

Senate File 2233 - Introduced

SENATE FILE 2233
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3144)

A BILL FOR

1 An Act creating the uniform deployed parents custody and
2 visitation Act, and repealing current Code provisions
3 relating to parents on active military duty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

ARTICLE I

GENERAL PROVISIONS

Section 1. NEW SECTION. 598C.101 Short title.

This chapter shall be known and may be cited as the *Uniform Deployed Parents Custody and Visitation Act*.

Sec. 2. NEW SECTION. 598C.102 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *Adult* means an individual who has attained eighteen years of age or is an emancipated minor.

2. *Caretaking authority* means the right to live with and care for a child on a day-to-day basis. *Caretaking authority* relative to a child includes physical custody, parenting time, right to access, and visitation.

3. *Child* means any of the following:

a. An unemancipated individual who has not attained eighteen years of age.

b. An adult son or daughter by birth or adoption, or under a law of this state other than this chapter, who is the subject of a court order concerning custodial responsibility.

4. *Close and substantial relationship* means a relationship in which a significant bond exists between a child and a nonparent.

5. *Court* means a tribunal, including an administrative agency, authorized under a law of this state other than this chapter to make, enforce, or modify a decision regarding custodial responsibility.

6. *Custodial responsibility* includes all powers and duties relating to caretaking authority and decision-making authority for a child. *Custodial responsibility* includes physical custody, legal custody, parenting time, right to access, visitation, and authority to grant limited contact with a child.

7. *Decision-making authority* means the power to make

1 important decisions regarding a child, including decisions
2 regarding the child's education, religious training, health
3 care, extracurricular activities, and travel. "*Decision-making*
4 *authority*" does not include the power to make decisions that
5 necessarily accompany a grant of caretaking authority.

6 8. "*Deploying parent*" means a service member who is deployed
7 or has been notified of impending deployment and is any of the
8 following:

9 a. A parent of a child under a law of this state other than
10 this chapter.

11 b. An individual who has custodial responsibility for a
12 child under law of this state other than this chapter.

13 9. "*Deployment*" means the movement or mobilization of a
14 service member for more than ninety days but less than eighteen
15 months pursuant to uniformed service orders that meet any of
16 the following conditions:

17 a. Are designated as unaccompanied.

18 b. Do not authorize dependent travel.

19 c. Otherwise do not permit the movement of family members to
20 the location to which the service member is deployed.

21 10. "*Family member*" means a sibling, aunt, uncle, cousin,
22 stepparent, or grandparent of a child or an individual
23 recognized to be in a familial relationship with a child under
24 a law of this state other than this chapter.

25 11. "*Limited contact*" means the authority of a nonparent to
26 visit a child for a limited time. "*Limited contact*" includes
27 authority to take the child to a place other than the residence
28 of the child.

29 12. "*Nonparent*" means an individual other than a deploying
30 parent or other parent.

31 13. "*Other parent*" means an individual who, in common with a
32 deploying parent, is one of the following:

33 a. A parent of a child under a law of this state other than
34 this chapter.

35 b. An individual who has custodial responsibility for a

1 child under a law of this state other than this chapter.

2 14. "Record" means information that is inscribed on a
3 tangible medium or that is stored in an electronic or other
4 medium and is retrievable in perceivable form.

5 15. "Return from deployment" means the conclusion of a
6 service member's deployment as specified in uniformed service
7 orders, less any terminal, medical, or annual leave authorized
8 to the service member.

9 16. "Service member" means a member of a uniformed service.

10 17. "Sign" means, with present intent to authenticate or
11 adopt a record, to execute or adopt a tangible symbol or to
12 attach to or logically associate with the record an electronic
13 symbol, sound, or process.

14 18. "State" means a state of the United States, the District
15 of Columbia, Puerto Rico, the United States Virgin Islands, or
16 any territory or insular possession subject to the jurisdiction
17 of the United States.

18 19. "Uniformed service" means any of the following:

19 a. Active and reserve components of the army, navy, air
20 force, marine corps, or coast guard of the United States; the
21 United States merchant marine; the commissioned corps of the
22 United States public health service; or the commissioned corps
23 of the national oceanic and atmospheric administration of the
24 United States.

