

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 82 Session of  
2023

INTRODUCED BY C. WILLIAMS, JAMES, CIRESI, M. MACKENZIE,  
KAUFFMAN, STAATS, ROWE, GILLEN, KERWIN, FLICK, MARCELL,  
WATRO, SCHEUREN, RADER AND STEHR, MARCH 7, 2023

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 7, 2023

## AN ACT

1 Amending Titles 23 (Domestic Relations) and 51 (Military  
2 Affairs) of the Pennsylvania Consolidated Statutes, enacting  
3 the Uniform Deployed Parents Custody and Visitation Act;  
4 making repeals; and making editorial changes.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Sections 5321, 5337(a) and 5338(b) of Title 23 of  
8 the Pennsylvania Consolidated Statutes are amended to read:

9 § 5321. Scope of chapter.

10 This chapter applies to disputes relating to child custody  
11 matters. There are additional provisions applicable to child  
12 custody matters involving military personnel in 51 Pa.C.S. Ch.  
13 46 (relating to uniform deployed parents custody and  
14 visitation).

15 § 5337. Relocation.

16 (a) Applicability.--This section applies to any proposed  
17 relocation, including relocation subject to 51 Pa.C.S. Ch. 46  
18 (relating to uniform deployed parents custody and visitation).

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2 § 5338. Modification of existing order.

3 \* \* \*

4 (b) Applicability.--Except as provided in 51 Pa.C.S. [§ 4109  
5 (relating to child custody proceedings during military  
6 deployment)] Ch. 46 (relating to uniform deployed parents  
7 custody and visitation), this section shall apply to any custody  
8 order entered by a court of this Commonwealth or any other state  
9 subject to the jurisdictional requirements set forth in Chapter  
10 54 (relating to uniform child custody jurisdiction and  
11 enforcement).

12 Section 2. Sections 4109 and 4110 of Title 51 are repealed:  
13 [§ 4109. Child custody proceedings during military deployment.

14 (a) Restriction on change of custody.--If a petition for  
15 change of custody of a child of an eligible servicemember is  
16 filed with any court in this Commonwealth while the eligible  
17 servicemember is deployed in support of a contingency operation,  
18 no court may enter an order modifying or amending any previous  
19 judgment or order, or issue a new order, that changes the  
20 custody arrangement for that child that existed as of the date  
21 of the deployment of the eligible servicemember, except that a  
22 court may enter a temporary custody order if it is in the best  
23 interest of the child.

24 (a.1) Temporary assignment to family members.--If an  
25 eligible servicemember has received notice of deployment in  
26 support of a contingency operation, a court may issue a  
27 temporary order to an eligible servicemember who has rights to a  
28 child under 23 Pa.C.S. § 5323 (relating to award of custody) or  
29 former 23 Pa.C.S. Ch. 53 Subch. A (relating to general  
30 provisions), including a temporary order to temporarily assign

1 custody rights to family members of the servicemember. In the  
2 case of temporary assignment of rights to family members of the  
3 servicemember, the following shall apply:

4 (1) The servicemember may petition the court for a  
5 temporary order to temporarily assign custody rights to  
6 family members of the servicemember. The servicemember shall  
7 be joined in the petition by the family members to whom the  
8 servicemember is seeking to assign temporary custody rights.  
9 The petition shall include a proposed revised custody  
10 schedule for care of the child by the family members. The  
11 proposed revised custody schedule may not include custody  
12 rights which exceed the rights granted to a servicemember set  
13 forth in the order in effect at the time of the filing of the  
14 petition to grant temporary custody rights to family members.

15 (2) The court may issue a temporary order with a revised  
16 custody schedule as proposed by the servicemember and the  
17 family members or another revised custody schedule as the  
18 court deems appropriate, if the court finds that a temporary  
19 assignment of custody rights to family members of the  
20 servicemember is in the best interest of the child. In no  
21 case shall a temporary order granting custody rights to the  
22 family members of a servicemember exceed the custody rights  
23 granted to the servicemember set forth in the order in effect  
24 at the time of the filing of the petition to assign temporary  
25 custody rights to family members.

