

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 117

97TH GENERAL ASSEMBLY
2013

0664S.07T

AN ACT

To repeal sections 8.012 and 253.048, RSMo, and to enact in lieu thereof four new sections relating to military affairs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 8.012 and 253.048, RSMo, are repealed and four new
2 sections enacted in lieu thereof, to be known as sections 8.012, 173.1150, 253.048,
3 and 452.413, to read as follows:

8.012. At all state buildings and upon the grounds thereof, the board of
2 public buildings may accompany the display of the flag of the United States and
3 the flag of this state with the display of the POW/MIA flag, which is designed to
4 commemorate the service and sacrifice of the members of the Armed Forces of the
5 United States who were prisoners of war or missing in action **and with the**
6 **display of the Honor and Remember flag as an official recognition and**
7 **in honor of fallen members of the Armed Forces of the United States.**

173.1150. 1. Notwithstanding any provision of law to the
2 contrary, any individual who is in the process of separating from any
3 branch of the military forces of the United States with an honorable
4 discharge or a general discharge shall have student resident status for
5 purposes of admission and in-state tuition at any approved public four-
6 year institution in Missouri or in-state, in-district tuition at any
7 approved two-year institution in Missouri.

8 2. To be eligible for student resident status under this section,
9 any such individual shall demonstrate presence and declare residency
10 within the state of Missouri. For purposes of attending a community

11 college, an individual shall demonstrate presence and declare residency
12 within the taxing district of the community college he or she attends.

13 3. The coordinating board for higher education shall promulgate
14 rules to implement this section.

15 4. For purposes of this section, "approved public institution"
16 shall have the same meaning as provided in subdivision (3) of section
17 173.1102.

18 5. Any rule or portion of a rule, as that term is defined in section
19 536.010 that is created under the authority delegated in this section
20 shall become effective only if it complies with and is subject to all of
21 the provisions of chapter 536, and, if applicable, section 536.028. This
22 section and chapter 536 are nonseverable and if any of the powers
23 vested with the general assembly pursuant to chapter 536, to review, to
24 delay the effective date, or to disapprove and annul a rule are
25 subsequently held unconstitutional, then the grant of rulemaking
26 authority and any rule proposed or adopted after August 28, 2013, shall
27 be invalid and void.

253.048. Within the state parks, the department may accompany the
2 display of the flag of the United States and the flag of this state with the display
3 of the MIA/POW flag, which is designed to commemorate the service and sacrifice
4 of members of the Armed Forces of the United States who were prisoners of war
5 or missing in action and with the display of the Honor and Remember flag
6 as an official recognition and in honor of fallen members of the Armed
7 Forces of the United States.

452.413. 1. As used in this section, the following terms shall
2 mean:

3 (1) "Deploying parent", a parent of a child less than eighteen
4 years of age whose parental rights have not been terminated by a court
5 of competent jurisdiction or a guardian of a child less than eighteen
6 years of age who is deployed or who has received written orders to
7 deploy with the United States Army, Navy, Air Force, Marine Corps,
8 Coast Guard, National Guard, or any other reserve component thereof;

9 (2) "Deployment", military service in compliance with military
10 orders received by a member of the United States Army, Navy, Air
11 Force, Marine Corps, Coast Guard, National Guard, or any other
12 reserve component thereof to report for combat operations,
13 contingency operations, peacekeeping operations, temporary duty

14 (TDY), a remote tour of duty, or other service for which the deploying
15 parent is required to report unaccompanied by any family
16 member. Military service includes a period during which a military
17 parent remains subject to deployment orders and remains deployed on
18 account of sickness, wounds, leave, or other lawful cause;

19 (3) "Military parent", a parent of a child less than eighteen years
20 of age whose parental rights have not been terminated by a court of
21 competent jurisdiction or a guardian of a child less than eighteen years
22 of age who is a service member of the United States Army, Navy, Air
23 Force, Marine Corps, Coast Guard, National Guard, or any other
24 reserve component thereof;

25 (4) "Nondeploying parent", a parent or guardian not subject to
26 deployment.

