

**SENATE BILL NO. 210**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

**BY SENATORS HUGGINS, French**

**Introduced: 1/19/10**

**Referred: Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act establishing child custody, modification, and visitation standards for a military**  
2 **parent who is deployed; and amending Rule 99, Alaska Rules of Civil Procedure."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1.** AS 25.20 is amended by adding a new section to read:

5 **Sec. 25.20.095. Custody and visitation proceedings involving a deployed**  
6 **military parent.** (a) Notwithstanding any provision in law to the contrary, a parent's  
7 absence or relocation may not, by itself, be sufficient basis for a permanent custody or  
8 visitation order if the reason for the absence or relocation is the parent's activation to  
9 military service and deployment out of state.

10 (b) A parent who is activated to military service and deployed out of state may  
11 petition a court of competent jurisdiction for custody or visitation. The petition shall  
12 be construed to be an application for affirmative relief, consistent with the protections  
13 afforded under 50 U.S.C. App. 501 - 596 (Servicemembers Civil Relief Act) and may  
14 include a request to delegate the deployed parent's visitation rights to a family

1 member.

2 (c) A court shall order a delegation of visitation rights on the basis of a  
3 petition filed under (b) of this section if the court finds that the relative receiving the  
4 delegation has an existing close relationship to the child and the delegation is in the  
5 child's best interest.

6 (d) A hearing on a petition filed under this section shall be expedited by the  
7 court on a motion filed by the deployed parent and, if the parent is deployed out of  
8 state, subject to an additional 10 days' notice.

9 (e) A parent who is deployed out of state may not be construed to have waived  
10 any rights or protections with regard to custody or visitation of the deployed parent's  
11 child unless the deployed parent expressly waives the right or protection in writing.

12 (f) A court order entered under this section must require that

13 (1) the nondeployed parent make the child reasonably available for  
14 visitation to the deployed parent when the deployed parent is on leave if the visits are  
15 in the child's best interest;

16 (2) the nondeployed parent facilitate telephonic and electronic contact  
17 between the deployed parent's child and the deployed parent if the contact is in the  
18 child's best interest;

19 (3) the nondeployed parent may move the child out of state only  
20 temporarily and only if the move is in the child's best interest and must return the child  
21 to the state before the end of the deployment period unless the deployed parent  
22 requests that the child be moved permanently; and

23 (4) the deployed parent provide timely information to the nondeployed  
24 parent regarding the deployed parent's leave schedule.

25 (g) In this section,

26 (1) "deployment" or "deployed" means military service performed in  
27 compliance with a valid order received by an active duty or reserve member of the  
28 armed services of the United States, National Guard, or United States Coast Guard to  
29 report for combat operations, contingency operations, peacekeeping operations,  
30 temporary duty, a remote tour of duty, or other active service for which the deploying  
31 parent is required to report unaccompanied by any family member;

1 (2) "military service" includes the period in which the deployed parent  
2 remains subject to deployment orders and remains deployed because of sickness,  
3 wounds, leave, or other lawful cause.

4 \* **Sec. 2.** AS 25.20.110 is amended by adding new subsections to read:

5 (d) A parent's absence, relocation, or failure to comply with custody and  
6 visitation orders may not, by itself, be sufficient to justify a permanent modification of  
7 a custody or visitation order if the reason for the absence, relocation, or failure to  
8 comply is the parent's activation to military service and deployment out of state.

9 (e) A court may provide for a temporary modification of a custody or  
10 visitation order during the period of a parent's activation to military service and  
11 deployment out of state to make reasonable accommodation for the deployment. The  
12 temporary order must specify that deployment is the basis of the order and include  
13 provisions for

14 (1) custody or reasonable visitation during a period of leave granted to  
15 the deployed parent if the custody or visitation is in the child's best interest;

16 (2) termination of the temporary order and resumption of the  
17 permanent order within 10 days of notification of the deployed parent's ability to  
18 resume custody or visitation unless the court finds that resumption of the custody or  
19 visitation order in effect before deployment is no longer in the child's best interest; the  
20 nondeployed parent shall bear the burden of proving that resumption of the order is no  
21 longer in the child's best interest;

22 (3) delegation, on request of the deployed parent, of the deployed  
23 parent's visitation rights under an existing order, if any, to another family member who  
24 has an existing close relationship to the child if the delegation is in the child's best  
25 interest;

26 (4) the nondeployed parent to move the child out of state only  
27 temporarily and only if the move is in the child's best interest and a requirement to  
28 return the child to the state before the end of the deployment period unless the  
29 deployed parent requests that the child be moved permanently; and

30 (5) a 30-day notification by the parent who is not deployed of a change  
31 of address or contact information to the deployed parent and to the court.

1 (f) A court shall expedite a hearing to modify custody or visitation on a  
2 motion made by a parent who is subject to deployment out of state.

3 (g) In this section, "deployment" and "military service" have the meanings  
4 given in AS 25.20.095.

5 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
6 read:

7 DIRECT COURT RULE AMENDMENT. Rule 99(a), Alaska Rules of Civil  
8 Procedure, is amended to read:

9 (a) **Authorization for Telephonic or Electronic Participation.** The court  
10 may allow one or more parties, counsel, witnesses or the judge to participate  
11 telephonically in any hearing or deposition for good cause and in the absence of  
12 substantial prejudice to opposing parties. **The court shall allow telephonic or**  
13 **electronic testimony if the hearing or deposition involves the custody or visitation**  
14 **of a child of a parent who is activated to military service and deployed out of**  
15 **state, at the request of the deployed parent.** Authorization for a witness to  
16 telephonically participate in a deposition does not bar the witnesses' testimony from  
17 being videotaped under Civil Rule 30.1; nor does it bar a party or attorney from being  
18 present at the site at which the witness is physically present.

19 \* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to  
20 read:

21 CONDITIONAL EFFECT. Rule 99(a), Alaska Rules of Civil Procedure, as amended  
22 by sec. 3 of this Act, takes effect only if sec. 3 of this Act receives the two-thirds majority  
23 vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.