26 In the case of any other temporary order issued under this  
27 subsection, the court may issue a temporary order if it is in  
28 the best interest of the child.

29 (b) Completion of deployment.--In any temporary custody  
30 order entered under subsection (a) or (a.1), a court shall

1 require that, upon the return of the eligible servicemember from  
2 deployment in support of a contingency operation, the custody  
3 order that was in effect immediately preceding the date of the  
4 deployment of the eligible servicemember is reinstated.

5 (c) Exclusion of military service from determination of  
6 child's best interest.--If a petition for the change of custody  
7 of the child of an eligible servicemember who was deployed in  
8 support of a contingency operation is filed after the end of the  
9 deployment, no court may consider the absence of the eligible  
10 servicemember by reason of that deployment in determining the  
11 best interest of the child.

12 (d) Failure to appear due to military deployment.--The  
13 failure of an eligible servicemember to appear in court due to  
14 deployment in support of a contingency operation shall not, in  
15 and of itself, be sufficient to justify a modification of a  
16 custody order if the reason for the failure to appear is the  
17 eligible servicemember's active duty in support of a contingency  
18 operation.

19 (e) Relationship to other laws.--Notwithstanding any other  
20 provision of law, the provisions of this section shall be  
21 applied with regard to child custody issues related to eligible  
22 servicemembers deployed in support of contingency operations.

23 (f) Definitions.--As used in this section, the following  
24 words and phrases shall have the meanings given to them in this  
25 subsection:

26 "Contingency operation." A military operation that:

27 (1) is designated by the Secretary of Defense as an  
28 operation in which members of the armed forces are or may  
29 become involved in military actions, operations or  
30 hostilities against an enemy of the United States or against

1 an opposing military force; or

2 (2) results in the call or order to, or retention on,  
3 active duty of members of the uniformed services under 10  
4 U.S.C. § 688 (relating to retired members: authority to order  
5 to active duty; duties), 12301(a) (relating to reserve  
6 components generally), 12302 (relating to Ready Reserve),  
7 12304 (relating to Selected Reserve and certain Individual  
8 Ready Reserve members; order to active duty other than during  
9 war or national emergency), 12305 (relating to authority of  
10 President to suspend certain laws relating to promotion,  
11 retirement, and separation) or 12406 (relating to National  
12 Guard in Federal service: call) or any other provision of 10  
13 U.S.C. during a war or during a national emergency declared  
14 by the President or Congress.

15 "Eligible servicemember." A member of the Pennsylvania  
16 National Guard or a member of an active or reserve component of  
17 the Armed Forces of the United States who is serving on active  
18 duty, other than active duty for training, for a period of 30 or  
19 more consecutive days, in support of a contingency operation.

20 "Family members." As defined in 23 Pa.C.S. § 6303 (relating  
21 to definitions).

22 § 4110. Expedited or electronic hearing.

23 (a) Expedited hearing.--Upon motion of an eligible  
24 servicemember who has received notice of deployment in support  
25 of a contingency operation, the court shall, for good cause  
26 shown, hold an expedited hearing in custody matters instituted  
27 under section 4109 (relating to child custody proceedings during  
28 military deployment) when the military duties of the eligible  
29 servicemember have a material effect on the eligible  
30 servicemember's ability, or anticipated ability, to appear in

1 person at a regularly scheduled hearing.

2 (b) Electronic hearing.--Upon motion of an eligible  
3 servicemember who has received notice of deployment in support  
4 of a contingency operation, the court shall, upon reasonable  
5 advance notice and for good cause shown, allow the eligible  
6 servicemember to present testimony and evidence by electronic  
7 means in custody matters instituted under section 4109 when the  
8 military duties of the eligible servicemember have a material  
9 effect on the eligible servicemember's ability to appear in  
10 person at a regularly scheduled hearing.

11 (c) Definitions.--As used in this section, the following  
12 words and phrases shall have the meanings given to them in this  
13 subsection unless the context clearly indicates otherwise:

14 "Contingency operation." As defined in section 4109  
15 (relating to child custody proceedings during military  
16 deployment).

17 "Electronic means." Includes communication by telephone,  
18 video conference or the Internet.

