

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 1603

By: Stiles of the House

and

Anderson of the Senate

4
5
6 An Act relating to marriage and family;*** specifying
7 authority of delegation; specifying limitation of
8 delegation; specifying certain deployments shall be
9 considered temporary absence for certain purposes;
10 providing for jurisdiction; requiring deploying
11 parent to provide certain notice; specifying notice
12 requirements; providing exception; authorizing
13 motions for certain custody hearings; specifying
14 procedure; specifying required contents of motion;
15 authorizing expedited hearing motions; requiring
16 parent delegating visitation to identify family
17 member so delegated;*** specifying rebuttable
18 presumptions for deploying parents; requiring notice
19 at the end of deployment;*** requiring liberal
20 visitation; providing exception; providing for
21 codification; and providing an effective date.

22 AUTHORS: Add the following Senate Coauthors: Russell and Simpson

23 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
24 entire bill and insert

"[deployed parent custody of child - Deployed
Parents Custody Act - sanctions - codification -
effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 43 O.S. 2001, Section 112, as last
amended by Section 10, Chapter 358, O.S.L. 2010 (43 O.S. Supp. 2010,
Section 112), is amended to read as follows:

1 Section 112. A. A petition or cross-petition for a divorce,
2 legal separation, or annulment must state whether or not the parties
3 have minor children of the marriage. If there are minor children of
4 the marriage, the court:

5 1. Shall make provision for guardianship, custody, medical
6 care, support and education of the children;

7 2. Unless not in the best interests of the children, may
8 provide for the visitation of the noncustodial parent with any of
9 the children of the noncustodial parent; and

10 3. May modify or change any order whenever circumstances render
11 the change proper either before or after final judgment in the
12 action; provided, that the amount of the periodic child support
13 payment shall not be modified retroactively or payment of all or a
14 portion of the past due amount waived, except by mutual agreement of
15 the obligor and obligee, or if the obligee has assigned child
16 support rights to the Department of Human Services or other entity,
17 by agreement of the Department or other entity. Unless the parties
18 agree to the contrary, a completed child support computation form
19 provided for in Section 120 of this title shall be required to be
20 filed with the child support order.

21 The social security numbers of both parents and the child shall
22 be included on the child support order summary form provided for in
23 Section 120 of this title, which shall be submitted to the Central
24

1 Case Registry as provided for in Section 112A of this title with all
2 child support or paternity orders.

3 B. In any action in which there are minor unmarried children in
4 awarding or modifying the custody of the child or in appointing a
5 general guardian for the child, the court shall be guided by the
6 provisions of Section 112.5 of this title and shall consider what
7 appears to be in the best interests of the child.

8 C. 1. When it is in the best interests of a minor unmarried
9 child, the court shall:

10 a. assure children of frequent and continuing contact
11 with both parents after the parents have separated or
12 dissolved their marriage, and

13 b. encourage parents to share the rights and
14 responsibilities of child rearing in order to effect
15 this policy.

16 2. There shall be neither a legal preference nor a presumption
17 for or against joint legal custody, joint physical custody, or sole
18 custody.

19 3. When in the best interests of the child, custody shall be
20 awarded in a way which assures the frequent and continuing contact
21 of the child with both parents. When awarding custody to either
22 parent, the court:

23 a. shall consider, among other facts, which parent is
24 more likely to allow the child or children frequent

1 and continuing contact with the noncustodial parent,
2 and

3 b. shall not prefer a parent as a custodian of the child
4 because of the gender of that parent.

5 4. In any action, there shall be neither a legal preference or
6 a presumption for or against private or public school or home-
7 schooling in awarding the custody of a child, or in appointing a
8 general guardian for the child.

9 5. Notwithstanding any custody determination made pursuant to
10 the Oklahoma Children's Code, when a custodial parent of a child is
11 required to be separated from a child due to military service, a the
12 ~~court shall not enter a final order modifying an existing custody~~
13 ~~order until such time as the custodial parent has completed the term~~
14 ~~of duty requiring separation. For purposes of this paragraph:~~

15 a. ~~in the case of a parent who is a member of the Army,~~
16 ~~Navy, Air Force, Marine Corps or Coast Guard, the term~~
17 ~~"military service" means a combat deployment,~~
18 ~~contingency operation, or natural disaster requiring~~
19 ~~the use of orders that do not permit any family member~~
20 ~~to accompany the member, and~~

21 b. ~~in the case of a parent who is a member of the~~
22 ~~National Guard, the term "military service" means~~
23 ~~service under a call to active service authorized by~~
24 ~~the President of the United States or the Secretary of~~

1 ~~Defense for a period of more than thirty (30)~~
2 ~~consecutive days under 32 U.S.C. 502(f) for purposes~~
3 ~~of responding to a national emergency declared by the~~
4 ~~President and supported by federal funds. "Military~~
5 ~~service" shall include any period during which a~~
6 ~~member is absent from duty on account of sickness,~~
7 ~~wounds, leave or other lawful cause~~ determine custody
8 and visitation pursuant to the provisions of the
9 Deployed Parents Custody Act.

