

1 A bill to be entitled
2 An act relating to deployed parent custody and
3 visitation; creating part IV of ch. 61, F.S., entitled
4 "Uniform Deployed Parents Custody and Visitation Act";
5 providing definitions; providing remedies for
6 noncompliance; authorizing a court to issue certain
7 custodial orders only under certain jurisdiction;
8 providing notice requirements; providing requirements
9 for proceeding for custodial responsibility of a child
10 of a servicemember; providing requirements for
11 agreement forms, termination, modification, power of
12 attorney, and filing; providing requirements for
13 temporary orders of custodial responsibility;
14 authorizing electronic testimony in a proceeding for
15 temporary custody; providing for the effect of any
16 prior judicial order or agreement; authorizing a court
17 to grant caretaking authority or limited contact to a
18 nonparent under certain conditions; providing for the
19 termination of a grant of authority; providing
20 requirements for an order of temporary custody;
21 authorizing a court to enter a temporary order for
22 child support under certain circumstances; authorizing
23 a court to modify or terminate a temporary grant of
24 custodial responsibility; providing procedures for
25 termination of a temporary custodial responsibility

26 | agreement; providing for visitation; providing
 27 | construction; providing applicability; repealing s.
 28 | 61.13002, F.S., relating to temporary time-sharing
 29 | modification and child support modification due to
 30 | military service; providing an effective date.

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 32 | Be It Enacted by the Legislature of the State of Florida:

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 34 | Section 1. Part IV of chapter 61, Florida Statutes,
 35 | consisting of sections 61.703-61.773, Florida Statutes, is
 36 | created and entitled "Uniform Deployed Parents Custody and
 37 | Visitation Act."

38 | 61.703 Definitions.—As used in this part:

39 | (1) "Adult" means an individual who has attained 18 years
 40 | of age or who has had the disability of nonage removed under
 41 | chapter 743.

42 | (2) "Caretaking authority" means the right to live with
 43 | and care for a child on a day-to-day basis. The term includes
 44 | physical custody, parenting time, right to access, and
 45 | visitation.

46 | (3) "Child" means:

47 | (a) An individual who has not attained 18 years of age and
 48 | who has not had the disability of nonage removed under chapter
 49 | 743; or

50 | (b) An adult son or daughter by birth or adoption, or

51 designated by general law, who is the subject of a court order
52 concerning custodial responsibility.

53 (4) "Close and substantial relationship" means a
54 relationship in which a significant bond exists between a child
55 and a nonparent.

56 (5) "Court" means the court of legal jurisdiction.

57 (6) "Custodial responsibility" includes all powers and
58 duties relating to caretaking authority and decisionmaking
59 authority for a child. The term includes physical custody, legal
60 custody, parenting time, right to access, visitation, and
61 authority to grant limited contact with a child.

62 (7) "Decisionmaking authority" means the power to make
63 important decisions regarding a child, including decisions
64 regarding the child's education, religious training, health
65 care, extracurricular activities, and travel. The term does not
66 include the power to make decisions that necessarily accompany a
67 grant of caretaking authority.

68 (8) "Deploying parent" means a servicemember who is
69 deployed or has been notified of impending deployment and is:

70 (a) A parent of a child; or

71 (b) An individual who has custodial responsibility for a
72 child.

73 (9) "Deployment" means the movement or mobilization of a
74 servicemember for more than 90 days but less than 18 months
75 pursuant to uniformed service orders that:

- 76 (a) Are designated as unaccompanied;
 77 (b) Do not authorize dependent travel; or
 78 (c) Otherwise do not permit the movement of family members
 79 to the location to which the servicemember is deployed.
 80 (10) "Family member" means a sibling, aunt, uncle, cousin,
 81 stepparent, or grandparent of a child or an individual recognized
 82 to be in a familial relationship with a child.
 83 (11) "Limited contact" means the authority of a nonparent
 84 to visit a child for a limited time. The term includes authority
 85 to take the child to a place other than the child's residence.
 86 (12) "Nonparent" means an individual other than a
 87 deploying parent or other parent.
 88 (13) "Other parent" means an individual who, in addition
 89 to a deploying parent, is:
 90 (a) A parent of a child; or
 91 (b) An individual who has custodial responsibility for a
 92 child.
 93 (14) "Record" means information that is created in a
 94 tangible medium or stored in an electronic or other medium and
 95 is retrievable in perceivable form.
 96 (15) "Return from deployment" means the conclusion of a
 97 servicemember's deployment as specified in uniformed service
 98 orders.
 99 (16) "Servicemember" means a member of a uniformed service.
 100 (17) "Sign" means, with the intent to authenticate or

