

HOUSE No. 1594

The Commonwealth of Massachusetts

PRESENTED BY:

Colleen M. Garry

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 adoption of the accompanying bill:

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

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|------------------------------|-----------------------|------------------|
| <i>Colleen M. Garry</i> | <i>36th Middlesex</i> | <i>1/25/2021</i> |
| <i>Timothy R. Whelan</i> | <i>1st Barnstable</i> | <i>2/15/2021</i> |
| <i>Steven G. Xiarhos</i> | <i>5th Barnstable</i> | <i>2/16/2021</i> |
| <i>David F. DeCoste</i> | <i>5th Plymouth</i> | <i>2/19/2021</i> |
| <i>David Allen Robertson</i> | <i>19th Middlesex</i> | <i>2/25/2021</i> |
| <i>Kelly W. Pease</i> | <i>4th Hampden</i> | <i>2/26/2021</i> |

HOUSE No. 1594

By Miss Garry of Dracut, a petition (accompanied by bill, House, No. 1594) of Colleen M. Garry and others relative to child custody when parents are on active military duty. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1419 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to child custody when either 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
3 orders shall not be considered in determining whether to modify a custody or parenting order if
4 the reason for the absence, relocation, or failure to comply is the party's activation to military
5 duty or 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
8 duty, deployment, or mobilization orders from the military that requires the party to move a
9 substantial distance from his or her residence or otherwise has a material effect on the ability of
10 the party to 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
12 date of the party's departure to the date of his or her return. This temporary custody or parenting
13 time order shall terminate upon the return of the party, at which time the prior custody or
14 parenting 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 child, or a stepparent of the child, for the purpose of
17 ensuring that the child's contact with the party is frequent and continued while the party is
18 deployed, mobilized, or on temporary duty, if the court finds that delegating parenting time
19 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
21 on his or her ability, or anticipated ability, to appear in person at a regularly scheduled hearing,
22 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
25 active-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
27 to extended active-duty status, but does not include National Guard or Military Reserve annual
28 training.

29 "Temporary duty" means the transfer of a service member from one military base to a
30 different location, usually another base, for a limited period of time to accomplish training or to
31 assist in the performance of a noncombat mission.

32

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

35 (2) Upon motion of the party, allow the party to present testimony and evidence by
36 electronic means, including, but not limited to, telephone, video teleconferencing, or the Internet.

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

38 (a) A party's absence, relocation, or failure to comply with custody and parenting time
39 orders shall not be considered in determining whether to modify a custody or parenting order if
40 the reason for the absence, relocation, or failure to comply is the party's activation to military
41 duty or temporary duty, mobilization in support of combat or other military operation, or military
42 deployment out of state.

43 (b) If a party with sole or joint physical custody or parenting time receives temporary
44 duty, deployment, or mobilization orders from the military that requires the party to move a
45 substantial distance from his or her residence or otherwise has a material effect on the ability of
46 the party to exercise custody or parenting time rights, the court may do both of the following:

47 (1) Issue a temporary custody or parenting time order for the period extending from the
48 date of the party's departure to the date of his or her return. This temporary custody or parenting
49 time order shall terminate upon the return of the party, at which time the prior custody or
50 parenting time order shall return to effect.

51 (2) Issue an order delegating all or part of the party's parenting time rights to a family
52 member with a close relationship to the child, or a stepparent of the child, for the purpose of

53 ensuring that the child's contact with the party is frequent and continued while the party is
54 deployed, mobilized, or on temporary duty, if the court finds that delegating parenting time
55 rights is in the best interest of the child.

56 (c) If a party's deployment, mobilization, or temporary duty will have a material effect
57 on his or her ability, or anticipated ability, to appear in person at a regularly scheduled hearing,
58 the court shall do either of the following:

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

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

62 "Mobilization" means the transfer of a member of the National Guard or Military Reserve
63 to extended active-duty status, but does not include National Guard or Military Reserve annual
64 training.

65 "Temporary duty" means the transfer of a service member from one military base to a
66 different location, usually another base, for a limited period of time to accomplish training or to
67 assist in the performance of a noncombat mission.

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

70 (2) Upon motion of the party, allow the party to present testimony and evidence by
71 electronic means, including, but not limited to, telephone, video teleconferencing, or the Internet.