27 2. If a military parent is required to be separated from a child
28 due to deployment, a court shall not enter a final order modifying the
29 terms establishing custody or visitation contained in an existing order
30 until ninety days after the deployment ends unless there is a written
31 agreement by both parties.

32 3. In accordance with section 452.412, deployment or the
33 potential for future deployment shall not be the sole factor supporting
34 a change in circumstances or grounds sufficient to support a
35 permanent modification of the custody or visitation terms established
36 in an existing order.

37 4. (1) An existing order establishing the terms of custody or
38 visitation in place at the time a military parent is deployed may be
39 temporarily modified to make reasonable accommodation for the
40 parties due to the deployment.

41 (2) A temporary modification order issued under this section
42 shall provide that the deploying parent shall have custody of the child
43 or reasonable visitation, whichever is applicable under the original
44 order, during a period of leave granted to the deploying parent, unless
45 it is not in the best interest of the child.

46 (3) Any court order modifying a previously ordered custody or
47 visitation due to deployment shall specify that the deployment is the
48 basis for the order and shall be entered by the court as a temporary
49 order.

50 (4) Any such temporary custody or visitation order shall require

51 the nondeploying parent to provide the court and the deploying parent
52 with written notice of the nondeploying parent's address and telephone
53 number, and update such information within seven days of any
54 change. However, if a valid order of protection under chapter 455 from
55 this or another jurisdiction is in effect that requires that the address
56 or contact information of the parent who is not deployed be kept
57 confidential, the notification shall be made to the court only, and a
58 copy of the order shall be included in the notification. Nothing in this
59 subdivision shall be construed to eliminate the requirements under
60 section 452.377.

61 (5) Upon motion of a deploying parent, with reasonable advance
62 notice and for good cause shown, the court shall hold an expedited
63 hearing in any custody or visitation matters instituted under this
64 section when the military duties of the deploying parent have a
65 material effect on his or her ability or anticipated ability to appear in
66 person at a regularly scheduled hearing.

67 5. (1) A temporary modification of such an order automatically
68 ends no later than thirty days after the return of the deploying parent
69 and the original terms of the custody or visitation order in place at the
70 time of deployment are automatically reinstated.

71 (2) Nothing in this section shall limit the power of the court to
72 conduct an expedited or emergency hearing regarding custody or
73 visitation upon return of the deploying parent, and the court shall do
74 so within ten days of the filing of a motion alleging an immediate
75 danger or irreparable harm to the child.

76 (3) The nondeploying parent shall bear the burden of showing
77 that reentry of the custody or visitation order in effect before the
78 deployment is no longer in the child's best interests. The court shall set
79 any nonemergency motion by the nondeploying parent for hearing
80 within thirty days of the filing of the motion.

81 6. (1) Upon motion of the deploying parent or upon motion of a
82 family member of the deploying parent with his or her consent, the
83 court may delegate his or her visitation rights, or a portion of such
84 rights, to a family member with a close and substantial relationship to
85 the minor child or children for the duration of the deployment if it is
86 in the best interest of the child.

87 (2) Such delegated visitation time or access does not create an

88 entitlement or standing to assert separate rights to parent time or
89 access for any person other than a parent, and shall terminate by
90 operation of law upon the end of the deployment, as set forth in this
91 section.

92 (3) Such delegated visitation time shall not exceed the visitation
93 time granted to the deploying parent under the existing order; except
94 that, the court may take into consideration the travel time necessary
95 to transport the child for such delegated visitation time.

96 (4) In addition, there is a rebuttable presumption that a deployed
97 parent's visitation rights shall not be delegated to a family member who
98 has a history of perpetrating domestic violence as defined under
99 section 455.010 against another family or household member, or
100 delegated to a family member with an individual in the family
101 member's household who has a history of perpetrating domestic
102 violence against another family or household member.