101 adopt a record, to:

102 (a) Execute or adopt a tangible symbol; or

103 (b) Attach to or logically associate with the record an
 104 electronic symbol, sound, or process.

105 (18) "State" means a state of the United States, the
 106 District of Columbia, Puerto Rico, the United States Virgin
 107 Islands, or any territory or insular possession subject to the
 108 jurisdiction of the United States.

109 (19) "Uniformed service" means any of the following:

110 (a) Active and reserve components of the Army, Navy, Air
 111 Force, Marine Corps, or Coast Guard of the United States.

112 (b) The United States Merchant Marine.

113 (c) The commissioned corps of the United States Public
 114 Health Service.

115 (d) The commissioned corps of the National Oceanic and
 116 Atmospheric Administration.

117 (e) The National Guard of a state or territory of the
 118 United States, Puerto Rico, or the District of Columbia.

119 61.705 Remedies for noncompliance.—In addition to other
 120 remedies authorized by general law, if a court finds that a
 121 party to a proceeding acts in bad faith or intentionally fails to
 122 comply with this part or a court order issued under this part,
 123 the court may assess reasonable attorney fees and costs against
 124 the party, and order other appropriate relief.

125 61.707 Jurisdiction.—

126 (1) A court may issue an order regarding custodial
 127 responsibility only if the court has jurisdiction under the
 128 Uniform Child Custody Jurisdiction and Enforcement Act.

129 (2) For purposes of the Uniform Child Custody Jurisdiction
 130 and Enforcement Act, the residence of the deploying parent does
 131 not change by reason of the deployment if:

132 (a) A court has issued a temporary order regarding
 133 custodial responsibility.

134 (b) A court has issued a permanent order regarding
 135 custodial responsibility before notice of deployment and the
 136 parents modify that order temporarily by agreement.

137 (c) A court in another state has issued a temporary order
 138 regarding custodial responsibility as a result of impending or
 139 current deployment.

140 (3) This section does not prevent a court from exercising
 141 temporary emergency jurisdiction under the Uniform Child Custody
 142 Jurisdiction and Enforcement Act.

143 61.709 Notice requirement for deploying parent.-

144 (1) Except as otherwise provided in subsection (3), and
 145 subject to subsection (2), a deploying parent shall notify in a
 146 record to the other parent:

147 (a) A pending deployment not later than 7 days after
 148 receiving notice of deployment unless he or she is reasonably
 149 prevented from doing so by the circumstances of service, in which
 150 case the deploying parent shall provide notice as soon as

151 reasonably possible.

152 (b) A plan fulfilling each parent's share of custodial
153 responsibility during deployment provided as soon as reasonably
154 possible after notice of deployment is given under paragraph
155 (a).

156 (2) If a court order prohibits disclosure of the address
157 or contact information of the other parent, notice pursuant to
158 subsection (1) must be provided to the issuing court. If the
159 address of the other parent is available to the issuing court,
160 the court shall forward the notice to the other parent. The court
161 shall keep confidential the address or contact information of the
162 other parent.

163 (3) Notice pursuant to subsection (1) is not required if
164 both parents are living in the same residence and have actual
165 notice of the deployment or plan.

166 (4) In a proceeding regarding custodial responsibility, a
167 court may consider the reasonableness of a parent's efforts to
168 comply with this section.

169 61.711 Duty to notify of change of address.—

170 (1) Except as otherwise provided in subsection (2), an
171 individual granted custodial responsibility during deployment
172 must notify the deploying parent and any other individual with
173 custodial responsibility of a child of any change of mailing
174 address or residence until the grant is terminated. The
175 individual must provide the notice to any court that has issued

176 | a custody or child support order concerning the child.

