

2013 MILITARY PARENT CUSTODY AND VISITATION LEGISLATION

Over the last decade, legislation addressing issues facing military parents has become a national trend. With the number of custody and visitation issues among military families growing, the National Conference of Commissioners on Uniform State Laws drafted the Uniform Deployed Parents Custody and Visitation Act (UDPCVA) to allow states to adopt a procedure for courts to use when faced with this unique situation. During the 2013 legislative session, eight states enacted nine bills addressing deployed parent custody and visitation. Of those eight states, Colorado, Nevada, North Carolina, and North Dakota became the first in the nation to adopt the UDPCVA.

Already during the 2014 legislative session, three states—Mississippi, South Dakota and Tennessee—and the District of Columbia have introduced bills to adopt the Uniform Deployed Parents Custody and Visitation Act (UDPCVA). In addition to those states seeking to adopt the UDPCVA, seven other states have 16 pending bills for consideration during the 2014 legislative session.

Below are summaries of the 2013 enacted legislation addressing custody and visitation issues of military families. For more information about the Uniform Deployed Parents Custody and Visitation Act and states that have introduced or enacted deployed parent custody and visitation legislation visit the Child Support Project's [Military Custody and Visitation](#) page.

Custody and Visitation Legislation 2013

CO HB 1200: Adopts the Uniform Deployed Parents Custody and Visitation Act. The act addresses jurisdiction over these matters and specifically explains that deployment does not change the residence of the deploying parent for purposes of the UCCJEA. Requires notice of deployment by deploying parent to other parent within 12 days of notice of deployment, unless reasonably prevented from doing so by the circumstances of service. However, notice must be given as soon as reasonably possible. Requires that, prior to deployment, each parent shall submit to the other parent a plan for fulfilling that parent's share of custodial responsibility. Sets forth requirements for interim agreements during deployment and the procedure for terminating the interim agreement upon the deploying parent's return.

ID SB 1122: Grants the court authority to enter an order or decree temporarily modifying the existing order of a servicemember under the Servicemembers Civil Relief Act, upon notification of deployment. Allows the order to expire 60 days after notification to the court that the servicemember has returned from deployment, after which they may conduct an expedited or emergency hearing to determine if the temporary order should expire or continue. Requires that, following the return of the servicemember from deployment, and until the temporary order is terminated, the court grant reasonable contact with the child unless it is not in the child's best interest. Authorizes the court to allow testimony via electronic means if deployment affects the servicemember's ability to appear at the modification hearing.

KY HB 69: Requires any court-ordered modification of a visitation decree based on the active duty of the parent to be temporary and revert back to

the previous decree at the end of deployment. Allows a parent or de facto custodian to consent to modification of a child visitation decree that continues past the end of deployment. Grants any relative, by blood or affinity, that was granted temporary custody to obtain non-custodial parental visitation rights if it is found by clear and convincing evidence to be in the best interests of the child. Adds whether a parent has sexually abused the child or is required to register on a sex offender registry to the list of situations in which reunification efforts are not required. Creates the Interstate Compact for the Placement of Children regarding the placement of children deemed abused, neglected, delinquent or unmanageable, in residential facilities outside of the state holding jurisdiction.

MO HB 148: Establishes the custody and visitation rights of a deploying military parent. Prohibits the court from entering a final order for modification of a custody or visitation order until 90 days following the end of the parent's deployment and specifies that the deployment or potential for deployment must not be the sole factor supporting a change in circumstances or grounds sufficient to support a permanent modification of the custody or visitation. Allows a temporary modification of the orders to accommodate deployment and specifies the terms required in such a modification. Requires the temporary order to terminate 30 days after return from deployment and the original custody and visitation order to be automatically reinstated. Outlines the duties of notification that the deploying and non-deploying parent have to each other.

MO SB 110: Establishes the child custody and visitation rights of a deploying military parent. Forbids a court from entering a final order modifying the terms of custody or visitation contained in an existing order

until 90 days after the deployment ends, but that a temporary modification may be entered to make reasonable accommodations for the parties due to the deployment. Allows the visitation rights of the deploying parent to be transferred to a family member with a close and substantial relationship to the minor child for the duration of the deployment, if it is in the best interest of the child. Clarifies that these rights terminate upon the end of deployment. Clarifies that deployment or the potential for deployment shall not be the sole factor supporting a change in circumstances or grounds sufficient to support a permanent modification of the custody or visitation terms established in an existing order. Outlines the duties that the deploying parent has to the nondeploying parent regarding notice of deployment. Allows for the automatic termination of the temporary modification following deployment and provides for an expedited or emergency hearing upon the return of the deploying parent. Sets requirements and procedures for a person providing emergency foster care.