25 b. The national guard of a state, whether or not activation
26 or performance of duties is pursuant to federal or to state
27 authority.

28 Sec. 3. NEW SECTION. 598C.103 Remedies for noncompliance.

29 In addition to other remedies under a law of this state
30 other than this chapter, if a court finds that a party
31 to a proceeding under this chapter has acted in bad faith
32 or intentionally failed to comply with this chapter or a
33 court order issued under this chapter, the court may assess
34 reasonable attorney fees and costs against the party and order
35 other appropriate relief.

1 Sec. 4. NEW SECTION. **598C.104 Jurisdiction.**

2 1. A court may issue an order regarding custodial
3 responsibility under this chapter only if the court has
4 jurisdiction under chapter 598B, the uniform child-custody
5 jurisdiction and enforcement Act.

6 2. If a court has issued a temporary order regarding
7 custodial responsibility pursuant to article III, the residence
8 of the deploying parent is not changed by reason of the
9 deployment for the purposes of chapter 598B, the uniform
10 child-custody jurisdiction and enforcement Act, during the
11 deployment.

12 3. If a court has issued a permanent order regarding
13 custodial responsibility before notice of deployment and the
14 parents modify that order temporarily by agreement pursuant
15 to article II, the residence of the deploying parent is not
16 changed by reason of the deployment for the purposes of chapter
17 598B, the uniform child-custody jurisdiction and enforcement
18 Act.

19 4. If a court in another state has issued a temporary order
20 regarding custodial responsibility as a result of impending
21 or current deployment, the residence of the deploying parent
22 is not changed by reason of the deployment for the purposes
23 of chapter 598B, the uniform child-custody jurisdiction and
24 enforcement Act.

25 5. This section does not prevent a court from exercising
26 temporary emergency jurisdiction under chapter 598B, the
27 uniform child-custody jurisdiction and enforcement Act.

28 Sec. 5. NEW SECTION. **598C.105 Notification required of**
29 **deploying parent.**

30 1. Except as otherwise provided in subsection 4, and
31 subject to subsection 3, a deploying parent shall notify the
32 other parent, in a record, of a pending deployment, not later
33 than seven days after receiving notice of deployment, unless
34 reasonably prevented from doing so by the circumstances of
35 service. If the circumstances of service prevent giving

1 notification within the seven days, the deploying parent shall
2 give the notification as soon as reasonably possible.

3 2. Except as otherwise provided in subsection 4, and subject
4 to subsection 3, each parent shall provide the other parent
5 with a plan in a record for fulfilling that parent's share
6 of custodial responsibility during deployment. Each parent
7 shall provide the plan as soon as reasonably possible after
8 notification of deployment is given under subsection 1.

9 3. If a court order currently in effect prohibits disclosure
10 of the address or contact information of the other parent,
11 notification of deployment under subsection 1 or notification
12 of a plan for custodial responsibility during deployment under
13 subsection 2 may be made only to the issuing court. If the
14 address of the other parent is available to the issuing court,
15 the court shall forward the notification to the other parent.
16 The court shall keep confidential the address or contact
17 information of the other parent.

18 4. Notification in a record under subsection 1 or 2 is not
19 required if the parents are living in the same residence and
20 both parents have actual notice of the deployment or plan.

21 5. In a proceeding regarding custodial responsibility, a
22 court may consider the reasonableness of a parent's efforts to
23 comply with this section.

24 **Sec. 6. NEW SECTION. 598C.106 Duty to notify of change of**
25 **address.**

26 1. Except as otherwise provided in subsection 2, an
27 individual to whom custodial responsibility has been granted
28 during deployment pursuant to article II or III shall notify
29 in a record the deploying parent, and any other individual
30 with custodial responsibility for a child, of any change of
31 the individual's mailing address or residence until the grant
32 is terminated. The individual shall provide the notice to
33 any court that has issued a custody or child support order
34 concerning the child which is currently in effect.

