

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1557

By: Jordan

4  
5 AS INTRODUCED

6 An Act relating to marriage and family; amending 43  
7 O.S. 2001, Section 112, as last amended by Section  
8 10, Chapter 358, O.S.L. 2010 (43 O.S. Supp. 2010,  
9 Section 112), which relates to custody and support of  
10 minor children in divorce proceedings; modifying  
11 requirements and procedures relating to military  
12 deployments; amending 43 O.S. 2001, Section 134, as  
13 amended by Section 11, Chapter 407, O.S.L. 2009 (43  
14 O.S. Supp. 2010, Section 134), which relates to  
15 alimony procedure; modifying marital property  
16 division provisions for certain military members;  
17 creating the Military Custody and Visitation Act;  
18 defining terms; directing court to provide for  
19 custody of child when parent has been deployed;  
20 limiting consideration of past and potential future  
21 deployments in determining custody; providing  
22 exception; specifying certain deployments shall be  
23 considered temporary absence for certain purposes;  
24 providing for jurisdiction; requiring deploying  
parent to provide certain notice; specifying notice  
requirements; providing exception; authorizing court  
to make an award of certain fees and costs for  
certain failure; authorizing motions for certain  
expedited custody hearings; specifying procedure;  
authorizing the use of electronic means for certain  
hearings; authorizing certain limitations;  
authorizing the entry of certain orders; prohibiting  
certain permanent orders; providing exception;  
specifying certain decrees shall remain in effect;  
providing exception; establishing presumption that  
certain existing orders are in best interest of  
child; specifying certain requirements of temporary  
order; authorizing court to establish certain support  
orders; providing for visitation of other family  
members; specifying limitations of visitation orders;  
directing court to order reasonable visitation;

1 providing exceptions; specifying visitation order  
2 shall be temporary; specifying requirements of  
3 visitation order; providing for enforcement of  
4 visitation order; requiring notice at the end of  
5 deployment; specifying that certain temporary orders  
6 shall terminate upon completion of deployment;  
7 specifying certain motions shall not be required;  
8 providing exceptions; specifying contents of notice;  
9 requiring nondeploying parent to provide liberal  
10 visitation prior to entry of certain order; providing  
11 exception; providing for the automatic termination of  
12 certain temporary custody orders; providing  
13 exception; requiring expedited hearing after filing  
14 of certain motion; allowing court to order  
15 continuation of temporary order in certain  
16 circumstances; providing penalties for certain bad-  
17 faith motions; providing for codification; and  
18 providing 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

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

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

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

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

24

1           a.    assure children of frequent and continuing contact  
2                   with both parents after the parents have separated or  
3                   dissolved their marriage, and

4           b.    encourage parents to share the rights and  
5                   responsibilities of child rearing in order to effect  
6                   this policy.

7           2.    There shall be neither a legal preference nor a presumption  
8 for or against joint legal custody, joint physical custody, or sole  
9 custody.

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

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

18           b.    shall not prefer a parent as a custodian of the child  
19                   because of the gender of that parent.

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

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

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

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

1                   and visitation pursuant to the provisions of the  
2                   Military Custody and Visitation Act.

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

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

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

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

1 support pursuant to this subsection after the child reaches the age  
2 of eighteen (18) years.

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

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

4 SECTION 2. AMENDATORY 43 O.S. 2001, Section 134, as  
5 amended by Section 11, Chapter 407, O.S.L. 2008 (43 O.S. Supp. 2010,  
6 Section 134), is amended to read as follows:

7 Section 134. A. In any divorce decree which provides for  
8 periodic alimony payments, the court shall plainly state, at the  
9 time of entering the original decree, the dollar amount of all or a  
10 portion of each payment which is designated as support and the  
11 dollar amount of all or a portion of the payment which is a payment  
12 pertaining to a division of property. The court shall specify in  
13 the decree that the payments pertaining to a division of property  
14 shall continue until completed. Payments pertaining to a division  
15 of property are irrevocable and not subject to subsequent  
16 modification by the court making the award. An order for the  
17 payment of money pursuant to a divorce decree, whether designated as  
18 support or designated as pertaining to a division of property shall  
19 not be a lien against the real property of the person ordered to  
20 make such payments unless the court order specifically provides for  
21 a lien on real property. An arrearage in payments of support  
22 reduced to a judgment may be a lien against the real property of the  
23 person ordered to make such payments.