10 6. In making an order for custody, the court shall require
11 compliance with Section 112.3 of this title.

12 D. 1. Except for good cause shown, a pattern of failure to
13 allow court-ordered visitation may be determined to be contrary to
14 the best interests of the child and as such may be grounds for
15 modification of the child custody order.

16 2. For any action brought pursuant to the provisions of this
17 section which the court determines to be contrary to the best
18 interests of the child, the prevailing party shall be entitled to
19 recover court costs, attorney fees and any other reasonable costs
20 and expenses incurred with the action.

21 E. Except as otherwise provided by Section 112.1A of this
22 title, any child shall be entitled to support by the parents until
23 the child reaches eighteen (18) years of age. If a child is
24 regularly enrolled in and attending high school, as set forth in

1 Section 11-103.6 of Title 70 of the Oklahoma Statutes, other means
2 of high school education, or an alternative high school education
3 program as a full-time student, the child shall be entitled to
4 support by the parents until the child graduates from high school or
5 until the age of twenty (20) years, whichever occurs first. Full-
6 time attendance shall include regularly scheduled breaks from the
7 school year. No hearing or further order is required to extend
8 support pursuant to this subsection after the child reaches the age
9 of eighteen (18) years.

10 F. In any case in which provision is made for the custody or
11 support of a minor child or enforcement of such order and before
12 hearing the matter or signing any orders, the court shall inquire
13 whether public assistance money or medical support has been provided
14 by the Department of Human Services, hereafter referred to as the
15 Department, for the benefit of each child. If public assistance
16 money, medical support, or child support services under the state
17 child support plan as provided in Section 237 of Title 56 of the
18 Oklahoma Statutes have been provided for the benefit of the child,
19 the Department shall be a necessary party for the adjudication of
20 the debt due to the State of Oklahoma, as defined in Section 238 of
21 Title 56 of the Oklahoma Statutes, and for the adjudication of
22 paternity, child support, and medical insurance coverage for the
23 minor children in accordance with federal regulations. When an
24 action is filed, the petitioner shall give the Department notice of

1 the action according to Section 2004 of Title 12 of the Oklahoma
2 Statutes. The Department shall not be required to intervene in the
3 action to have standing to appear and participate in the action.
4 When the Department is a necessary party to the action, any orders
5 concerning paternity, child support, medical support, or the debt
6 due to the State of Oklahoma shall be approved and signed by the
7 Department.

8 G. In any case in which a child support order or custody order
9 or both is entered, enforced or modified, the court may make a
10 determination of the arrearages of child support.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 150 of Title 43, unless there is
13 created a duplication in numbering, reads as follows:

14 Sections 2 through 12 of this act shall be known and may be
15 cited as the "Deployed Parents Custody Act".

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 150.1 of Title 43, unless there
18 is created a duplication in numbering, reads as follows:

19 As used in the Deployed Parents Custody Act:

20 1. "Close and substantial relationship" means a relationship in
21 which a bond has been forged between the child and the other person
22 by regular contact or communication;

23 2. "Custodial responsibility" refers to legal custody, physical
24 custody or visitation rights with respect to a child;

1 3. "Deploying parent" means a legal parent of a minor child or
2 the legal guardian of a child for whom custodial responsibility has
3 been determined by court order, who is a member of the United States
4 Armed Forces and who is deployed or has been notified of an
5 impending deployment;

6 4. "Deployment" means military service in compliance with
7 military orders received by a member of the United States Armed
8 Forces, any reserve component thereof, or the National Guard to
9 report for combat operations, contingency operations, peacekeeping
10 operations, a remote tour of duty or other active service for which
11 the deploying parent is required to report unaccompanied by any
12 family member. The term includes a period during which a military
13 parent remains subject to those orders and remains subject to them
14 on account of sickness, wounds, leave or other lawful cause;

15 5. "Guardian" means a person who has been appointed as a
16 guardian of a minor or incapacitated adult pursuant to the
17 requirements of Title 30 of the Oklahoma Statutes. The term shall
18 include a limited guardian, but shall not include a guardian ad
19 litem;

20 6. "Nondeploying parent" means a legal parent or guardian who
21 is not deployed and who has a child or ward in common with a
22 deploying parent;

23 7. "Servicemember" means a member of either:
24

- 1 a. the active or reserve components of the Army, Navy,
2 Air Force, Marine Corps, or Coast Guard, or
3 b. the active or reserve components of the National
4 Guard; and

5 8. "Visitation" means the right to take a child for a limited
6 period of time to a place other than the habitual residence of the
7 child.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 150.2 of Title 43, unless there
10 is created a duplication in numbering, reads as follows:

11 A court of this state may enter an order regarding custodial
12 responsibility pursuant to the Deployed Parents Custody Act only
13 where the court has jurisdiction pursuant to the Uniform Child
14 Custody and Jurisdiction Act (UCCJEA), Sections 551-101 through 551-
15 402 of Title 43 of the Oklahoma Statutes. If a court of this state
16 has rendered a temporary order regarding custodial responsibility
17 pursuant to the Deployed Parents Custody Act, the deploying parent
18 shall be deemed to reside in this state for the purposes of the
19 UCCJEA during the duration of the deployment. If a court of another
20 state has rendered a temporary order regarding custodial
21 responsibility pursuant to deployment, this court shall deem the
22 deploying parent to reside in the rendering state for the purposes
23 of the UCCJEA during the duration of the deployment. This section
24