35 2. If a court order currently in effect prohibits disclosure

1 of the address or contact information of an individual to whom
2 custodial responsibility has been granted, a notification under
3 subsection 1 may be made only to the court that issued the
4 order. The court shall keep confidential the mailing address
5 or residence of the individual to whom custodial responsibility
6 has been granted.

7 Sec. 7. NEW SECTION. 598C.107 **General consideration in**
8 **custody proceeding of parent's military service.**

9 In a proceeding for custodial responsibility of a child
10 of a service member, a court shall not consider a parent's
11 past deployment or probable future deployment in general in
12 determining the best interest of the child, but may consider
13 any distinct, identifiable, and significant impact on the best
14 interest of the child of the parent's past or probable future
15 deployment.

16 ARTICLE II

17 AGREEMENT ADDRESSING CUSTODIAL RESPONSIBILITY DURING DEPLOYMENT

18 Sec. 8. NEW SECTION. 598C.201 **Form of agreement.**

19 1. The parents of a child may enter into a temporary
20 agreement under this article granting custodial responsibility
21 during deployment.

22 2. An agreement under subsection 1 shall comply with all of
23 the following:

24 a. Be in writing.

25 b. Be signed by both parents and any nonparent to whom
26 custodial responsibility is granted.

27 3. Subject to subsection 4, an agreement under subsection 1,
28 if feasible, must provide all of the following:

29 a. Identify the destination, duration, and conditions of the
30 deployment that is the basis for the agreement.

31 b. Specify the allocation of caretaking authority among the
32 deploying parent, the other parent, and any nonparent.

33 c. Specify any decision-making authority that accompanies a
34 grant of caretaking authority.

35 d. Specify any grant of limited contact to a nonparent.

1 e. If under the agreement custodial responsibility is shared
2 by the other parent and a nonparent, or by other nonparents,
3 provide a process to resolve any dispute that may arise.

4 f. Specify the frequency, duration, and means, including
5 electronic means, by which the deploying parent will have
6 contact with the child, any role to be played by the other
7 parent in facilitating the contact, and the allocation of any
8 costs of contact.

9 g. Specify the contact between the deploying parent and
10 child during the time the deploying parent is on leave or is
11 otherwise available.

12 h. Acknowledge that any parent's child support obligation
13 cannot be modified by the agreement, and that changing the
14 terms of the child support obligation during deployment
15 requires modification in the appropriate court.

16 i. Provide that the agreement will terminate according to
17 the procedures under article IV after the deploying parent
18 returns from deployment.

19 j. If the agreement must be filed pursuant to section
20 598C.205, specify which parent is required to file the
21 agreement.

22 4. The omission of any of the items specified in subsection
23 3 does not invalidate an agreement under this section.

24 Sec. 9. NEW SECTION. 598C.202 Nature of authority created
25 by agreement.

26 1. An agreement under this article is temporary and
27 terminates pursuant to article IV after the deploying parent
28 returns from deployment, unless the agreement has been
29 terminated before that time by court order or modification
30 under section 598C.203. The agreement does not create an
31 independent, continuing right to caretaking authority,
32 decision-making authority, or limited contact in an individual
33 to whom custodial responsibility is given.

34 2. A nonparent who has caretaking authority,
35 decision-making authority, or limited contact by an agreement

1 under this article has standing to enforce the agreement until
2 it has been terminated by court order, by modification under
3 section 598C.203, or under article IV.

4 Sec. 10. NEW SECTION. **598C.203 Modification of agreement.**

5 1. By mutual consent, the parents of a child may modify an
6 agreement regarding custodial responsibility made pursuant to
7 this article.

8 2. If an agreement is modified under subsection 1 before
9 deployment of a deploying parent, the modification must be in
10 writing and signed by both parents and any nonparent who will
11 exercise custodial responsibility under the modified agreement.

12 3. If an agreement is modified under subsection 1 during
13 deployment of a deploying parent, the modification must be
14 agreed to in a record by both parents and any nonparent who
15 will exercise custodial responsibility under the modified
16 agreement.

