

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1603

6 By: Stiles

7 COMMITTEE SUBSTITUTE

8 An Act relating to marriage and family; amending 43
9 O.S. 2001, Section 112, as last amended by Section
10 10, Chapter 358, O.S.L. 2010 (43 O.S. Supp. 2010,
11 Section 112), which relates to custody and support of
12 minor children in divorce proceedings; modifying
13 requirements and procedures relating to military
14 deployments; creating the Military Custody and
15 Visitation Act; defining terms; directing court to
16 provide for custody of child when parent has been
17 deployed; authorizing deploying parents to delegate
18 visitation rights; specifying authority of
19 delegation; specifying limitation of delegation;
20 specifying certain deployments shall be considered
21 temporary absence for certain purposes; providing for
22 jurisdiction; requiring deploying parent to provide
23 certain notice; specifying notice requirements;
24 providing exception; authorizing motions for certain
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

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

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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:

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

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

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

3. May modify or change any order whenever circumstances render
the change proper either before or after final judgment in the
action; provided, that the amount of the periodic child support

1 payment shall not be modified retroactively or payment of all or a
2 portion of the past due amount waived, except by mutual agreement of
3 the obligor and obligee, or if the obligee has assigned child
4 support rights to the Department of Human Services or other entity,
5 by agreement of the Department or other entity. Unless the parties
6 agree to the contrary, a completed child support computation form
7 provided for in Section 120 of this title shall be required to be
8 filed with the child support order.

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

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

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

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

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.

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1 SECTION 2. 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 3. 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 4. 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 5. 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 6. 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 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 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
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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
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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.

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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 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. 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:
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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 9. 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 the
21 deploying parent shall notify the nondeploying parent of the return
22 of the nondeploying parent. If the deploying parent is unable to
23 locate the nondeploying parent, the parent shall notify the court of
24 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 shall hold an expedited hearing no later than ten (10) days after
5 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 10. This act shall become effective November 1, 2011.

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1 STATE OF OKLAHOMA

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8 An Act relating to marriage and family; amending 43
9 O.S. 2001, Section 112, as last amended by Section
10 10, Chapter 358, O.S.L. 2010 (43 O.S. Supp. 2010,
11 Section 112), which relates to custody and support of
12 minor children in divorce proceedings; modifying
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14 deployments; creating the Military Custody and
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16 provide for custody of child when parent has been
17 deployed; authorizing deploying parents to delegate
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19 delegation; specifying limitation of delegation;
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 11. 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:

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

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

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

3. May modify or change any order whenever circumstances render
the change proper either before or after final judgment in the
action; provided, that the amount of the periodic child support

1 payment shall not be modified retroactively or payment of all or a
2 portion of the past due amount waived, except by mutual agreement of
3 the obligor and obligee, or if the obligee has assigned child
4 support rights to the Department of Human Services or other entity,
5 by agreement of the Department or other entity. Unless the parties
6 agree to the contrary, a completed child support computation form
7 provided for in Section 120 of this title shall be required to be
8 filed with the child support order.

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

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

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

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

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,~~
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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.

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 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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 18. 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 19. 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 the
21 deploying parent shall notify the nondeploying parent of the return
22 of the nondeploying parent. If the deploying parent is unable to
23 locate the nondeploying parent, the parent shall notify the court of
24 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 shall hold an expedited hearing no later than ten (10) days after
5 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 20. This act shall become effective November 1, 2011.

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