177 | (2) If a court order prohibits disclosure of the address
178 | or contact information of an individual to whom custodial
179 | responsibility has been granted, notice pursuant to subsection
180 | (1) must be provided to the issuing court. The court shall keep
181 | confidential the mailing address or residence of the individual
182 | granted custodial responsibility.

183 | 61.713 General consideration in custody proceeding of
184 | parent's service.—In a proceeding for custodial responsibility
185 | of a child of a servicemember, a court may not consider a
186 | parent's past deployment or possible future deployment in
187 | determining the best interest of the child.

188 | 61.721 Form of custodial responsibility agreement.—

189 | (1) The parents of a child may enter into a temporary
190 | agreement granting custodial responsibility during deployment.

191 | (2) The agreement must be in writing and signed by both
192 | parents and any nonparent granted custodial responsibility.

193 | (3) Subject to subsection (4), the agreement, if feasible,
194 | must:

195 | (a) Identify the destination, duration, and conditions of
196 | the deployment that is the basis for the agreement.

197 | (b) Specify the allocation of caretaking authority among
198 | the deploying parent, the other parent, and any nonparent.

199 | (c) Specify any decisionmaking authority that accompanies
200 | a grant of caretaking authority.

201 (d) Specify any grant of limited contact to a nonparent.

202 (e) Provide a process to resolve any dispute that may arise
203 if custodial responsibility is shared by the other parent and a
204 nonparent, or by other nonparents.

205 (f) Specify the frequency, duration, and means, including
206 electronic means, by which the deploying parent will have contact
207 with the child, any role to be played by the other parent or
208 nonparent in facilitating the contact, and the allocation of any
209 costs of contact.

210 (g) Specify contact between the deploying parent and child
211 during the time the deploying parent is on leave or is otherwise
212 available.

213 (h) Acknowledge that the agreement does not modify any
214 existing child support obligation and that changing the terms of
215 the obligation during deployment requires modification in the
216 appropriate court.

217 (i) Provide that the agreement will terminate according to
218 the procedures under this part after the deploying parent returns
219 from deployment.

220 (j) Specify which parent is required to file the agreement
221 if the agreement must be filed pursuant to s. 61.729.

222 (4) The omission of any item in subsection (3) does not
223 invalidate the agreement.

224 61.723 Nature of authority created by custodial
225 responsibility agreement.—

226 (1) An agreement granting custodial responsibility during
227 deployment is temporary and terminates after the deploying
228 parent returns from deployment unless the agreement has been
229 terminated before that time by court order or modification under
230 s. 61.725. The agreement does not create an independent,
231 continuing right to caretaking authority, decisionmaking
232 authority, or limited contact for an individual granted custodial
233 responsibility.

234 (2) A nonparent granted caretaking authority,
235 decisionmaking authority, or limited contact by agreement has
236 standing to enforce the agreement until it is terminated by court
237 order or under s. 61.761, or modified under s. 61.725.

238 61.725 Modification of agreement.—

239 (1) The parents of a child may modify an agreement granting
240 custodial responsibility by mutual consent.

241 (2) If an agreement is modified before deployment of a
242 deploying parent, the modification must be in writing and signed
243 by both parents and any nonparent granted custodial
244 responsibility under the modified agreement.

245 (3) If an agreement is modified during deployment of a
246 deploying parent, the modification must be agreed to in a record
247 by both parents and any nonparent granted custodial
248 responsibility.

249 61.727 Power of attorney.—A deploying parent may, by power
250 of attorney, grant all or part of custodial responsibility to an

251 adult nonparent for the period of deployment if no other parent
252 possesses custodial responsibility, or if a court order
253 currently in effect prohibits contact between the child and the
254 other parent. The deploying parent may revoke the power of
255 attorney by signing a revocation of the power of attorney.

256 61.729 Filing custodial responsibility agreement or power
257 of attorney with court.—An agreement or power of attorney must
258 be filed within a reasonable time with a court that has entered
259 an order in effect relating to custodial responsibility or child
260 support concerning the child who is the subject of the agreement
261 or power. The case number and heading of the pending case
262 concerning custodial responsibility or child support must be
263 provided to the court with the agreement or power.