17 Sec. 11. NEW SECTION. **598C.204 Power of attorney.**

18 A deploying parent, by power of attorney, may delegate all
19 or part of the deploying parent's custodial responsibility to
20 an adult nonparent for the period of deployment if no other
21 parent possesses custodial responsibility under a law of this
22 state other than this chapter, or if a court order currently
23 in effect prohibits contact between the child and the other
24 parent. The deploying parent may revoke the power of attorney
25 by signing a revocation of the power of attorney.

26 Sec. 12. NEW SECTION. **598C.205 Filing agreement or power
27 of attorney with court.**

28 An agreement or power of attorney under this article must be
29 filed within a reasonable time with any court that has entered
30 an order on custodial responsibility or child support that
31 is in effect concerning the child who is the subject of the
32 agreement or power of attorney. The case number and heading of
33 the pending case concerning custodial responsibility or child
34 support must be provided to the court with the agreement or
35 power of attorney.

ARTICLE III

JUDICIAL PROCEDURE FOR GRANTING CUSTODIAL RESPONSIBILITY DURING
DEPLOYMENT

Sec. 13. NEW SECTION. **598C.301 Proceeding for temporary custody order.**

1. After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue a temporary order granting custodial responsibility unless prohibited by the federal Servicemembers Civil Relief Act, 50 U.S.C. app. §§521 and 522. A court shall not issue a permanent order granting custodial responsibility without the consent of the deploying parent.

2. At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment. The motion must be filed in a pending proceeding for custodial responsibility in a court with jurisdiction under section 598C.104 or, if there is no pending proceeding in a court with jurisdiction under section 598C.104, in a new action for granting custodial responsibility during deployment.

Sec. 14. NEW SECTION. **598C.302 Expedited hearing.**

If a motion to grant custodial responsibility is filed under section 598C.301, subsection 2, before a deploying parent deploys, the court shall conduct an expedited hearing.

Sec. 15. NEW SECTION. **598C.303 Testimony by electronic means.**

In a proceeding under this article, a party or witness who is not reasonably available to appear personally may appear, provide testimony, and present evidence by electronic means unless the court finds good cause to require a personal appearance. For purposes of this section, "*electronic means*" includes communication by telephone, video conference, or the internet.

Sec. 16. NEW SECTION. **598C.304 Effect of prior judicial order or agreement.**

1 In a proceeding for a grant of custodial responsibility
2 pursuant to this article, the following rules shall apply:

3 1. A prior judicial order designating custodial
4 responsibility in the event of deployment is binding on the
5 court unless the circumstances meet the requirements of a law
6 of this state other than this chapter for modifying a judicial
7 order regarding custodial responsibility.

8 2. The court shall enforce a prior written agreement
9 between the parents for designating custodial responsibility
10 in the event of deployment, including an agreement executed
11 under article II, unless the court finds that the agreement is
12 contrary to the best interest of the child.

13 Sec. 17. NEW SECTION. 598C.305 Grant of caretaking or
14 decision-making authority to nonparent.

15 1. On motion of a deploying parent and in accordance with a
16 law of this state other than this chapter, if it is in the best
17 interest of the child, a court may grant caretaking authority
18 to a nonparent who is an adult family member of the child
19 or an adult with whom the child has a close and substantial
20 relationship.

21 2. Unless a grant of caretaking authority to a nonparent
22 under subsection 1 is agreed to by the other parent, the grant
23 is limited to an amount of time not greater than one of the
24 following:

25 a. The amount of time granted to the deploying parent under
26 a permanent custody order, but the court may add unusual travel
27 time necessary to transport the child.

28 b. In the absence of a permanent custody order that is
29 currently in effect, the amount of time that the deploying
30 parent habitually cared for the child before being notified of
31 deployment, but the court may add unusual travel time necessary
32 to transport the child.

33 3. A court may grant part of a deploying parent's
34 decision-making authority, if the deploying parent is unable to
35 exercise that authority, to a nonparent who is an adult family

1 member of the child or an adult with whom the child has a close
2 and substantial relationship. If a court grants the authority
3 to a nonparent, the court shall specify the decision-making
4 powers granted, including decisions regarding the child's
5 education, religious training, health care, extracurricular
6 activities, and travel.