1 does not prohibit the exercise of temporary emergency jurisdiction
2 by a court of this state under the UCCJEA.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 150.3 of Title 43, unless there
5 is created a duplication in numbering, reads as follows:

6 A. In any proceeding in which the custody and visitation of a
7 minor child is contested and a parent of the minor child is a
8 servicemember subject to deployment, the court may delegate some or
9 all of the deploying parent's visitation to a family member or
10 another person with a close and substantial relationship to the
11 child, if the court determines it is in the best interest of the
12 child.

13 B. In order to ensure an ongoing relationship with the child
14 while deployed, a deploying parent has the right to request his or
15 her visitation rights be delegated. Visitation awarded pursuant to
16 this section derives from the deploying parent's own right to
17 custodial responsibility. Neither this section nor a court order
18 permitting delegation shall be deemed to create any separate or
19 permanent rights to visitation.

20 SECTION 6. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 150.4 of Title 43, unless there
22 is created a duplication in numbering, reads as follows:

23 A. A deploying parent shall provide a copy of the deployment
24 orders to the other parent within ten (10) days of receipt. When

1 the deployment date is less than ten (10) days after receipt of the
2 orders, a copy shall immediately be provided to the other parent.

3 B. If a valid court order requires that the address or contact
4 information of the nondeploying parent be kept confidential, the
5 notification shall be made to the court only. The court shall
6 notify the nondeploying parent, or counsel for the nondeploying
7 parent, if the deploying parent is prohibited from directly
8 contacting the nondeploying parent.

9 C. Failure to timely notify the nondeploying parent of other
10 deploying parent without good cause shall be presumed contrary to
11 the best interests of the child in future custody proceedings
12 between the parents.

13 SECTION 7. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 150.5 of Title 43, unless there
15 is created a duplication in numbering, reads as follows:

16 Following a deploying parent's receiving notice of deployment,
17 either a deploying parent or nondeploying parent may request an
18 expedited hearing by the court on any matter pertaining to custodial
19 responsibility. The request shall include the date on which the
20 deployment began or begins. If the date of deployment is uncertain,
21 the approximate date shall be included. The court shall grant a
22 request for an expedited hearing if the deploying parent's ability,
23 or anticipated ability, to appear in person at a regularly scheduled
24 hearing would be prevented by the deployment or preparation for the

1 deployment, and if an expedited hearing is feasible for the court.
2 If the deployed or deploying parent is seeking the right to delegate
3 visitation to a family member, then the name of the family member or
4 another person with a close and substantial relationship to the
5 child shall be stated in the motion.

6 SECTION 8. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 150.6 of Title 43, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Upon proper motion made pursuant to Section 7 of this act,
10 the court shall enter temporary orders regarding custody, visitation
11 and child support.

12 B. A deploying parent who is entitled to a stay in civil
13 proceedings pursuant to the Servicemembers Civil Relief Act, 50
14 U.S.C. App., Sections 501 through 596, may elect to proceed while
15 the deploying parent is unavailable to appear in the geographical
16 location in which the litigation is pursued and may seek relief and
17 provide evidence through video conferencing, Internet camera, e-
18 mail, telephone, or other reasonable electronic means.

19 C. Except for the privilege offered to the deployed
20 servicemember in subsection B of this section, the court shall
21 factor the same consideration and conduct the temporary order
22 hearing as provided in Section 112 of Title 43 of the Oklahoma
23 Statutes. Hearings conducted pursuant to this section shall be
24

1 considered nonevidentiary hearings and the standard rules of
2 evidence do not apply.

3 D. 1. If a prior judicial decree contains provisions for
4 custodial responsibility of the child in the event of deployment,
5 those provisions shall not be modified by the court unless:

6 a. a subsequent substantial change of circumstances has
7 occurred after the prior judicial decree was ordered,
8 or

9 b. a showing that enforcement of the provisions of the
10 prior decree would result in substantial harm to the
11 child.

12 2. If the deploying parent and the nondeploying parent have
13 previously agreed in writing to provisions for the custodial
14 responsibility of the child in the event of deployment, there shall
15 be a rebuttable presumption that the agreement is in the best
16 interest of the child. The presumption may be overcome only if the
17 court makes specific findings of fact establishing that the
18 agreement is not in the best interest of the child.

19 E. When entering a temporary order for custodial responsibility
20 prior to or during a deployment, the court shall:

21 1. Identify the nature of the deployment that is the basis for
22 the order;

23 2. Specify that the order is temporary;

24

1 3. Specify the contact between the deploying parent and the
2 child during deployment, including the means by which the deploying
3 parent may remain in communication with the child, such as
4 electronic communication by Internet camera, telephone, e-mail and
5 other available means; and

6 4. Order liberal contact between the deploying parent and child
7 when the deploying parent is on leave or is otherwise available,
8 consistent with the best interest of the child.

