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AN ACT

RELATING TO DOMESTIC RELATIONS; ENACTING THE DEPLOYED PARENTS  
CUSTODY AND VISITATION ACT; ESTABLISHING PROCEDURES FOR  
MODIFYING EXISTING CUSTODY, TIME-SHARING OR VISITATION ORDERS  
FOR CHILDREN OF SERVICE MEMBERS; PROHIBITING ENTRY OF FINAL  
ORDERS MODIFYING EXISTING CHILD CUSTODY, TIME-SHARING OR  
VISITATION ORDERS WHILE A SERVICE MEMBER IS UNAVAILABLE  
PURSUANT TO MILITARY ORDERS; PROHIBITING THE MODIFICATION OF  
EXISTING CHILD CUSTODY, TIME-SHARING OR VISITATION ORDERS  
SOLELY BECAUSE A SERVICE MEMBER IS ABSENT OR MIGHT BE ABSENT  
PURSUANT TO MILITARY ORDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the  
"Deployed Parents Custody and Visitation Act".

SECTION 2. DEFINITIONS.--As used in the Deployed  
Parents Custody and Visitation Act:

A. "adult" means an individual who has attained  
eighteen years of age or is an emancipated minor;

B. "caretaking authority" means the right to live  
with and care for a child on a day-to-day basis. "Caretaking  
authority" includes physical custody, parenting time, right  
to access and visitation;

C. "child" means:  
(1) an unemancipated individual who has not  
attained eighteen years of age; or  
(2) an adult son or daughter by birth or  
adoption, or under law of this state other than the Deployed  
Parents Custody and Visitation Act, who is the subject of a  
court order concerning custodial responsibility;

1           D. "court" means a tribunal, including an  
2 administrative agency, authorized under law of this state  
3 other than the Deployed Parents Custody and Visitation Act,  
4 to make, enforce or modify a decision regarding custodial  
5 responsibility;

6           E. "custodial responsibility" includes all powers  
7 and duties relating to caretaking authority and  
8 decision-making authority for a child. "Custodial  
9 responsibility" includes physical custody, legal custody,  
10 parenting time, right to access, visitation and authority to  
11 grant limited contact with a child;

12           F. "decision-making authority" means the power to  
13 make important decisions regarding a child, including  
14 decisions regarding the child's education, religious  
15 training, health care, extracurricular activities and travel.  
16 "Decision-making authority" does not include the power to  
17 make decisions that necessarily accompany a grant of  
18 caretaking authority;

19           G. "deploying parent" means a service member who  
20 is deployed or has been notified of impending deployment and  
21 is:

22           (1) a parent of a child under law of this  
23 state other than the Deployed Parents Custody and Visitation  
24 Act; or

25           (2) an individual who has custodial  
responsibility for a child under law of this state other than  
the Deployed Parents Custody and Visitation Act;

          H. "deployment" means the movement or mobilization  
of a service member for more than ninety days but less than  
eighteen months pursuant to uniformed service orders that:

1 (1) are designated as unaccompanied;  
2 (2) do not authorize dependent travel; or  
3 (3) otherwise do not permit the movement of  
4 family members to the location to which the service member is  
5 deployed;

6 I. "family member" means a sibling, aunt, uncle,  
7 cousin, stepparent or grandparent of a child or an individual  
8 recognized to be in a familial relationship with a child  
9 under law of this state other than the Deployed Parents  
10 Custody and Visitation Act;

11 J. "limited contact" means the authority of a  
12 nonparent to visit a child for a limited time. "Limited  
13 contact" includes authority to take the child to a place  
14 other than the residence of the child;

15 K. "nonparent" means an individual other than a  
16 deploying parent or other parent;

17 L. "other parent" means an individual who, in  
18 common with a deploying parent, is:

19 (1) a parent of a child under law of this  
20 state other than the Deployed Parents Custody and Visitation  
21 Act; or

22 (2) an individual who has custodial  
23 responsibility for a child under law of this state other than  
24 the Deployed Parents Custody and Visitation Act;

25 M. "record" means information that is inscribed on  
a tangible medium or that is stored in an electronic or other  
medium and is retrievable in perceivable form;

N. "return from deployment" means the conclusion  
of a service member's deployment as specified in uniformed  
service orders;

1 O. "service member" means a member of a uniformed  
2 service;

3 P. "sign" means with present intent to  
4 authenticate or adopt a record to:

- 5 (1) execute or adopt a tangible symbol; or  
6 (2) attach to or logically associate with  
7 the record an electronic symbol, sound or process;

8 Q. "state" means a state of the United States, the  
9 District of Columbia, Puerto Rico, the United States Virgin  
10 Islands or any territory or insular possession subject to the  
11 jurisdiction of the United States; and

12 R. "uniformed service" means:

- 13 (1) active and reserve components of the  
14 army, navy, air force, marine corps or coast guard of the  
15 United States;  
16 (2) the United States merchant marine;  
17 (3) the commissioned corps of the United  
18 States public health service;  
19 (4) the commissioned corps of the national  
20 oceanic and atmospheric administration of the United States;  
21 or  
22 (5) the national guard of a state.

