

**598.41C Modification of child custody or physical care — active duty.**

1. If an application for modification of a decree or a petition for modification of an order regarding child custody or physical care is filed prior to or during the time a parent is serving active duty in the military service of the United States, the court may only enter an order or decree temporarily modifying the existing child custody or physical care order or decree if there is clear and convincing evidence that the modification is in the best interest of the child. Upon the parent's completion of active duty, the court shall reinstate the custody or physical care order or decree that was in effect immediately preceding the period of active duty. If an application for modification of a decree or a petition for modification of an order is filed after a parent completes active duty, the parent's absence due to active duty does not constitute a substantial change in circumstances, and the court shall not consider a parent's absence due to that active duty in making a determination regarding the best interest of the child.

2. As used in [this section](#), "active duty" means active military duty pursuant to orders issued under Title X of the United States Code. However, [this section](#) shall not apply to active guard and reserve duty or similar full-time military duty performed by a parent when the child remains in actual custody of the parent.

2008 Acts, ch 1060, §1