9 F. In an order granting delegation of visitation rights
10 pursuant to Section 10 of this act, the court shall:

11 1. Set out a process to resolve any disputes that may arise
12 between the person receiving visitation and the nondeploying parent;

13 2. Identify the nature of the deployment that is the basis for
14 the order; and

15 3. Specify that the order is a temporary order and shall
16 terminate at the end of the deployment.

17 G. If the matter before the court concerns a postdissolution
18 modification of custody or visitation, the court shall not modify
19 the previously ordered custody or visitation arrangement until the
20 expiration of the servicemember's deployment, unless the child is at
21 risk of serious irreparable harm.

22 H. If the court has rendered a temporary order regarding
23 custodial responsibility pursuant to the Deployed Parents Custody
24 Act, any nondeploying parent or any third party to whom the court

1 has assigned primary custodial responsibility, visitation or limited
2 contact shall notify the court of any change of address until the
3 termination of the temporary order.

4 SECTION 9. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 150.7 of Title 43, unless there
6 is created a duplication in numbering, reads as follows:

7 A. A court that renders an order on custodial responsibility
8 under the Deployed Parents Custody Act may, on motion of either
9 party and with appropriate jurisdiction under the Uniform Interstate
10 Family Support Act ("UIFSA"):

11 1. Enter a temporary order for child support consistent with
12 the Oklahoma Child Support Guidelines; and

13 2. Require the deploying parent to enroll the child to receive
14 military dependent benefits.

15 B. Any order entered on child support pursuant to this section
16 shall state that such order shall terminate by further order of this
17 court following the child's return to the deploying parent upon
18 conclusion of deployment.

19 SECTION 10. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 150.8 of Title 43, unless there
21 is created a duplication in numbering, reads as follows:

22 A. If the deploying parent moves to delegate visitation rights,
23 the court shall grant reasonable visitation to a member of the
24 family of the child, including a stepparent or step sibling, with

1 whom the child has a close and substantial relationship as defined
2 in the Deployed Parents Custody Act.

3 B. Any visitation ordered by the court pursuant to this section
4 shall be temporary in nature and shall not exceed or be less than
5 the amount of custodial time granted to the deploying parent under
6 any existing permanent order or agreement between the parents, with
7 the exception that the court may take into account unusual travel
8 time required to transport the child between the nondeploying parent
9 and the family members allowed visitation.

10 C. The person appointed by the deploying parent to exercise
11 visitation shall appear at the temporary order hearing.

12 D. Rebuttable presumptions for proceedings under the Deployed
13 Parents Custody Act:

14 1. In postdissolution proceedings, there shall be a rebuttable
15 presumption that it is in the best interests of the child for a
16 stepparent to exercise the deployed parent's parental duties;

17 2. There shall be a rebuttable presumption that if the person
18 appointed by the deployed or deploying party meets the requirements
19 of subsection A of this section, then it shall be in the best
20 interest of the child that the person receive visitation; and

21 3. There shall be a rebuttable presumption that visitation by a
22 family member who has perpetrated domestic violence against a
23 spouse, a child, a domestic living partner, or is otherwise subject
24

1 to registration requirements of the Sex Offenders Registration Act
2 is not in the best interest of the child.

3 E. Once the court has ordered visitation, the person to whom
4 visitation is ordered shall have legal standing to enforce the
5 visitation rights as allowed by law, so long as the deploying parent
6 has not revoked consent to the delegation of visitation rights.

7 SECTION 11. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 150.9 of Title 43, unless there
9 is created a duplication in numbering, reads as follows:

10 A. The deploying parent shall notify the nondeploying parent of
11 the completion of the deployment. If the deploying parent is unable
12 to locate the nondeploying parent, the deploying parent shall notify
13 the court of the return.

14 B. A temporary modification order in accordance with the
15 Deployed Parents Custody Act terminates by operation of law ten (10)
16 days after notice has been provided to the nondeploying parent of
17 the completion of deployment and the original terms of the prior
18 custody or visitation order are automatically reinstated, unless the
19 court finds that resumption of the custody or visitation order in
20 effect before deployment is no longer in the child's best interests.

21 C. If an objection is filed within ten (10) days after notice
22 of completion of deployment, then the court shall hold an expedited
23 hearing no later than ten (10) days after the filing of the motion.

24

1 D. The nondeployed parent shall bear the burden of proving that
2 a significant change of circumstances has occurred so that the
3 immediate resumption of the custody or visitation order in effect
4 before deployment is no longer in the child's best interest.

5 E. However, absent agreement of the parties no permanent change
6 of custody shall occur without the nondeployed parent first meeting
7 the appropriate change of custody modification standard.

8 F. Deployment or the possibility of future deployment cannot be
9 the sole reason to support or significant change of circumstances.

