

House File 2417

H-8219

1 Amend House File 2417 as follows:

2 1. By striking everything after the enacting clause  
3 and inserting:

4 <Section 1. Section 598.41C, subsection 1, Code  
5 2009, is amended to read as follows:

6 1. a. If an application for modification of a  
7 decree or a petition for modification of an order  
8 regarding child custody or physical care is filed prior  
9 to or during the time a parent is serving active duty  
10 in the military service of the United States, the court  
11 may only enter an order or decree temporarily modifying  
12 the existing child custody or physical care order or  
13 decree if there is clear and convincing evidence that  
14 the modification is in the best interest of the child.

15 b. If the active duty of a parent affects the  
16 parent's ability or anticipated ability to appear at a  
17 regularly scheduled hearing, the court shall provide  
18 for an expedited hearing in matters instituted under  
19 this section.

20 c. If the active duty or anticipated active duty of  
21 a parent prevents the parent from appearing in person  
22 at a hearing, the court shall provide, upon reasonable  
23 advance notice, for the parent to present testimony  
24 and evidence by electronic means in matters instituted  
25 under this section. For the purposes of this  
26 paragraph, "electronic means" includes communication by  
27 telephone, video teleconference, or the internet.

28 d. Upon the parent's completion of active duty,  
29 the court shall reinstate the custody or physical  
30 care order or decree that was in effect immediately  
31 preceding the period of active duty. If an application  
32 for modification of a decree or a petition for  
33 modification of an order is filed after a parent  
34 completes active duty, the parent's absence due to  
35 active duty does not constitute a substantial change  
36 in circumstances, and the court shall not consider a  
37 parent's absence due to that active duty in making a  
38 determination regarding the best interest of the child.

39 **Sec. 2. NEW SECTION. 598.41D Assignment of**  
40 **visitation — parent serving active duty — family**  
41 **member.**

42 1. Notwithstanding any provision to the contrary, a  
43 parent who has been granted court-ordered visitation  
44 with the parent's minor child may file an application  
45 for modification of a decree or a petition for  
46 modification of an order regarding child visitation,  
47 prior to or during the time the parent is serving  
48 active duty in the military service of the United  
49 States, to temporarily assign that parent's visitation  
50 rights to a family member of the minor child, as

1 specified by the parent. The application or petition  
2 shall be accompanied by an affidavit from the family  
3 member indicating the family member's knowledge of the  
4 application or petition and willingness to exercise the  
5 parent's visitation rights during the parent's absence.  
6 The application or petition shall also request any  
7 change in the visitation schedule necessitated by the  
8 assignment.

9 2. a. If the active duty of a parent affects the  
10 parent's ability or anticipated ability to appear at a  
11 regularly scheduled hearing, the court shall provide  
12 for an expedited hearing in matters instituted under  
13 this section.

14 b. If the active duty or anticipated active duty of  
15 a parent prevents the parent from appearing in person  
16 at a hearing, the court shall provide, upon reasonable  
17 advance notice, for the parent to present testimony  
18 and evidence by electronic means in matters instituted  
19 under this section. For the purposes of this  
20 paragraph, "*electronic means*" includes communication by  
21 telephone, video teleconference or the internet.

22 3. a. The court may grant the parent's request for  
23 temporary assignment of visitation and any change in  
24 the visitation schedule requested if the court finds  
25 that such visitation is in the best interest of the  
26 child.

27 b. In determining the best interest of the child,  
28 the court shall ensure all of the following:

29 (1) That the specified family member is not a sex  
30 offender as defined in section 692A.101.

31 (2) That the specified family member does not have  
32 a history of domestic abuse, as defined in section  
33 236.2. In determining whether a history of domestic  
34 abuse exists, the court's consideration shall include  
35 but is not limited to commencement of an action  
36 pursuant to section 236.3, the issuance of a protective  
37 order against the individual or the issuance of a  
38 court order or consent agreement pursuant to section  
39 236.5, the issuance of an emergency order pursuant to  
40 section 236.6, the holding of an individual in contempt  
41 pursuant to section 664A.7, the response of a peace  
42 officer to the scene of alleged domestic abuse or the  
43 arrest of an individual following response to a report  
44 of alleged domestic abuse, or a conviction for domestic  
45 abuse assault pursuant to section 708.2A.

46 (3) That the specified family member does not have  
47 a record of founded child or dependent adult abuse.

48 (4) That the specified family member has an  
49 established relationship with the child.

50 (5) That the specified family member is able to

1 personally and financially support the child during  
2 visitation.

3 4. An order granting assignment of visitation  
4 rights under this section does not create separate  
5 rights to visitation for a person other than the  
6 parent.

7 5. The parent shall provide a copy of the order  
8 granting assignment of visitation to the school and  
9 school district of the child to whom the order applies.

10 6. An order granting temporary assignment of  
11 visitation rights pursuant to this section shall  
12 terminate upon notification of the court by the parent  
13 or automatically upon the parent's completion of active  
14 duty, whichever occurs first.

15 7. After a parent completes active duty, if an  
16 application for modification of a decree or a petition  
17 for modification of an order is filed, the parent's  
18 absence due to active duty or the assignment of  
19 visitation rights does not constitute a substantial  
20 change in circumstances, and the court shall not  
21 consider a parent's absence due to that active duty  
22 or the assignment of visitation rights in making a  
23 determination regarding the best interest of the child  
24 relative to such an application or petition filed after  
25 a parent completes active duty.

26 8. As used in this section, "*active duty*" means  
27 active military duty pursuant to orders issued under  
28 Tit. X of the United States Code. However, this  
29 section shall not apply to active guard and reserve  
30 duty or similar full-time military duty performed by  
31 a parent when the child remains in actual custody of  
32 the parent.

33 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being  
34 deemed of immediate importance, takes effect upon  
35 enactment.>

36 2. Title page, by striking lines 1 through 4 and  
37 inserting <An Act relating to custody, physical care,  
38 and visitation provisions relating to a child of a  
39 parent who is serving active duty in the military  
40 service of the United States and including effective  
41 date provisions.>

---

GAYMAN of Scott