

2010 -- S 2460

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO DOMESTIC RELATIONS -- DIVORCE AND SEPARATION

Introduced By: Senators Tassoni, Maselli, and Sosnowski

Date Introduced: February 11, 2010

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 15-5 of the General Laws entitled "Divorce and Separation" is
2 hereby amended by adding thereto the following section:

3 **15-5-30. Custody and visitation upon military temporary duty, deployment or**
4 **mobilization.** – (a) Purpose. – Notwithstanding any provision of the general or public laws to the
5 contrary, it is the purpose of this section to provide a means by which to facilitate a fair, efficient,
6 and swift process to resolve matters regarding custody and visitation when a parent receives
7 temporary duty, deployment, or mobilization orders from the military.

8 (b) Definitions. – As used in this section:

9 (1) "Deployment" means the temporary transfer of a service member serving in an active-
10 duty status to another location in support of combat or some other military operation.

11 (2) "Mobilization" means the call-up of a national guard or reserve service member to
12 extended active duty status. For purposes of this definition, "mobilization" does not include
13 national guard or reserve annual training.

14 (3) "Temporary duty" means the transfer of a service member from one military base to a
15 different location, usually another base, for a limited period of time to accomplish training or to
16 assist in the performance of a noncombat mission.

17 (c) Custody. – When a parent who has custody, or has joint custody with primary
18 physical custody, receives temporary duty, deployment, or mobilization orders from the military
19 that involves moving a substantial distance from the parent's residence or otherwise have a

1 material effect on the parent's ability to exercise custody responsibilities:

2 (1) Any temporary custody order for the child during the parent's absence shall end no
3 later than ten (10) days after the parent returns, but shall not impair the discretion of the court to
4 conduct a hearing for emergency custody upon return of the parent and within ten (10) days of the
5 filing of a verified motion for emergency custody alleging an immediate danger of irreparable
6 harm to the child; and

7 (2) Exclusion of military service from determination of child's best interest. The
8 temporary duty, mobilization or deployment and the temporary disruption to the child's schedule
9 shall not be a factor in a determination of change of circumstances if a motion is filed to transfer
10 custody from the service member.

11 (d) Visitation. – If the parent with visitation rights receives military temporary duty,
12 deployment, or mobilization orders that involve moving a substantial distance from the parent's
13 residence or otherwise have a material effect on the parent's ability to exercise visitation rights,
14 the court may delegate the parent's visitation rights, or a portion thereof, to a family member with
15 a close and substantial relationship to the minor child for the duration of the parent's absence, if
16 delegating visitation rights is in the child's best interest.

17 (e) Expedited hearings. Upon motion of a parent who has received military temporary
18 duty, deployment or mobilization orders, the court shall, for good cause shown, hold an expedited
19 hearing in custody and visitation matters instituted under this section when the military duties of
20 the parent have a material effect on the parent's ability, or anticipated ability, to appear in person
21 at a regularly scheduled hearing.

22 (f) Electronic communications. – Upon motion of a parent who has received military
23 temporary duty, deployment, or mobilization orders, the court shall, upon reasonable advance
24 notice and for good cause shown, allow the parent to present testimony and evidence by
25 electronic means in custody and visitation matters instituted under this section when the military
26 duties of the parent have a material effect on the parent's ability to appear in person at a regularly
27 scheduled hearing. The phrase "electronic means" includes communication by telephone, video
28 teleconference, or the internet.

29 (g) Nothing in this section shall alter the duty of the court to consider the best interest of
30 the child in deciding custody or visitation matters.

31 SECTION 2. This act shall take effect upon passage.

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO DOMESTIC RELATIONS -- DIVORCE AND SEPARATION

1 This act would address the issue of custody when a custodial military parent is deployed,
2 mobilized or receives temporary orders, and would require that any temporary custody order in
3 the interim end ten (10) days after the parent returns. The deployment of the parent itself would
4 not be a factor in the determination of a change in circumstances effecting custody. This act
5 would also allow visitation rights of a deployed parent to go to a close family member and would
6 allow expedited hearings and electronic testimony.

7 This act would take effect upon passage.

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