10 SECTION 12. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 150.10 of Title 43, unless there
12 is created a duplication in numbering, reads as follows:

13 If the court finds that a party to a proceeding under the
14 Deployed Parents Custody Act has acted in bad faith or otherwise
15 deliberately failed to comply with the terms of the Deployed Parents
16 Custody Act or a court order issued under the Deployed Parents
17 Custody Act, the court may assess attorney fees and costs against
18 the opposing party and order any other appropriate sanctions.

19 SECTION 13. This act shall become effective November 1, 2011."
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1 Passed the Senate the 27th day of April, 2011.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2011.

7
8 _____
9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 1603

By: Stiles of the House

3 and

4 Anderson of the Senate

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6
7 An Act relating to marriage and family; amending 43
8 O.S. 2001, Section 112, as last amended by Section
9 10, Chapter 358, O.S.L. 2010 (43 O.S. Supp. 2010,
10 Section 112), which relates to custody and support of
11 minor children in divorce proceedings; modifying
12 requirements and procedures relating to military
13 deployments; creating the Military Custody and
14 Visitation Act; defining terms; directing court to
15 provide for custody of child when parent has been
16 deployed; authorizing deploying parents to delegate
17 visitation rights; specifying authority of
18 delegation; specifying limitation of delegation;
19 specifying certain deployments shall be considered
20 temporary absence for certain purposes; providing for
21 jurisdiction; requiring deploying parent to provide
22 certain notice; specifying notice requirements;
23 providing exception; authorizing motions for certain
24 custody hearings; specifying procedure; specifying
required contents of motion; authorizing expedited
hearing motions; requiring parent delegating
visitation to identify family member so delegated;
authorizing the use of electronic means for certain
hearings; authorizing certain limitations;
authorizing the entry of certain orders; establishing
presumption that certain existing orders are in best
interest of child; specifying certain requirements of
temporary order; providing for visitation of other
family members; specifying limitations of visitation
orders; directing court to order reasonable
visitation; providing exceptions; specifying
visitation order shall be temporary; limiting
authority of court to modify certain existing
arrangements; providing exception; providing for
delegation of visitation rights; specifying
visitation orders shall be temporary; establishing

1 visitation requirements; providing exception;
2 requiring attendance of certain family member at
3 hearing; specifying rebuttable presumptions for
4 deploying parents; requiring notice at the end of
5 deployment; specifying contents of notice;
6 authorizing motions for temporary orders after
7 deployment; requiring liberal visitation; providing
8 exception; providing for codification; and providing
9 an effective date.

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 14. AMENDATORY 43 O.S. 2001, Section 112, as
12 last amended by Section 10, Chapter 358, O.S.L. 2010 (43 O.S. Supp.
13 2010, Section 112), is amended to read as follows:

14 Section 112. A. A petition or cross-petition for a divorce,
15 legal separation, or annulment must state whether or not the parties
16 have minor children of the marriage. If there are minor children of
17 the marriage, the court:

18 1. Shall make provision for guardianship, custody, medical
19 care, support and education of the children;

20 2. Unless not in the best interests of the children, may
21 provide for the visitation of the noncustodial parent with any of
22 the children of the noncustodial parent; and

23 3. May modify or change any order whenever circumstances render
24 the change proper either before or after final judgment in the
25 action; provided, that the amount of the periodic child support
26 payment shall not be modified retroactively or payment of all or a

1 portion of the past due amount waived, except by mutual agreement of
2 the obligor and obligee, or if the obligee has assigned child
3 support rights to the Department of Human Services or other entity,
4 by agreement of the Department or other entity. Unless the parties
5 agree to the contrary, a completed child support computation form
6 provided for in Section 120 of this title shall be required to be
7 filed with the child support order.

8 The social security numbers of both parents and the child shall
9 be included on the child support order summary form provided for in
10 Section 120 of this title, which shall be submitted to the Central
11 Case Registry as provided for in Section 112A of this title with all
12 child support or paternity orders.

13 B. In any action in which there are minor unmarried children in
14 awarding or modifying the custody of the child or in appointing a
15 general guardian for the child, the court shall be guided by the
16 provisions of Section 112.5 of this title and shall consider what
17 appears to be in the best interests of the child.

18 C. 1. When it is in the best interests of a minor unmarried
19 child, the court shall:

20 a. assure children of frequent and continuing contact
21 with both parents after the parents have separated or
22 dissolved their marriage, and

23
24

1 b. encourage parents to share the rights and
2 responsibilities of child rearing in order to effect
3 this policy.

4 2. There shall be neither a legal preference nor a presumption
5 for or against joint legal custody, joint physical custody, or sole
6 custody.

7 3. When in the best interests of the child, custody shall be
8 awarded in a way which assures the frequent and continuing contact
9 of the child with both parents. When awarding custody to either
10 parent, the court:

11 a. shall consider, among other facts, which parent is
12 more likely to allow the child or children frequent
13 and continuing contact with the noncustodial parent,
14 and

15 b. shall not prefer a parent as a custodian of the child
16 because of the gender of that parent.

17 4. In any action, there shall be neither a legal preference or
18 a presumption for or against private or public school or home-
19 schooling in awarding the custody of a child, or in appointing a
20 general guardian for the child.