7 4. In determining the best interest of the child, the court
8 shall ensure all of the following:

9 a. That the specified adult family member or adult with whom
10 the child has a close and substantial relationship is not a sex
11 offender as defined in section 692A.101.

12 b. That the specified adult family member or adult with
13 whom the child has a close and substantial relationship does
14 not have a history of domestic abuse, as defined in section
15 236.2. In determining whether a history of domestic abuse
16 exists, the court's consideration shall include but is not
17 limited to commencement of an action pursuant to section 236.3,
18 the issuance of a protective order against the individual or
19 the issuance of a court order or consent agreement pursuant
20 to section 236.5, the issuance of an emergency order pursuant
21 to section 236.6, the holding of an individual in contempt
22 pursuant to section 664A.7, the response of a peace officer
23 to the scene of alleged domestic abuse or the arrest of an
24 individual following response to a report of alleged domestic
25 abuse, or a conviction for domestic abuse assault pursuant to
26 section 708.2A.

27 c. That the specified adult family member or adult with whom
28 the child has a close and substantial relationship does not
29 have a record of founded child or dependent adult abuse.

30 d. That the specified adult family member or adult has
31 established a close and substantial relationship with the child
32 and that granting caretaking authority or decision-making
33 authority to the specified individual will provide the child
34 the opportunity to maintain an ongoing relationship that is
35 important to the child.

1 e. That the specified adult family member or adult with whom
2 the child has a close and substantial relationship demonstrates
3 an ability to personally and financially support the child
4 and will support the child's relationship with both of the
5 child's parents during the grant of caretaking authority or
6 decision-making authority.

7 Sec. 18. NEW SECTION. 598C.306 **Grant of limited contact.**

8 On motion of a deploying parent, and in accordance with a law
9 of this state other than this chapter, unless the court finds
10 that the contact would be contrary to the best interest of the
11 child, a court shall grant limited contact to a nonparent who
12 is a family member of the child or an individual with whom the
13 child has a close and substantial relationship.

14 Sec. 19. NEW SECTION. 598C.307 **Nature of authority created
15 by temporary custody order.**

16 1. A grant of authority under this article is temporary and
17 terminates under article IV after the return from deployment
18 of the deploying parent, unless the grant has been terminated
19 before that time by court order. The grant does not create
20 an independent, continuing right to caretaking authority,
21 decision-making authority, or limited contact in an individual
22 to whom it is granted.

23 2. A nonparent granted caretaking authority,
24 decision-making authority, or limited contact under this
25 article has standing to enforce the grant until it is
26 terminated by court order or under article IV.

27 Sec. 20. NEW SECTION. 598C.308 **Content of temporary custody
28 order.**

29 1. An order granting custodial responsibility under this
30 article must do all of the following:

31 a. Designate the order as temporary.

32 b. Identify to the extent feasible the destination,
33 duration, and conditions of the deployment.

34 2. If applicable, an order for custodial responsibility
35 under this article must do all of the following:

1 *a.* Specify the allocation of caretaking authority,
2 decision-making authority, or limited contact among the
3 deploying parent, the other parent, and any nonparent.

4 *b.* If the order divides caretaking authority or
5 decision-making authority between individuals, or grants
6 caretaking authority to one individual and limited contact to
7 another, provide a process to resolve any dispute that may
8 arise.

9 *c.* Provide for liberal communication between the deploying
10 parent and the child during deployment, including through
11 electronic means, unless contrary to the best interest of the
12 child, and allocate any costs of communications.

13 *d.* Provide for liberal contact between the deploying parent
14 and the child during the time the deploying parent is on leave
15 or otherwise available, unless contrary to the best interest
16 of the child.

17 *e.* Provide for reasonable contact between the deploying
18 parent and the child after return from deployment until the
19 temporary order is terminated, even if the time of contact
20 exceeds the time the deploying parent spent with the child
21 before entry of the temporary order.

22 *f.* Provide that the order will terminate pursuant to article
23 IV after the deploying parent returns from deployment.