NV AB 358: Sets the circumstances under which a state court has jurisdiction to issue custody orders when a parent has received military deployment orders. Prohibits the court from solely considering the parent's past deployment or possible future deployment in a custody or visitation determination. Details the procedures for judicial resolution of issues that arise during deployment of one parent and requires expedited hearings before parent deploys to set a temporary custody arrangement. Establishes rules that apply in a proceeding during deployment of one parent, authorizes the court to grant caretaking authority to a nonparent under certain circumstances, and sets forth procedures for terminating a temporary custody arrangement after deployment ends. Allows the order to

terminate 60 days after the date on which deploying parent gives notice of having returned from deployment, if no agreement to terminate a temporary arrangement is made.

NJ SB 1051: Prohibits the court from considering the absence or potential absence of a military service member due to deployment as a factor in determining the best interest of the child when making a custody and visitation determination. Allows for expedited hearings in situations where there is no custody or parenting time arrangement, and a parent has received written notice of deployment or service-related absence. Requires servicemembers who are parties to child custody or parenting time arrangements to notify the other parent of deployment and provide timely information regarding the servicemember's scheduled leave and requires the other parent to make the child reasonably available to and facilitate communication with the servicemember when on leave. Prohibits the court from modifying a judgment that changes an existing custody arrangement without the consent of all parties, except when court finds it to be in the best interest of the child. Authorizes the court to order parenting time for a family member of the service member in his or her place. Permits the custody and parenting time arrangement prior to the deployment to be resumed and prohibits it from being modified for 90 days following return from deployment.

NC HB 139: Prohibits the court from considering a parent's past deployment or possible future deployment as the only basis in determining the best interest of the child, but does allow the court to consider any significant impact on the best interest of the child regarding the parent's past or possible future deployment. Establishes the Uniform Deployed

Parents Custody and Visitation Act. Details remedies for noncompliance, jurisdiction, notification requirements of the deploying parent and the non-deploying parent, the requirements of a temporary agreement granting custody deployment, the authority created by the agreement, and the termination of the temporary agreement upon return from deployment. Allows for a court issued temporary order for custody and allows for an expedited hearing or testimony by electronic means if a party is not reasonably available to appear personally. Specifies the effect of the prior judicial decree or agreement during deployment, allows for a grant of caretaking authority, decision-making authority, or limited contact to a nonparent under specified conditions, among other provisions dealing with the authority, content and termination of the temporary order. Along with temporary custody orders, the bill also authorizes the court to issue temporary support orders during the period of deployment.

ND SB 2122: Prohibits the court from considering a parent's past or future deployment in determining the best interest of the children, however, the court is allowed to consider any significant impact the past or future deployment may have had on the child. Requires a deploying or re-deploying parent to notify the court and the other parent of deployment no later than seven days after receiving notice of deployment. Allows the court, after notice, to issue a temporary order granting custodial responsibility, provided that at any time after notice, either parent files a motion with the court. Allows an expedited hearing and the procedures for termination of the temporary agreement following deployment and re-enforcement of the prior order. Authorizes the court to grant caretaking and decision-making authority to non-parents with whom the child has a close substantial

relationship.

About This NCSL Project

NCSL staff in D.C. and Denver can provide comprehensive, thorough, and timely information on critical child support policy issues. We provide services to legislators and staff working to improve state policies affecting children and their families. NCSL's online clearinghouse for state legislators includes resources on child support police, financing, laws, research and promising practices. **Technical assistance visits to states are available to any state legislature that would like training or assistance related to this topic.**

The Denver-based child support project staff focuses on state policy, tracking legislation and providing research and policy analysis, consultation, and technical assistance specifically geared to the legislative audience. Denver staff can be reached at (303) 364-7700 or cyf-info@ncsl.org.

NCSL staff in Washington, D.C. track and analyze federal legislation and policy and represent state legislatures on child support issues before Congress and the Administration. In D.C., Joy Johnson Wilson at 202-624-8689 or by e-mail at joy.wilson@ncsl.org and Rachel Morgan at (202) 624-3569 or by e-mail at rachel.morgan@ncsl.org.

The child support project and D.C. human services staff receive guidance and support from [NCSL's Standing Committee on Health & Human Services](#).

Additional Resources

- [Military Parent Custody and Visitation](#)
- [Military Families and Child Support, Custody and Visitation Webinar](#)
- [NCSL's Military and Veteran's Affairs Program](#)