23 SECTION 3. RESIDENCE UNCHANGED BY DEPLOYMENT.--

24 A. If a court has issued a temporary order  
25 regarding custodial responsibility pursuant to the Deployed  
Parents Custody and Visitation Act, the residence of the  
deploying parent is not considered to be changed by reason of  
the deployment for the purposes of the Uniform Child-Custody  
Jurisdiction and Enforcement Act during the deployment.

B. If a court has issued a permanent order

1 regarding custodial responsibility before notice of  
2 deployment and the parents modify that order temporarily by  
3 agreement pursuant to the Deployed Parents Custody and  
4 Visitation Act, the residence of the deploying parent is not  
5 considered to be changed by reason of the deployment for the  
6 purposes of the Uniform Child-Custody Jurisdiction and  
7 Enforcement Act.

8 C. If a court in another state has issued a  
9 temporary order regarding custodial responsibility as a  
10 result of impending or current deployment, the residence of  
11 the deploying parent is not considered to be changed by  
12 reason of the deployment for the purposes of the Uniform  
13 Child-Custody Jurisdiction and Enforcement Act.

14 SECTION 4. NOTIFICATION REQUIRED OF DEPLOYING PARENT.--

15 A. Except as otherwise provided in Subsection D of  
16 this section and subject to Subsection C of this section, a  
17 deploying parent shall notify in a record the other parent of  
18 a pending deployment not later than seven days after  
19 receiving notice of deployment unless reasonably prevented  
20 from doing so by the circumstances of service.

21 B. Except as otherwise provided in Subsection D of  
22 this section and subject to Subsection C of this section,  
23 each parent shall provide in a record the other parent with a  
24 plan for fulfilling that parent's share of custodial  
25 responsibility during deployment. Each parent shall provide  
the plan as soon as reasonably possible after notification of  
deployment.

C. If a court order currently in effect prohibits  
disclosure of the address or contact information of the other  
parent, notification of deployment pursuant to Subsection A

1 of this section or notification of a plan for custodial  
2 responsibility during deployment pursuant to Subsection B of  
3 this section may be made only to the issuing court. If the  
4 address of the other parent is available to the issuing  
5 court, the court shall forward the notification to the other  
6 parent. The court shall keep confidential the address or  
7 contact information of the other parent.

8 D. Notification in a record under Subsection A or  
9 B of this section is not required if the parents are living  
10 in the same residence and both parents have actual notice of  
11 the deployment or plan.

12 SECTION 5. DUTY TO NOTIFY OF CHANGE OF ADDRESS.--

13 A. Except as otherwise provided in Subsection B of  
14 this section, an individual to whom custodial responsibility  
15 has been granted during deployment pursuant to the Deployed  
16 Parents Custody and Visitation Act shall notify the deploying  
17 parent and any other individual with custodial responsibility  
18 of a child of any change of the individual's mailing address  
19 or residence until the custodial responsibility is  
20 terminated.

21 B. If a court order currently in effect prohibits  
22 disclosure of the address or contact information of an  
23 individual to whom custodial responsibility has been granted,  
24 a notification pursuant to Subsection A of this section may  
25 be made only to the court that issued the order. The court  
shall keep confidential the mailing address or residence of  
the individual to whom custodial responsibility has been  
granted.

SECTION 6. GENERAL CONSIDERATION IN CUSTODY PROCEEDING  
OF PARENT'S MILITARY SERVICE.--In a proceeding for custodial

1 responsibility of a child of a service member, a court shall  
2 not consider a parent's past deployment or possible future  
3 deployment in itself in determining the best interest of the  
4 child.

5 SECTION 7. AGREEMENT ADDRESSING CUSTODIAL  
6 RESPONSIBILITY DURING DEPLOYMENT--FORM OF AGREEMENT.--

7 A. The parents of a child may enter into a  
8 temporary agreement granting custodial responsibility during  
9 deployment under the Deployed Parents Custody and Visitation  
10 Act.

11 B. A temporary agreement pursuant to Subsection A  
12 of this section shall be:

- 13 (1) in writing; and  
14 (2) signed by both parents and any nonparent  
15 to whom custodial responsibility is granted.

16 SECTION 8. NATURE OF AUTHORITY CREATED BY AGREEMENT.--

17 A. An agreement under the Deployed Parents Custody  
18 and Visitation Act is temporary and terminates pursuant to  
19 that act after the deploying parent returns from deployment,  
20 unless the agreement has been terminated before that time by  
21 court order. The agreement does not create an independent,  
22 continuing right to caretaking authority, decision-making  
23 authority or limited contact in an individual to whom  
24 custodial responsibility is given.

25 B. A nonparent who has caretaking authority,  
decision-making authority or limited contact by an agreement  
pursuant to the Deployed Parents Custody and Visitation Act  
has standing to enforce the agreement until it has been  
terminated by court order.

SECTION 9. EXPEDITED HEARING.--If a motion to grant

1 custodial responsibility is filed pursuant to the Deployed  
2 Parents Custody and Visitation Act before a deploying parent  
3 deploys, the court shall conduct an expedited hearing.

4 SECTION 10. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2014. \_\_\_\_\_

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