24 Sec. 21. NEW SECTION. **598C.309 Order for child support.**

25 If a court has issued an order granting caretaking authority
26 under this article, or an agreement granting caretaking
27 authority has been executed under article II, the court may
28 enter a temporary order for child support consistent with a
29 law of this state other than this chapter if the court has
30 jurisdiction under chapter 598B, the uniform child-custody
31 jurisdiction and enforcement Act.

32 Sec. 22. NEW SECTION. **598C.310 Modifying or terminating**
33 **grant of custodial responsibility to nonparent.**

34 1. Except for an order under section 598C.304, and except
35 as otherwise provided in subsection 2, and consistent with

1 the federal Servicemembers Civil Relief Act, 50 U.S.C. app.
2 §§521 and 522, on motion of a deploying or other parent or
3 any nonparent to whom caretaking authority, decision-making
4 authority, or limited contact has been granted, the court
5 may modify or terminate the grant if the modification or
6 termination is consistent with this article and it is in the
7 best interest of the child. A modification is temporary and
8 terminates pursuant to article IV after the deploying parent
9 returns from deployment, unless the grant has been terminated
10 before that time by court order.

11 2. On motion of a deploying parent, the court shall
12 terminate a grant of limited contact.

13 ARTICLE IV

14 RETURN FROM DEPLOYMENT

15 Sec. 23. NEW SECTION. 598C.401 Procedure for terminating
16 temporary grant of custodial responsibility established by
17 agreement.

18 1. At any time after return from deployment, a temporary
19 agreement granting custodial responsibility under article II
20 may be terminated by an agreement to terminate signed by the
21 deploying parent and the other parent.

22 2. A temporary agreement under article II granting
23 custodial responsibility terminates on one of the following
24 dates:

25 a. If an agreement to terminate under subsection 1 specifies
26 a date for termination, on that date.

27 b. If the agreement to terminate does not specify a date, on
28 the date of the last signature of the deploying parent or the
29 other parent.

30 3. In the absence of an agreement under subsection 1
31 to terminate, a temporary agreement granting custodial
32 responsibility terminates under article II sixty days after the
33 deploying parent gives notice in a record to the other parent
34 that the deploying parent returned from deployment.

35 4. If a temporary agreement granting custodial

1 responsibility was filed with a court pursuant to section
2 598C.205, an agreement to terminate the temporary agreement
3 also must be filed with that court within a reasonable time
4 after the signing of the agreement. The case number and
5 heading of the case concerning custodial responsibility or
6 child support must be provided to the court with the agreement
7 to terminate.

8 Sec. 24. NEW SECTION. 598C.402 **Consent procedure for**
9 **terminating temporary grant of custodial responsibility**
10 **established by court order.**

11 At any time after a deploying parent returns from
12 deployment, the deploying parent and the other parent may file
13 with the court an agreement to terminate a temporary order for
14 custodial responsibility issued under article III. After an
15 agreement to terminate has been filed, the court shall issue
16 an order terminating the temporary order effective on the date
17 specified in the agreement. If a date is not specified, the
18 order is effective immediately.

19 Sec. 25. NEW SECTION. 598C.403 **Visitation before**
20 **termination of temporary grant of custodial responsibility.**

21 After a deploying parent returns from deployment and until
22 a temporary agreement or order for custodial responsibility
23 established under article II or III is terminated, the court
24 shall issue a temporary order granting the deploying parent
25 reasonable contact with the child unless it is contrary to the
26 best interest of the child, even if the time of contact exceeds
27 the time the deploying parent spent with the child before
28 deployment.

29 Sec. 26. NEW SECTION. 598C.404 **Termination by operation of**
30 **law of temporary grant of custodial responsibility established**
31 **by court order.**

32 1. If an agreement between the parties to terminate a
33 temporary order for custodial responsibility under article III
34 has not been filed, the order terminates sixty days after the
35 deploying parent gives notice in a record to the other parent

1 and any nonparent granted custodial responsibility that the
2 deploying parent has returned from deployment.

3 2. A proceeding seeking to prevent termination of a
4 temporary order for custodial responsibility is governed by the
5 law of this state other than this chapter.