21 5. Notwithstanding any custody determination made pursuant to
22 the Oklahoma Children's Code, when a custodial parent of a child is
23 required to be separated from a child due to military service, a the
24 court shall ~~not enter a final order modifying an existing custody~~

1 ~~order until such time as the custodial parent has completed the term~~
2 ~~of duty requiring separation. For purposes of this paragraph:~~

3 a. ~~in the case of a parent who is a member of the Army,~~
4 ~~Navy, Air Force, Marine Corps or Coast Guard, the term~~
5 ~~"military service" means a combat deployment,~~
6 ~~contingency operation, or natural disaster requiring~~
7 ~~the use of orders that do not permit any family member~~
8 ~~to accompany the member, and~~

9 b. ~~in the case of a parent who is a member of the~~
10 ~~National Guard, the term "military service" means~~
11 ~~service under a call to active service authorized by~~
12 ~~the President of the United States or the Secretary of~~
13 ~~Defense for a period of more than thirty (30)~~
14 ~~consecutive days under 32 U.S.C. 502(f) for purposes~~
15 ~~of responding to a national emergency declared by the~~
16 ~~President and supported by federal funds. "Military~~
17 ~~service" shall include any period during which a~~
18 ~~member is absent from duty on account of sickness,~~
19 ~~wounds, leave or other lawful cause determine custody~~
20 ~~and visitation pursuant to the provisions of the~~
21 ~~Military Custody and Visitation Act.~~

22 6. In making an order for custody, the court shall require
23 compliance with Section 112.3 of this title.
24

1 D. 1. Except for good cause shown, a pattern of failure to
2 allow court-ordered visitation may be determined to be contrary to
3 the best interests of the child and as such may be grounds for
4 modification of the child custody order.

5 2. For any action brought pursuant to the provisions of this
6 section which the court determines to be contrary to the best
7 interests of the child, the prevailing party shall be entitled to
8 recover court costs, attorney fees and any other reasonable costs
9 and expenses incurred with the action.

10 E. Except as otherwise provided by Section 112.1A of this
11 title, any child shall be entitled to support by the parents until
12 the child reaches eighteen (18) years of age. If a child is
13 regularly enrolled in and attending high school, as set forth in
14 Section 11-103.6 of Title 70 of the Oklahoma Statutes, other means
15 of high school education, or an alternative high school education
16 program as a full-time student, the child shall be entitled to
17 support by the parents until the child graduates from high school or
18 until the age of twenty (20) years, whichever occurs first. Full-
19 time attendance shall include regularly scheduled breaks from the
20 school year. No hearing or further order is required to extend
21 support pursuant to this subsection after the child reaches the age
22 of eighteen (18) years.

23 F. In any case in which provision is made for the custody or
24 support of a minor child or enforcement of such order and before

1 hearing the matter or signing any orders, the court shall inquire
2 whether public assistance money or medical support has been provided
3 by the Department of Human Services, hereafter referred to as the
4 Department, for the benefit of each child. If public assistance
5 money, medical support, or child support services under the state
6 child support plan as provided in Section 237 of Title 56 of the
7 Oklahoma Statutes have been provided for the benefit of the child,
8 the Department shall be a necessary party for the adjudication of
9 the debt due to the State of Oklahoma, as defined in Section 238 of
10 Title 56 of the Oklahoma Statutes, and for the adjudication of
11 paternity, child support, and medical insurance coverage for the
12 minor children in accordance with federal regulations. When an
13 action is filed, the petitioner shall give the Department notice of
14 the action according to Section 2004 of Title 12 of the Oklahoma
15 Statutes. The Department shall not be required to intervene in the
16 action to have standing to appear and participate in the action.
17 When the Department is a necessary party to the action, any orders
18 concerning paternity, child support, medical support, or the debt
19 due to the State of Oklahoma shall be approved and signed by the
20 Department.

21 G. In any case in which a child support order or custody order
22 or both is entered, enforced or modified, the court may make a
23 determination of the arrearages of child support.

24

1 SECTION 15. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 150 of Title 43, unless there is
3 created a duplication in numbering, reads as follows:

4 Sections 2 through 7 of this act shall be known and may be cited
5 as the "Military Custody and Visitation Act".

6 SECTION 16. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 150.1 of Title 43, unless there
8 is created a duplication in numbering, reads as follows:

9 As used in the Military Custody and Visitation Act:

10 1. "Close and substantial relationship" means a relationship in
11 which a bond has been forged between the child and the other person
12 by regular contact or communication;

13 2. "Custodial responsibility" refers to legal custody, physical
14 custody or visitation rights with respect to a child;

15 3. "Deploying parent" means a legal parent of a minor child,
16 who is a member of the United States Armed Forces and who is
17 deployed or has been notified of an impending deployment;

18 4. "Deployment" means the temporary transfer of a servicemember
19 in compliance with official orders to another location in support of
20 combat, contingency operation, or natural disaster requiring the use
21 of orders for a period of more than thirty (30) consecutive days,
22 during which family members are not authorized to accompany the
23 servicemember at government expense. Deployment shall include any
24

