

**HOUSE . . . . . No. 1358**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Colleen M. Garry*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to child custody when parent is on active military duty.

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PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Colleen M. Garry*

*36th Middlesex*

*James J. Dwyer*

*30th Middlesex*

**HOUSE . . . . . No. 1358**

By Ms. Garry of Dracut, a petition (accompanied by bill, House, No. 1358) of Colleen M. Garry and James J. Dwyer relative to child custody when parent is on active military duty. The Judiciary.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

An Act relative to child custody when parent is on active military duty.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1           1) Amend Section 31A of Chapter 208 by adding at the end thereof the following:
- 2     (a) A party's absence, relocation, or failure to comply with custody and parenting time orders
- 3 shall not be considered in determining whether to modify a custody or parenting order if the
- 4 reason for the absence, relocation, or failure to comply is the party's activation to military duty or
- 5 temporary duty, mobilization in support of combat or other military operation, or military
- 6 deployment out of state.
- 7     (b) If a party with sole or joint physical custody or parenting time receives temporary duty,
- 8 deployment, or mobilization orders from the military that requires the party to move a substantial
- 9 distance from his or her residence or otherwise has a material effect on the ability of the party to
- 10 exercise custody or parenting time rights, the court may do both of the following:
- 11    (1) Issue a temporary custody or parenting time order for the period extending from the date
- 12 of the party's departure to the date of his or her return. This temporary custody or parenting time
- 13 order shall terminate upon the return of the party, at which time the prior custody or parenting
- 14 time order shall return to effect.
- 15    (2) Issue an order delegating all or part of the party's parenting time rights to a family
- 16 member with a close relationship to the
- 17    child, or a stepparent of the child, for the purpose of ensuring that the child's contact with the
- 18 party is frequent and continued while the party is deployed, mobilized, or on temporary duty, if
- 19 the court finds that delegating parenting time rights is in the best interest of the child.
- 20    (c) If a party's deployment, mobilization, or temporary duty will have a material effect on his
- 21 or her ability, or anticipated ability,
- 22    to appear in person at a regularly scheduled hearing, the court shall do either of the following:

23 The following terms have the following meanings:

24  (d) "Deployment" means the temporary transfer of a member of the Armed Forces in active-

25 duty status in support of combat or some other military operation.

26  "Mobilization" means the transfer of a member of the National Guard or Military Reserve to

27 extended active-duty status, but does

28 not include National Guard or Military Reserve annual training.

29  "Temporary duty" means the transfer of a service member from one military base to a different

30 location, usually another base, for

31 a limited period of time to accomplish training or to assist in the performance of a noncombat

32 mission.

33

34  (1) Upon motion of the party, hold an expedited hearing to determine custody and parenting

35 issues prior to the departure of the

36 party.

37  (2) Upon motion of the party, allow the party to present testimony and evidence by electronic

38 means, including, but not limited to,

39 telephone, video teleconferencing, or the Internet.

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41  (2) Amend Section 11 of Chapter 209C by adding at the end thereof the following:

42  (a) A party's absence, relocation, or failure to comply with custody and parenting time orders

43 shall not be considered in determining whether to modify a custody or parenting order if the

44 reason for the absence, relocation, or failure to comply is the party's activation to military duty or

45 temporary duty, mobilization in support of combat or other military operation, or military

46 deployment out of state.

47  (b) If a party with sole or joint physical custody or parenting time receives temporary duty,

48 deployment, or mobilization orders from the military that requires the party to move a substantial

49 distance from his or her residence or otherwise has a material effect on the ability of the party to

50 exercise custody or parenting time rights, the

51 court may do both of the following:

52  (1) Issue a temporary custody or parenting time order for the period extending from the date

53 of the party's departure to the date of his or her return. This temporary custody or parenting time

54 order shall terminate upon the return of the party, at which time the prior custody or parenting

55 time order shall return to effect.

56  (2) Issue an order delegating all or part of the party's parenting time rights to a family

57 member with a close relationship to the

58 child, or a stepparent of the child, for the purpose of ensuring that the child's contact with the

59 party is frequent and continued while the party is deployed, mobilized, or on temporary duty, if

60 the court finds that delegating parenting time rights is in the best interest of the child.

61  (c) If a party's deployment, mobilization, or temporary duty will have a material effect on his

62 or her ability, or anticipated ability,

63  to appear in person at a regularly scheduled hearing, the court shall do either of the following:

64  (d) The following terms have the following meanings:

65  "Deployment" means the temporary transfer of a member of the Armed Forces in active-duty  
66 status in support of combat or some other military operation.

67  "Mobilization" means the transfer of a member of the National Guard or Military Reserve to  
68 extended active-duty status, but does

69  not include National Guard or Military Reserve annual training.

70  "Temporary duty" means the transfer of a service member from one military base to a different  
71 location, usually another base, for

72  a limited period of time to accomplish training or to assist in the performance of a noncombat  
73 mission.

74

75  (1) Upon motion of the party, hold an expedited hearing to determine custody and parenting  
76 issues prior to the departure of the

77  party.

78  (2) Upon motion of the party, allow the party to present testimony and evidence by electronic  
79 means, including, but not limited to,

80  telephone, video conferencing, or the Internet.

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