264 61.733 Proceeding for temporary custody order.—

265 (1) After a deploying parent receives notice of deployment
266 and until the deployment terminates, a court may issue a
267 temporary order granting custodial responsibility unless
268 prohibited by the Servicemembers Civil Relief Act, Title 50,
269 Appendix U.S.C. ss. 501 et seq. A court may not issue a
270 permanent order granting custodial responsibility without the
271 consent of the deploying parent.

272 (2) (a) At any time after a deploying parent receives
273 notice of deployment, either parent may file a motion regarding
274 custodial responsibility of a child during deployment. The
275 motion must be filed in a pending proceeding for custodial

276 responsibility in a court with jurisdiction under s. 61.707 or,
277 if a pending proceeding does not exist in a court with
278 jurisdiction under s. 61.707, the motion must be filed in a new
279 action for granting custodial responsibility during deployment.

280 (b) If a motion to grant custodial responsibility is filed
281 under paragraph (a) before a deploying parent deploys, the court
282 shall conduct an expedited hearing.

283 61.735 Testimony by electronic means.—In a proceeding for
284 a temporary custody order, a party or witness who is not
285 reasonably able to appear in person may appear, provide
286 testimony, and present evidence by electronic means unless the
287 court finds good cause to require in-person testimony.

288 61.737 Effect of prior judicial order or agreement.—In a
289 proceeding for a temporary grant of custodial responsibility:

290 (1) A prior judicial order granting custodial
291 responsibility in the event of deployment is binding on the court
292 unless circumstances meet the requirements authorized by general
293 law for modifying a judicial order regarding custodial
294 responsibility.

295 (2) The court shall enforce a prior written agreement
296 between the parents for granting custodial responsibility in the
297 event of deployment, including an agreement for custodial
298 responsibility during deployment, unless the court finds that
299 the agreement is not in the best interest of the child.

300 61.739 Grant of caretaking authority to nonparent.—

301 (1) Upon the motion of a deploying parent and in
302 accordance with general law, if it is in the best interest of
303 the child, a court may grant caretaking authority to a
304 nonparent who is an adult family member of the child or an
305 adult with whom the child has a close and substantial
306 relationship.

307 (2) Unless a grant of caretaking authority to a
308 nonparent is agreed to by the other parent, the grant is
309 limited to an amount of time that may not exceed:

310 (a) The amount of time granted to the deploying parent
311 under a permanent custody order; however, the court may add
312 travel time necessary to transport the child; or

313 (b) In the absence of a permanent custody order that is
314 currently in effect, the amount of time the deploying parent
315 habitually cared for the child before being notified of
316 deployment; however, the court may add travel time necessary
317 to transport the child.

318 (3) If the deploying parent is unable to exercise
319 decisionmaking authority, a court may grant part of that
320 authority to a nonparent who is an adult family member of the
321 child or an adult with whom the child has a close and
322 substantial relationship. If a court grants the authority to a
323 nonparent, the court shall specify the decisionmaking powers
324 granted.

325 61.741 Grant of limited contact.—A court shall grant

326 limited contact to a nonparent who is a family member of the
327 child or an individual with whom the child has a close and
328 substantial relationship on motion of a deploying parent and in
329 accordance with general law unless the court finds that limited
330 contact with a nonparent would not be in the best interest of
331 the child.

332 61.743 Nature of authority created by temporary custody
333 order.-

334 (1) A grant of authority is temporary and terminates after
335 the deploying parent returns from deployment unless the grant
336 has been terminated before that time by court order. The grant
337 does not create an independent, continuing right to caretaking
338 authority, decisionmaking authority, or limited contact to an
339 individual granted temporary custody.

340 (2) A nonparent granted caretaking authority,
341 decisionmaking authority, or limited contact has standing to
342 enforce the grant until it is terminated by court order or under
343 this part.

344 61.745 Content of temporary custody order.-An order
345 granting custodial responsibility, when applicable, must:

346 (1) Designate the order as temporary and provide for
347 termination after the deploying parent returns from deployment.

348 (2) Identify, to the extent feasible, the destination,
349 duration, and conditions of the deployment.

350 (3) Specify the allocation of caretaking authority,

351 decisionmaking authority, or limited contact among the
352 deploying parent, the other parent, and any nonparent.

