

288 (1) A prior judicial order granting custodial
289 responsibility in the event of deployment is binding on the
290 court unless circumstances meet the requirements authorized by

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291 general law for modifying a judicial order regarding custodial
292 responsibility.

293 (2) The court shall enforce a prior written agreement
294 between the parents for granting custodial responsibility in the
295 event of deployment, including an agreement for custodial
296 responsibility during deployment, unless the court finds that
297 the agreement is not in the best interest of the child.

298 61.739 Grant of caretaking authority to nonparent.—

299 (1) Upon the motion of a deploying parent and in accordance
300 with general law, if it is in the best interest of the child, a
301 court may grant caretaking authority to a nonparent who is an
302 adult family member of the child or an adult with whom the child
303 has a close and substantial relationship.

304 (2) Unless a grant of caretaking authority to a nonparent
305 is agreed to by the other parent, the grant is limited to an
306 amount of time that may not exceed:

307 (a) The amount of time granted to the deploying parent
308 under a permanent custody order; however, the court may add
309 travel time necessary to transport the child; or

310 (b) In the absence of a permanent custody order that is
311 currently in effect, the amount of time the deploying parent
312 habitually cared for the child before being notified of
313 deployment; however, the court may add travel time necessary to
314 transport the child.

315 (3) If the deploying parent is unable to exercise
316 decisionmaking authority, a court may grant part of that
317 authority to a nonparent who is an adult family member of the
318 child or an adult with whom the child has a close and
319 substantial relationship. If a court grants the authority to a

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320 nonparent, the court shall specify the decisionmaking powers
321 granted.

322 61.741 Grant of limited contact.—A court shall grant
323 limited contact to a nonparent who is a family member of the
324 child or an individual with whom the child has a close and
325 substantial relationship on motion of a deploying parent and in
326 accordance with general law unless the court finds that limited
327 contact with a nonparent would not be in the best interest of
328 the child.

329 61.743 Nature of authority created by temporary custody
330 order.—

331 (1) A grant of authority is temporary and terminates after
332 the deploying parent returns from deployment unless the grant
333 has been terminated before that time by court order. The grant
334 does not create an independent, continuing right to caretaking
335 authority, decisionmaking authority, or limited contact to an
336 individual granted temporary custody.

337 (2) A nonparent granted caretaking authority,
338 decisionmaking authority, or limited contact has standing to
339 enforce the grant until it is terminated by court order or under
340 this part.

341 61.745 Content of temporary custody order.—An order
342 granting custodial responsibility, when applicable, must:

343 (1) Designate the order as temporary and provide for
344 termination after the deploying parent returns from deployment.

345 (2) Identify, to the extent feasible, the destination,
346 duration, and conditions of the deployment.

347 (3) Specify the allocation of caretaking authority,
348 decisionmaking authority, or limited contact among the deploying

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349 parent, the other parent, and any nonparent.

350 (4) Provide a process to resolve any dispute that may arise
351 if the order divides caretaking or decisionmaking authority
352 between individuals, or grants caretaking authority to one
353 individual and limited contact to another individual.

354 (5) Provide for liberal communication between the deploying
355 parent and the child during deployment, including through
356 electronic means, unless it is not in the best interest of the
357 child, and allocate any costs of communication.

358 (6) Provide for liberal contact between the deploying
359 parent and the child during the time the deploying parent is on
360 leave or otherwise available, unless it is not in the best
361 interest of the child.

362 (7) Provide for reasonable contact between the deploying
363 parent and the child after the parent's return from deployment
364 until the temporary order is terminated, even if the time of
365 contact exceeds the time the deploying parent spent with the
366 child before entry of the temporary order.

367 61.747 Order for child support.-If a court has issued an
368 order granting caretaking authority, or an agreement granting
369 caretaking authority has been executed, the court may enter a
370 temporary order for child support authorized by general law if
371 the court has jurisdiction under the Uniform Interstate Family
372 Support Act.

373 61.749 Modifying or terminating grant of custodial
374 responsibility or limited contact to nonparent.-

375 (1) Except for an agreement under s. 61.723, or as
376 otherwise provided in subsection (2), and consistent with the
377 Servicemembers Civil Relief Act, Title 50, Appendix U.S.C. ss.

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378 501 et seq, a court may modify or terminate a temporary grant of
379 custodial responsibility on motion of a deploying parent, other
380 parent, or any nonparent granted caretaking authority if the
381 modification or termination is consistent with this part and is
382 in the best interest of the child. A modification is temporary
383 and terminates after the deploying parent returns from
384 deployment, unless the grant has been terminated before that
385 time by court order.

386 (2) The court shall terminate a grant of limited contact on
387 motion of a deploying parent.

388 61.761 Procedure for terminating temporary agreement
389 granting custodial responsibility.-

390 (1) After a deploying parent returns from deployment, a
391 deploying parent and the other parent may file with the court an
392 agreement to terminate a temporary order for custodial
393 responsibility.

394 (2) After an agreement has been filed, it shall terminate:

395 (a) On the date specified on an agreement to terminate
396 under subsection (1); or

397 (b) On the date the agreement is signed by the deploying
398 parent and the other parent if the agreement to terminate does
399 not specify a date.

400 (3) In the absence of an agreement to terminate under (1),
401 a temporary agreement granting custodial responsibility
402 terminates 60 days after the deploying parent gives notice of
403 return from deployment to the other parent.

404 (4) If a temporary agreement granting custodial
405 responsibility was filed with a court pursuant to s. 61.729, an
406 agreement to terminate must be filed with the court within a

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407 reasonable time after the deploying parent and other parent sign
408 the agreement. The case number and heading of the case
409 concerning custodial responsibility or child support must be
410 provided to the court with the agreement to terminate.

411 (5) A proceeding seeking to prevent termination of a
412 temporary order for custodial responsibility is governed by
413 general law.

414 61.763 Visitation before termination of temporary grant of
415 custodial responsibility.—From the time a deploying parent
416 returns from deployment until a temporary agreement or order for
417 custodial responsibility is terminated, the court shall issue a
418 temporary order granting the deploying parent reasonable contact
419 with the child even if the time of contact exceeds the time the
420 deploying parent spent with the child before deployment unless
421 it is not in the best interest of the child.

422 61.771 Relation to electronic signatures in Global and
423 National Commerce Act.—This act modifies, limits, or supersedes
424 the Electronic Signatures in Global and National Commerce Act,
425 15 U.S.C. s. 7001 et seq., but does not modify, limit, or
426 supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or
427 authorize electronic delivery of any of the notices described in
428 s. 103(b) of that act, 15 U.S.C. s. 7003(b).

429 61.773 Applicability.—This act does not affect the validity
430 of a temporary court order concerning custodial responsibility
431 during deployment entered before July 1, 2018.

432 Section 2. This act shall take effect July 1, 2018.