1 period during which a servicemember is absent from duty on account
2 of sickness, wounds, leave or other lawful cause;

3 5. "Guardian" means a person who has been appointed as a
4 guardian of a minor or incapacitated adult pursuant to the
5 requirements of Title 30 of the Oklahoma Statutes. The term shall
6 include a limited guardian, but shall not include a guardian ad
7 litem;

8 6. "Nondeploying parent" means a legal parent or guardian who
9 is not deployed and who has a child or ward in common with a
10 deploying parent;

11 7. "Servicemember" means a member of either:

- 12 a. the active or reserve components of the Army, Navy,
13 Air Force, Marine Corps, or Coast Guard, or
- 14 b. the active or reserve components of the National
15 Guard; and

16 8. "Visitation" means the right to take a child for a limited
17 period of time to a place other than the habitual residence of the
18 child.

19 SECTION 17. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 150.2 of Title 43, unless there
21 is created a duplication in numbering, reads as follows:

22 A. In any proceeding in which the custody and visitation of a
23 minor child is contested and a parent of the minor child is a
24 servicemember subject to deployment, the court shall provide for the

1 custody and visitation of the child in the event the servicemember
2 parent is deployed.

3 B. In order to ensure an ongoing relationship with the child
4 while deployed, a deploying parent has the right to delegate his or
5 her visitation rights to a member of the family of the child.
6 Visitation awarded pursuant to this section derives from the
7 deploying parent's own right to custodial responsibility. Neither
8 this section nor a court order permitting delegations shall be
9 deemed to create any separate or permanent rights to visitation.

10 C. The removal of a child from this state in anticipation of or
11 during deployment shall be considered a temporary absence for the
12 purposes of the Uniform Child Custody and Jurisdiction Enforcement
13 Act (UCCJEA), Sections 551-101 through 551-402 of Title 43 of the
14 Oklahoma Statutes. If this state has exclusive continuing
15 jurisdiction pursuant to the UCCJEA at the time of deployment, the
16 state shall retain jurisdiction for the duration of the deployment.
17 The existence of a deployment shall not be used as a basis to assert
18 the inconvenience of this state as a forum or otherwise to remove
19 jurisdiction from the courts of this state. This section shall not
20 prevent the exercise of temporary emergency jurisdiction by a court
21 of this state under the UCCJEA.

22 SECTION 18. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 150.3 of Title 43, unless there
24 is created a duplication in numbering, reads as follows:

1 A. A deploying parent shall notify the nondeploying parent
2 twenty (20) days after the date the deploying parent receives an
3 order of deployment if the orders are received less than sixty (60)
4 days before the date of deployment. However, the deploying parent
5 shall provide notice to the nondeploying parent no less than ten
6 (10) days prior to deployment unless it would be impractical for the
7 servicemember to provide notice any earlier.

8 B. If a valid court order requires that the address or contact
9 information of the nondeploying parent be kept confidential, the
10 notification shall be made to the court only. The court shall
11 notify the nondeploying parent, or counsel for the nondeploying
12 parent, if the deploying parent is prohibited from directly
13 contacting the nondeploying parent.

14 SECTION 19. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 150.4 of Title 43, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Where an action affecting custody or visitation is pending
18 before the court and the servicemember has been served notice of the
19 Dissolution of Marriage for at least thirty (30) days prior to
20 deployment, upon receiving notice of the deployment, either party
21 may motion the court to enter a temporary order for custodial
22 responsibility consistent with the Servicemembers Civil Relief Act.

23 B. Where an action affecting custody or visitation has been
24 filed and the deploying parent has been served for less than thirty

1 (30) days before the deployment or filed during deployment, only the
2 deploying parent may motion the court to enter a temporary order for
3 custodial responsibility consistent with the Servicemembers Civil
4 Relief Act.

5 C. The motion shall include the date on which the deployment
6 begins or began, the length of deployment if known and whether the
7 party requests an expedited hearing. If a party requests an
8 expedited hearing, the court shall schedule a hearing within ten
9 (10) days of the filing of the motion.

10 D. If the deployed or deploying parent is the movant and is
11 exercising the right to delegate visitation to a family member, then
12 the name of the family member shall be stated in the motion.

13 SECTION 20. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 150.5 of Title 43, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Upon proper motion made pursuant to Section 6 of this act,
17 the court shall enter temporary orders regarding custody, visitation
18 and child support.

19 B. A deploying parent who is entitled to a stay in civil
20 proceedings pursuant to the Servicemembers Civil Relief Act, 50
21 U.S.C. App., Sections 501 through 596, may elect to proceed while
22 the deploying parent is unavailable to appear in the geographical
23 location in which the litigation is pursued and may seek relief and
24

1 provide evidence through video conferencing, Internet camera, e-
2 mail, telephone, or other reasonable electronic means.

3 C. Except for the privilege offered to the deployed
4 servicemember in subsection B of this section, the court shall
5 factor the same consideration and conduct the temporary order
6 hearing as provided in Section 112 of Title 43 of the Oklahoma
7 Statutes. Hearings conducted pursuant to this section shall be
8 considered nonevidentiary hearings and the standard rules of
9 evidence do not apply.