353 (4) Provide a process to resolve any dispute that may
354 arise if the order divides caretaking or decisionmaking
355 authority between individuals, or grants caretaking authority
356 to one individual and limited contact to another individual.

357 (5) Provide for liberal communication between the
358 deploying parent and the child during deployment, including
359 through electronic means, unless it is not in the best
360 interest of the child, and allocate any costs of
361 communication.

362 (6) Provide for liberal contact between the deploying
363 parent and the child during the time the deploying parent is
364 on leave or otherwise available, unless it is not in the best
365 interest of the child.

366 (7) Provide for reasonable contact between the deploying
367 parent and the child after the parent's return from deployment
368 until the temporary order is terminated, even if the time of
369 contact exceeds the time the deploying parent spent with the
370 child before entry of the temporary order.

371 61.747 Order for child support.—If a court has issued an
372 order granting caretaking authority, or an agreement granting
373 caretaking authority has been executed, the court may enter a
374 temporary order for child support authorized by general law if
375 the court has jurisdiction under the Uniform Interstate Family

376 Support Act.

377 61.749 Modifying or terminating grant of custodial
 378 responsibility or limited contact to nonparent.-

379 (1) Except for an agreement under s. 61.723, or as
 380 otherwise provided in subsection (2), and consistent with the
 381 Servicemembers Civil Relief Act, Title 50, Appendix U.S.C. ss.
 382 501 et seq, a court may modify or terminate a temporary grant of
 383 custodial responsibility on motion of a deploying parent, other
 384 parent, or any nonparent granted caretaking authority if the
 385 modification or termination is consistent with this part and is
 386 in the best interest of the child. A modification is temporary
 387 and terminates after the deploying parent returns from
 388 deployment, unless the grant has been terminated before that time
 389 by court order.

390 (2) The court shall terminate a grant of limited contact on
 391 motion of a deploying parent.

392 61.761 Procedure for terminating temporary agreement
 393 granting custodial responsibility.-

394 (1) After a deploying parent returns from deployment, a
 395 deploying parent and the other parent may file with the court an
 396 agreement to terminate a temporary order for custodial
 397 responsibility.

398 (2) After an agreement has been filed, it shall terminate:

399 (a) On the date specified on an agreement to terminate
 400 under subsection (1); or

401 (b) On the date the agreement is signed by the deploying
402 parent and the other parent if the agreement to terminate does
403 not specify a date.

404 (3) In the absence of an agreement to terminate under (1),
405 a temporary agreement granting custodial responsibility
406 terminates 60 days after the deploying parent gives notice of
407 return from deployment to the other parent.

408 (4) If a temporary agreement granting custodial
409 responsibility was filed with a court pursuant to s. 61.729, an
410 agreement to terminate must be filed with the court within a
411 reasonable time after the deploying parent and other parent sign
412 the agreement. The case number and heading of the case concerning
413 custodial responsibility or child support must be provided to the
414 court with the agreement to terminate.

415 (5) A proceeding seeking to prevent termination of a
416 temporary order for custodial responsibility is governed by
417 general law.

418 61.763 Visitation before termination of temporary grant of
419 custodial responsibility.—From the time a deploying parent
420 returns from deployment until a temporary agreement or order for
421 custodial responsibility is terminated, the court shall issue a
422 temporary order granting the deploying parent reasonable contact
423 with the child even if the time of contact exceeds the time the
424 deploying parent spent with the child before deployment unless it
425 is not in the best interest of the child.

426 61.771 Relation to electronic signatures in Global and
427 National Commerce Act.—This act modifies, limits, or supersedes
428 the Electronic Signatures in Global and National Commerce Act,
429 15 U.S.C. s. 7001 et seq., but does not modify, limit, or
430 supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or
431 authorize electronic delivery of any of the notices described in
432 s. 103(b) of that act, 15 U.S.C. s. 7003(b).

433 61.773 Applicability.—This act does not affect the
434 validity of a temporary court order concerning custodial
435 responsibility during deployment entered before July 1, 2018.

436 Section 2. Section 61.13002, Florida Statutes, is
437 repealed.

438 Section 3. This act shall take effect July 1, 2018.