6 ARTICLE V

7 MISCELLANEOUS PROVISIONS

8 Sec. 27. NEW SECTION. 598C.501 Uniformity of application
9 and construction.

10 This chapter shall be applied and construed with
11 consideration given to the need to promote uniformity of the
12 law with respect to its subject matter among states that enact
13 the uniform deployed parents custody and visitation Act.

14 Sec. 28. NEW SECTION. 598C.502 Relation to Electronic
15 Signatures in Global and National Commerce Act.

16 This chapter modifies, limits, and supersedes the federal
17 Electronic Signatures in Global and National Commerce Act, 15
18 U.S.C. §7001 et seq., but does not modify, limit, or supersede
19 section 101(c) of that Act, 15 U.S.C. §7001(c), or authorize
20 electronic delivery of any of the notices described in section
21 103(b) of that Act, 15 U.S.C. §7003(b).

22 Sec. 29. NEW SECTION. 598C.503 Applicability.

23 This chapter does not affect the validity of a temporary
24 court order concerning custodial responsibility during
25 deployment which was entered before July 1, 2016.

26 DIVISION II

27 Sec. 30. REPEAL. Sections 598.41C and 598.41D, Code 2016,
28 are repealed.

29 EXPLANATION

30 The inclusion of this explanation does not constitute agreement with
31 the explanation's substance by the members of the general assembly.

32 This bill creates the "Uniform Deployed Parents Custody and
33 Visitation Act" to provide a uniform interstate process for
34 deployed parents to affect the custody and visitation of their
35 children.

1 The bill provides definitions including for "caretaking
2 authority", "close and substantial relationship", "custodial
3 responsibility", "decision-making authority", "deploying
4 parent", "deployment", "family member", "nonparent", "other
5 parent", "return from deployment", "service member", and
6 "uniformed service".

7 The bill provides remedies for noncompliance with
8 a proceeding under the new Code chapter, provides for
9 jurisdiction of a court if the court has jurisdiction under
10 Code chapter 598B, the uniform child-custody jurisdiction
11 and enforcement Act, and other specifications relating to
12 jurisdiction of the court relative to Code chapter 598B.

13 The bill provides for required notice by a deploying
14 parent of the other parent of a pending deployment, requires
15 each parent to provide the other parent with a plan for
16 fulfilling that parent's share of custodial responsibility
17 during deployment, provides for nondisclosure of address and
18 contact information of the other parent if such information is
19 prohibited, and provides that notification is not required if
20 the parents are living in the same residence and both parents
21 have actual notice of the deployment or plan.

22 The bill requires an individual to whom custodial
23 responsibility has been granted during deployment to notify
24 in a record the deploying parent and any other individual
25 with custodial responsibility of a child of any change of the
26 individual's mailing address or residence until the grant is
27 terminated, unless the disclosure is otherwise prohibited. The
28 individual is also required to provide the notice to any court
29 that has issued a custody or child support order concerning the
30 child currently in effect.

31 In a proceeding under the new Code chapter for custodial
32 responsibility of a child of a service member, a court shall
33 not consider a parent's past deployment or probable future
34 deployment in general in determining the best interest of
35 the child, but may consider any distinct, identifiable, and

1 significant impact on the best interest of the child of the
2 parent's past or probable future deployment.

3 The bill provides for the entering of an agreement
4 addressing custodial responsibility during deployment,
5 specifying the form of the agreement and the specific
6 information to be included in an agreement. The bill provides
7 that any authority created under the new Code chapter is
8 temporary and terminates after the deploying parent returns
9 from deployment, unless the agreement has been terminated
10 before that time by court order or modification. The agreement
11 does not create an independent, continuing right to caretaking
12 authority, decision-making authority, or limited contact in
13 an individual to whom custodial responsibility is given.
14 A nonparent who has caretaking authority, decision-making
15 authority, or limited contact by an agreement has standing to
16 enforce the agreement until it has been terminated by court
17 order, by modification.

18 The agreement may be modified by mutual consent of the
19 parents of a child.

20 The bill provides that a deploying parent may also delegate
21 all or part of the parent's custodial responsibility to an
22 adult nonparent during the period of deployment by executing
23 a power of attorney, and may revoke the power of attorney by
24 signing a revocation of the power of attorney.