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1 B. The court shall also provide in the divorce decree that upon  
2 the death or remarriage of the recipient, the payments for support,  
3 if not already accrued, shall terminate. The court shall order the  
4 judgment for the payment of support to be terminated, and the lien  
5 released upon the presentation of proper proof of death of the  
6 recipient unless a proper claim is made for any amount of past-due  
7 support payments by an executor, administrator, or heir within  
8 ninety (90) days from the date of death of the recipient. Upon  
9 proper application the court shall order payment of support  
10 terminated and the lien discharged after remarriage of the  
11 recipient, unless the recipient can make a proper showing that some  
12 amount of support is still needed and that circumstances have not  
13 rendered payment of the same inequitable, provided the recipient  
14 commences an action for such determination, within ninety (90) days  
15 of the date of such remarriage.

16 C. The voluntary cohabitation of a former spouse with a member  
17 of the opposite sex shall be a ground to modify provisions of a  
18 final judgment or order for alimony as support. If voluntary  
19 cohabitation is alleged in a motion to modify the payment of  
20 support, the court shall have jurisdiction to reduce or terminate  
21 future support payments upon proof of substantial change of  
22 circumstances of either party to the divorce relating to need for  
23 support or ability to support. As used in this subsection, the term  
24 cohabitation means the dwelling together continuously and habitually

1 of a man and a woman who are in a private conjugal relationship not  
2 solemnized as a marriage according to law, or not necessarily  
3 meeting all the standards of a common-law marriage. The petitioner  
4 shall make application for modification and shall follow  
5 notification procedures used in other divorce decree modification  
6 actions. The court that entered the divorce decree shall have  
7 jurisdiction over the modification application.

8 D. Except as otherwise provided in subsection C of this  
9 section, the provisions of any divorce decree pertaining to the  
10 payment of alimony as support may be modified upon proof of changed  
11 circumstances relating to the need for support or ability to support  
12 which are substantial and continuing so as to make the terms of the  
13 decree unreasonable to either party. Modification by the court of  
14 any divorce decree pertaining to the payment of alimony as support,  
15 pursuant to the provisions of this subsection, may extend to the  
16 terms of the payments and to the total amount awarded; provided  
17 however, such modification shall only have prospective application.

18 E. Pursuant to the federal Uniformed Services Former Spouses'  
19 Protection Act, 10 U.S.C., Section 1408, a court may treat  
20 disposable retired or retainer pay payable to a military member  
21 either as property solely of the member or as property of the member  
22 and the spouse of the member. If a state court determines that the  
23 disposable retired or retainer pay of a military member is marital  
24 property, the court shall award an amount consistent with the rank,

1 pay grade, and time of service of the member at the time of the  
2 separation of the parties.

3 F. The provisions of subsection D of this section shall have  
4 retrospective and prospective application with regards to  
5 modifications for the purpose of obtaining support or payments  
6 pertaining to a division of property on divorce decrees which become  
7 final after June 26, 1981. There shall be a two-year statute of  
8 limitations, beginning on the date of the final divorce decree, for  
9 a party to apply for division of disposable retired or retainer pay.

10 G. The provisions of subsections C and D of this section shall  
11 have retrospective and prospective application with regards to  
12 modifications of the provisions of a final judgment or order for  
13 alimony as support, or of a divorce decree pertaining to the payment  
14 of alimony as support, regardless of the date that the order,  
15 judgment, or decree was entered.

