

IN THE SENATE

SENATE BILL NO. 1380

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO CHILD CUSTODY; AMENDING CHAPTER 7, TITLE 32, IDAHO CODE, BY THE  
2 ADDITION OF A NEW SECTION 32-720, IDAHO CODE, TO PROVIDE A PROCEDURE FOR  
3 THE COURT IN THE EVENT A PETITION FOR MODIFICATION OF A CHILD CUSTODY OR-  
4 DER IS FILED WHERE THE ACTION MAY BE SUBJECT TO THE SERVICEMEMBERS CIVIL  
5 RELIEF ACT, TO PROVIDE THAT IN THOSE ACTIONS WHERE THE ACT DOES APPLY,  
6 THE COURT MAY ONLY TEMPORARILY MODIFY THE EXISTING CHILD CUSTODY ORDER  
7 DURING THE PERIOD OF DEPLOYMENT, TO PROVIDE FOR EXPIRATION OF SUCH TEM-  
8 PORARY ORDER, TO PROVIDE FOR EXPEDITED HEARINGS, TO PROVIDE FOR THE PRE-  
9 SENTATION OF TESTIMONY AND EVIDENCE BY ELECTRONIC MEANS IN CERTAIN AC-  
10 TIONS AND TO DEFINE TERMS.  
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Chapter 7, Title 32, Idaho Code, be, and the same is  
14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
15 ignated as Section 32-720, Idaho Code, and to read as follows:

16 32-720. PETITIONS FOR MODIFICATION -- CHILD CUSTODY ORDERS -- SER-  
17 VICEMEMBERS. (1) In the event a petition for modification of a child custody  
18 order is filed during the time that the court action may be subject to the  
19 servicemembers civil relief act, 50 U.S.C. App. section 501 et seq., because  
20 one (1) of the parties is a servicemember as defined in said act, the court  
21 shall determine if said act applies to the action pursuant to the jurisdic-  
22 tion provisions of the act. If the court determines that the act does apply,  
23 the court shall thereafter act in compliance with the terms of said act and,  
24 in addition, the following shall apply to the extent not in violation of said  
25 act:

26 (a) If the court determines that modification is in the best interest of  
27 the child pursuant to the provisions of section 32-717, Idaho Code, and  
28 the party who is a servicemember is deployed, the court may only enter an  
29 order or decree temporarily modifying the existing child custody order  
30 during the period of deployment, and upon completion by the servicemem-  
31 ber of the period of deployment, the order or decree shall expire;

32 (b) If the deployment of a party who is a servicemember affects the  
33 party's ability or anticipated ability to appear at a regularly sched-  
34 uled hearing related to a petition for modification of child custody,  
35 the court may provide for an expedited hearing to allow the servicemem-  
36 ber to appear;

37 (c) If the deployment of a party who is a servicemember prevents the  
38 servicemember from appearing in person at a hearing related to a pe-  
39 tition for the modification of child custody, the court may provide,  
40 upon reasonable advance notice to the parties, for the servicemember to  
41 present testimony and evidence by electronic means, if such can be done

1 without prejudice to the ability of the servicemember to adequately and  
2 reasonably present such testimony and evidence.

3 (2) For purposes of this section:

4 (a) "Deployed" or "deployment" means military service performed in  
5 compliance with a valid order received by an active duty or reserve mem-  
6 ber of the armed services of the United States, national guard or United  
7 States coast guard to report for combat operations, contingency opera-  
8 tions, peacekeeping operations, temporary duty, a remote tour of duty  
9 or other active service for which the deploying party reports. The term  
10 shall include those members who are actually deployed as well as those  
11 members with valid orders preparing to be deployed;

12 (b) "Electronic means" includes communication by telephone, video  
13 teleconference or internet.