10 D. 1. If a prior judicial decree contains provisions for
11 custodial responsibility of the child in the event of deployment,
12 those provisions shall not be modified by the court unless:

- 13 a. a subsequent substantial change of circumstances has
14 occurred after the prior judicial decree was ordered,
15 or
- 16 b. a showing that enforcement of the provisions of the
17 prior decree would result in substantial harm to the
18 child.

19 2. If the deploying parent and the nondeploying parent have
20 previously agreed in writing to provisions for the custodial
21 responsibility of the child in the event of deployment, there shall
22 be a rebuttable presumption that the agreement is in the best
23 interest of the child. The presumption may be overcome only if the
24

1 court makes specific findings of fact establishing that the
2 agreement is not in the best interest of the child.

3 E. When entering a temporary order for custodial responsibility
4 prior to or during a deployment, the court shall:

5 1. Identify the nature of the deployment that is the basis for
6 the order;

7 2. Specify that the order is temporary;

8 3. Specify the contact between the deploying parent and the
9 child during deployment, including the means by which the deploying
10 parent may remain in communication with the child, such as
11 electronic communication by Internet camera, telephone, e-mail and
12 other available means; and

13 4. Order liberal contact between the deploying parent and child
14 when the deploying parent is on leave or is otherwise available,
15 consistent with the best interest of the child.

16 F. In an order granting delegation of visitation rights
17 pursuant to Section 8 of this act, the court shall:

18 1. Set out a process to resolve any disputes that may arise
19 between the person receiving visitation and the nondeploying parent;

20 2. Identify the nature of the deployment that is the basis for
21 the order; and

22 3. Specify that the order is a temporary order and shall
23 terminate at the end of the deployment.

24

1 G. If the matter before the court concerns a postdissolution
2 modification of custody or visitation, the court shall not modify
3 the previously ordered custody or visitation arrangement until the
4 expiration of the servicemember's deployment, unless the child is at
5 risk of serious irreparable harm.

6 SECTION 21. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 150.6 of Title 43, unless there
8 is created a duplication in numbering, reads as follows:

9 A. If the deploying parent moves to delegate visitation rights,
10 the court shall grant reasonable visitation to a member of the
11 family of the child, including a stepparent or step sibling, with
12 whom the child has a close and substantial relationship as defined
13 in the Military Custody and Visitation Act.

14 B. Any visitation ordered by the court pursuant to this section
15 shall be temporary in nature and shall not exceed or be less than
16 the amount of custodial time granted to the deploying parent under
17 any existing permanent order or agreement between the parents, with
18 the exception that the court may take into account unusual travel
19 time required to transport the child between the nondeploying parent
20 and the family members allowed visitation.

21 C. The person appointed by the deploying parent to exercise
22 visitation shall appear at the temporary order hearing.

23 D. Rebuttable presumptions for proceedings under this act:
24

1 1. In postdissolution proceedings, there shall be a rebuttable
2 presumption that it is in the best interests of the child for a
3 stepparent to exercise the deployed parent's parental duties;

4 2. There shall be a rebuttable presumption that if the person
5 appointed by the deployed or deploying party meets the requirements
6 of subsection A of this section, then it shall be in the best
7 interest of the child that the person receive visitation; and

8 3. There shall be a rebuttable presumption that visitation by a
9 family member who has perpetrated domestic violence against a
10 spouse, a child, a domestic living partner, or is otherwise subject
11 to registration requirements of the Sex Offenders Registration Act
12 is not in the best interest of the child.

13 E. Once the court has ordered visitation, the person to whom
14 visitation is ordered shall have legal standing to enforce the
15 visitation rights as allowed by law, so long as the deploying parent
16 has not revoked consent to the delegation of visitation rights.

17 SECTION 22. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 150.7 of Title 43, unless there
19 is created a duplication in numbering, reads as follows:

20 A. Within ten (10) days of the completion of the deployment,
21 the deploying parent shall notify the nondeploying parent of the
22 return of the nondeploying parent. If the deploying parent is
23 unable to locate the nondeploying parent, the parent shall notify
24 the court of the return.

1 B. At any time upon the completion of the deployment, either
2 party may file a motion for new temporary orders. If this motion is
3 filed within thirty (30) days of the completion of the deployment,
4 the court shall hold an expedited hearing no later than ten (10)
5 days after the filing of the motion.

6 C. In establishing a temporary order upon deployment, the court
7 shall grant liberal visitation to the deployed parent in order to
8 reestablish the relationship with the child and the deployed parent.
9 If the court reasonably believes liberal visitation would cause
10 irreparable harm to the child, the court shall order a transition
11 period which allows a gradual return to the prior custody order.

12 SECTION 23. This act shall become effective November 1, 2011.

13 Passed the House of Representatives the 17th day of March, 2011.

14
15
16 _____
Presiding Officer of the House of
Representatives

17
18 Passed the Senate the ____ day of _____, 2011.

19
20
21 _____
Presiding Officer of the Senate