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

19 Sections 3 through 8 of this act shall be known and may be cited  
20 as the "Military Custody and Visitation Act".

21 SECTION 4. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 150.1 of Title 43, unless there  
23 is created a duplication in numbering, reads as follows:

24 As used in the Military Custody and Visitation Act:

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

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

6        3. "Deploying parent" means a legal parent of a minor child,  
7 who is a member of the United States armed forces and who is  
8 deployed or has been notified of an impending deployment;

9        4. "Deployment" means the temporary transfer of a service  
10 member in compliance with official orders to another location in  
11 support of combat, contingency operation, or natural disaster  
12 requiring the use of orders for a period of more than thirty (30)  
13 consecutive days, during which family members are not authorized to  
14 accompany the service member at government expense. Deployment  
15 shall include any period during which a service member is absent  
16 from duty on account of sickness, wounds, leave or other lawful  
17 cause;

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

1       6. "Nondeploying parent" means a legal parent or guardian who  
2 is not deployed and who has a child or ward in common with a  
3 deploying parent;

4       7. "Service member" means a member of either:

5           a. the active or reserve components of the Army, Navy,  
6           Air Force, Marine Corps, or Coast Guard, or

7           b. the active or reserve components of the National  
8           Guard; and

9       8. "Visitation" means the right to take a child for a limited  
10 period of time to a place other than the habitual residence of the  
11 child.

12       SECTION 5.       NEW LAW       A new section of law to be codified  
13 in the Oklahoma Statutes as Section 150.2 of Title 43, unless there  
14 is created a duplication in numbering, reads as follows:

15       A. In any proceeding in which the custody and visitation of a  
16 minor child is contested and a parent of the minor child is a  
17 service member subject to deployment, the court shall provide for  
18 the custody and visitation of the child in the event the service  
19 member parent is deployed.

20       B. The court shall not consider the temporary inconvenience to  
21 the child caused by past deployments or possible future deployments  
22 as a factor in determining the best interest of the child.

23       Provided, however, other effects of deployment may be considered by  
24 the court.

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

13 SECTION 6. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 150.3 of Title 43, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. 1. A deploying parent shall notify the nondeploying parent  
17 no later than:

- 18 a. sixty (60) days before the date of deployment, or
- 19 b. ten (10) days after the date the deploying parent  
20 receives an order of deployment if the orders are  
21 received less than sixty (60) days before the date of  
22 deployment. However, the deploying parent shall  
23 provide notice to the nondeploying parent no less than  
24 ten (10) days prior to deployment.

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

7           3. If a deploying parent fails to notify the nondeploying  
8 parent as required by this subsection, the court may award attorney  
9 fees and costs to the nondeploying parent.

10          B. When a deploying parent has received orders of deployment,  
11 either parent may file a motion with the court for an expedited  
12 hearing on any matter pertaining to custodial responsibility. The  
13 motion shall include the date on which the deployment begins and the  
14 length of deployment if known. The court shall schedule an  
15 expedited hearing within ten (10) days of the filing of the motion  
16 for an expedited hearing.

17          C. A deploying parent who is entitled to a stay in civil  
18 proceedings pursuant to the Servicemembers Civil Relief Act, 50  
19 U.S.C. App., Sections 501 through 596, may elect to proceed while  
20 the deploying parent is unavailable to appear in the geographical  
21 location in which the litigation is pursued and may seek relief and  
22 provide evidence through video conferencing, Internet camera, e-  
23 mail, telephone, or other reasonable electronic means. The court  
24 may deny the deploying parent the opportunity to present evidence by

1 electronic means if it would cause a substantial injustice, deny  
2 effective cross examination, deny the right to confront a witness,  
3 or abridge another constitutional right.

4 D. The court may enter a temporary order for custodial  
5 responsibility, consistent with the Servicemembers Civil Relief Act,  
6 after the deploying parent has received notice of deployment. The  
7 court shall not enter a permanent order regarding custody or  
8 visitation after a notice of deployment has occurred or during a  
9 deploying parent's deployment without the consent of the deploying  
10 parent.

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

14 1. A subsequent substantial change of circumstances has  
15 occurred after the prior judicial decree was ordered; or

16 2. A showing that enforcement of the provisions of the prior  
17 decree would result in substantial harm to the child.