25 An agreement or power of attorney under the new Code chapter
26 must be filed within a reasonable time with any court that has
27 entered an order on custodial responsibility or child support
28 that is in effect concerning the child who is the subject of
29 the agreement or power of attorney.

30 The bill also provides a judicial procedure for granting
31 custodial responsibility during deployment. After a deploying
32 parent receives notice of deployment and until the deployment
33 terminates, a court may issue a temporary order granting
34 custodial responsibility unless prohibited by the federal
35 Servicemembers Civil Relief Act. A court shall not issue a

1 permanent order granting custodial responsibility without the
2 consent of the deploying parent.

3 At any time after a deploying parent receives notice of
4 deployment, either parent may file a motion regarding custodial
5 responsibility of a child during deployment. If a parent's
6 motion for custodial responsibility is granted by the court ,
7 the court shall conduct an expedited hearing. Provision is
8 made for a party or witness who is not reasonably available to
9 appear personally to appear, provide testimony, and present
10 evidence by electronic means unless the court finds good cause
11 to require a personal appearance. In a proceeding for a grant
12 of custodial responsibility, a prior judicial order designating
13 custodial responsibility in the event of deployment is binding
14 on the court unless the circumstances meet the requirements
15 of a law of this state other than this new Code chapter for
16 modifying a judicial order regarding custodial responsibility.
17 Additionally, the court shall enforce a prior written agreement
18 between the parents for designating custodial responsibility
19 in the event of deployment, including an agreement executed
20 under this new Code chapter, unless the court finds that the
21 agreement is contrary to the best interest of the child.

22 The bill provides for the granting of caretaking authority
23 or decision-making authority to an adult nonparent who is a
24 family member or to an adult who has a close and substantial
25 relationship with the child, and specifies what the court must
26 ensure in determining the best interest of the child. The
27 court may also grant limited contact to a nonparent who is an
28 adult family member of the child or an individual with whom the
29 child has a close and substantial relationship.

30 A grant of authority by the court is temporary and terminates
31 after the return from deployment of the deploying parent,
32 unless the grant has been terminated before that time by court
33 order. The grant does not create an independent, continuing
34 right to caretaking authority, decision-making authority,
35 or limited contact in an individual to whom it is granted.

1 A nonparent granted caretaking authority, decision-making
2 authority, or limited contact has standing to enforce the grant
3 until it is terminated.

4 The bill specifies the content of the temporary custody
5 order, and provides that if a court has issued an order
6 granting caretaking authority or an agreement granting
7 caretaking authority has been made, the court may enter a
8 temporary order for child support consistent with law of
9 this state other than this new Code chapter if the court
10 has jurisdiction under Code chapter 598B. Unless otherwise
11 provided, on the motion of a deploying or other parent or
12 any nonparent to whom caretaking authority, decision-making
13 authority, or limited contact has been granted, the court
14 may modify or terminate the grant if the modification or
15 termination is consistent with other provisions of the bill
16 and is in the best interest of the child. A modification
17 is temporary and terminates after the parent returns from
18 deployment, unless the grant has been terminated before that
19 time by court order. The court shall terminate a grant of
20 limited contact on the motion of a deploying parent.

21 The bill provides the procedure for terminating the
22 temporary grant of custodial responsibility established by
23 agreement or by order of the court and provides for visitation
24 by the deploying parent with the child until the temporary
25 agreement or order is terminated.

26 The bill provides that in applying and construing the new
27 Code chapter, consideration shall be given to the need to
28 promote uniformity of the law with respect to its subject
29 matter among states that enact it. The bill specifies the
30 relationship of the provisions of the bill to the federal
31 Electronic Signatures in Global and National Commerce Act,
32 and provides that the bill does not affect the validity of
33 a temporary court order concerning custodial responsibility
34 during deployment which was entered before July 1, 2016.

35 The bill repeals two existing sections of the Code relating

1 to modification of child custody or physical care for a parent
2 serving active duty and relating to assignment of visitation
3 or physical care parenting time to a family member while the
4 parent is serving active duty.