103 (5) The person or persons to whom delegated visitation time has
104 been granted shall have full legal standing to enforce such rights.

105 7. Upon motion of a deploying parent and upon reasonable
106 advance notice and for good cause shown, the court shall permit such
107 parent to present testimony and evidence by affidavit or electronic
108 means in support, custody, and visitation matters instituted under this
109 section when the military duties of such parent have a material effect
110 on his or her ability to appear in person at a regularly scheduled
111 hearing. Electronic means includes communication by telephone, video
112 conference, or the internet.

113 8. Any order entered under this section shall require that the
114 nondeploying parent:

115 (1) Make the child or children reasonably available to the
116 deploying parent when the deploying parent has leave;

117 (2) Facilitate opportunities for telephonic and electronic mail
118 contact between the deploying parent and the child or children during
119 deployment; and

120 (3) Receive timely information regarding the deploying parent's
121 leave schedule.

122 9. (1) If there is no existing order establishing the terms of
123 custody and visitation and it appears that deployment is imminent,
124 upon the filing of initial pleadings and motion by either parent, the

125 court shall expedite a hearing to establish temporary custody or
126 visitation to ensure the deploying parent has access to the child, to
127 ensure disclosure of information, to grant other rights and duties set
128 forth in this section, and to provide other appropriate relief.

129 (2) Any initial pleading filed to establish custody or visitation for
130 a child of a deploying parent shall be so identified at the time of filing
131 by stating in the text of the pleading the specific facts related to
132 deployment.

133 10. (1) Since military necessity may preclude court adjudication
134 before deployment, the parties shall cooperate with each other in an
135 effort to reach a mutually agreeable resolution of custody, visitation,
136 and child support.

137 (2) A deploying parent shall provide a copy of his or her orders
138 to the nondeploying parent promptly and without delay prior to
139 deployment. Notification shall be made within ten days of receipt of
140 deployment orders. If less than ten days' notice is received by the
141 deploying parent, notice shall be given immediately upon receipt of
142 military orders. If all or part of the orders are classified or restricted
143 as to release, the deploying parent shall provide, under the terms of
144 this subdivision, all such nonclassified or nonrestricted information to
145 the nondeploying parent.

146 11. In an action brought under this chapter, whenever the court
147 declines to grant or extend a stay of proceedings under the
148 Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521-522,
149 and decides to proceed in the absence of the deployed parent, the court
150 shall appoint a guardian ad litem to represent the minor child's
151 interests.

152 12. Service of process on a nondeploying parent whose
153 whereabouts are unknown may be accomplished in accordance with the
154 provisions of section 506.160.

155 13. In determining whether a parent has failed to exercise
156 visitation rights, the court shall not count any time periods during
157 which the parent did not exercise visitation due to the material effect
158 of such parent's military duties on visitation time.

159 14. Once an order for custody has been entered in Missouri, any
160 absence of a child from this state during deployment shall be
161 denominated a temporary absence for the purposes of application of

162 the Uniform Child Custody Jurisdiction and Enforcement Act
163 (UCCJEA). For the duration of the deployment, Missouri shall retain
164 exclusive jurisdiction under the UCCJEA and deployment shall not be
165 used as a basis to assert inconvenience of the forum under the UCCJEA.

166 15. In making determinations under this section, the court may
167 award attorney's fees and costs based on the court's consideration of:

168 (1) The failure of either party to reasonably accommodate the
169 other party in custody or visitation matters related to a military
170 parent's service;

171 (2) Unreasonable delay caused by either party in resolving
172 custody or visitation related to a military parent's service;

173 (3) Failure of either party to timely provide military orders,
174 income, earnings, or payment information, housing or education
175 information, or physical location of the child to the other party; and

176 (4) Other factors as the court may consider appropriate and as
177 may be required by law.

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