18 F. If the deploying parent and the nondeploying parent have  
19 previously agreed in writing to provisions for the custodial  
20 responsibility of the child in the event of deployment, there shall  
21 be a rebuttable presumption that the agreement is in the best  
22 interest of the child. The presumption may be overcome only if the  
23 court makes specific findings of fact establishing that the  
24 agreement is not in the best interest of the child.



1 G. When entering a temporary order for custodial responsibility  
2 prior to or during a deployment, the court shall:

3 1. Identify the nature of the deployment that is the basis for  
4 the order;

5 2. Specify that the order is temporary;

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

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

14 H. The court ordering custody or visitation pursuant to the  
15 Military Custody and Visitation Act may also enter a temporary order  
16 for child support, consistent with the requirements of Title 43 of  
17 the Oklahoma Statutes.

18 SECTION 7. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 150.4 of Title 43, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. If the deploying parent moves to delegate visitation rights,  
22 the court may grant reasonable visitation to a member of the family  
23 of the child, including a stepparent or step sibling, with whom the  
24 child has a close and substantial relationship as defined in the

1 Military Custody and Visitation Act. Visitation awarded pursuant to  
2 this section derives from the deploying parent's own right to  
3 custodial responsibility. Neither this section nor a court order  
4 permitting delegation shall be deemed to create any separate or  
5 permanent rights to visitation.

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

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

20 D. In an order granting delegation of visitation rights, the  
21 court shall:

22 1. Set out a process to resolve any disputes that may arise  
23 between the person receiving visitation and the nondeploying parent;  
24

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

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

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

9           SECTION 8.           NEW LAW           A new section of law to be codified  
10 in the Oklahoma Statutes as Section 150.5 of Title 43, unless there  
11 is created a duplication in numbering, reads as follows:

12           A. Upon the completion of the deployment, the deploying parent  
13 shall notify the court and the nondeploying parent of the return of  
14 the deploying parent. Any temporary order entered during or based  
15 upon a military deployment shall terminate and the original order  
16 shall be reinstated not later than thirty (30) days from the date  
17 the parent is released from the military service requiring  
18 separation. The parent released from the military service shall not  
19 be required to file a motion to vacate or modify the temporary order  
20 entered during or based upon the military member's absence, except  
21 as provided in subsections C through E of this section.

22           B. If the resumption of the custodial arrangement in place  
23 prior to deployment does not follow immediately upon the return of  
24 the deploying parent, the nondeploying parent shall provide for

1 liberal visitation of the child until such time that the  
2 predeployment custodial arrangement is resumed or a court of  
3 competent jurisdiction enters an order on custodial responsibility.  
4 Liberal visitation shall not be required if the nondeploying parent  
5 reasonably believes that the visitation would cause the child  
6 irreparable harm.

7 C. Any temporary custody order for custodial responsibility  
8 shall terminate automatically no later than thirty (30) days after  
9 the deploying parent returns from deployment or thirty (30) days  
10 after the deploying parent notifies either the nondeploying parent  
11 or the court of the date of return, whichever is later. However, in  
12 the event that either parent files a motion to prevent termination  
13 during that period on the ground that termination is likely to cause  
14 the child irreparable harm, the temporary order shall not terminate  
15 automatically, provided the nondeploying parent files a motion for  
16 an expedited hearing on the matter.

17 D. A motion by either parent to prevent termination of the  
18 temporary custody order filed within thirty (30) days of the return  
19 of the deploying parent shall be heard by the court at an expedited  
20 hearing no later than ten (10) days after the filing of the motion.

21 E. The court may order a transition period which allows a  
22 gradual return to the prior custody order if the court finds that an  
23 immediate resumption of the prior order would not be in the best  
24 interest of the child.

1 F. The court shall assess attorney fees and court costs of the  
2 nonmoving party against the moving party if the court finds that a  
3 motion to extend the temporary order was made in bad faith.

4 SECTION 9. This act shall become effective November 1, 2011.

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