19 "Eligible servicemember." As defined in section 4109  
20 (relating to child custody proceedings during military  
21 deployment).

22 "Matter." As defined in 42 Pa.C.S. § 102 (relating to  
23 definitions).]

24 Section 3. Title 51 is amended by adding a chapter to read:

25 CHAPTER 46

26 UNIFORM DEPLOYED PARENTS

27 CUSTODY AND VISITATION

28 Subchapter

29 A. General Provisions

30 B. Agreement Addressing Custodial Responsibility During

1 Deployment

2 C. Judicial Procedure for Granting Custodial Responsibility

3 During Deployment

4 D. Return from Deployment

5 E. Miscellaneous Provisions

6 SUBCHAPTER A

7 GENERAL PROVISIONS

8 Sec.

9 4601. Scope of chapter.

10 4602. Definitions.

11 4603. Remedies for noncompliance.

12 4604. Jurisdiction.

13 4605. Notices.

14 4606. General consideration of parent's military service.

15 § 4601. Scope of chapter.

16 This chapter relates to deployed parents custody and  
17 visitation.

18 § 4602. Definitions.

19 The following words and phrases when used in this chapter  
20 shall have the meanings given to them in this section unless the  
21 context clearly indicates otherwise:

22 "Adult." An individual who has attained 18 years of age or  
23 an emancipated minor.

24 "Caretaking authority." The right to live with and care for  
25 a child on a day-to-day basis. The term includes physical  
26 custody, partial physical custody, primary physical custody,  
27 parenting time and right to access and visitation.

28 "Child." An:

29 (1) unemancipated individual who has not attained 18  
30 years of age; or

1 (2) adult son or daughter by birth or adoption, or under  
2 law of this Commonwealth other than this chapter, who is the  
3 subject of a court order concerning custodial responsibility.

4 "Close and substantial relationship." A relationship in  
5 which a significant bond exists between a child and:

6 (1) the spouse of a deploying parent of the child or an  
7 individual who, by blood, marriage or adoption, is the  
8 child's sibling, aunt, uncle, cousin or grandparent; or

9 (2) if no one under paragraph (1) exists, either of the  
10 following:

11 (i) an adult who had primary care or physical  
12 custody of the child for 60 or more continuous days  
13 during the immediately preceding 12 months; or

14 (ii) an adult who had primary care or physical  
15 custody of the child for at least 730 days during the  
16 immediately preceding five years.

17 "Court." A tribunal authorized under law of this  
18 Commonwealth other than this chapter to make, enforce or modify  
19 a decision regarding custodial responsibility.

20 "Custodial responsibility." The term includes:

21 (1) Powers and duties relating to caretaking authority  
22 and legal custody for a child.

23 (2) Physical custody, legal custody, parenting time,  
24 right to access and authority to grant limited contact with a  
25 child.

26 "Deploying parent." A parent who:

27 (1) is a service member; and

28 (2) is deployed or has been notified of impending  
29 deployment.

30 "Deployment." As follows:

1       (1) The movement or mobilization of a service member,  
2 other than for training, to a location for at least 30  
3 consecutive days under official orders which:

4           (i) are designated as unaccompanied;

5           (ii) do not authorize dependent travel; or

6           (iii) otherwise do not permit the movement of family  
7 members to the service member's location.

8       (2) The term "deployed" has a corresponding meaning.

9       "Family member." An individual included in the definition of  
10 "family members" in 23 Pa.C.S. § 6303 (relating to definitions).

11       "Legal custody." As defined in 23 Pa.C.S. § 5322 (relating  
12 to definitions).

13       "Limited contact." The authority of a nonparent to visit a  
14 child for a limited time. The term includes partial custody and  
15 authority to take the child to a place other than the residence  
16 of the child.

17       "Parent." An individual:

18           (1) who is a parent of a child under law of this  
19 Commonwealth other than this chapter; or

20           (2) who:

21           (i) has custodial responsibility for a child under  
22 23 Pa.C.S. § 5323 (relating to award of custody) or  
23 former 23 Pa.C.S. Ch. 53 Subch. A (relating to general  
24 provisions); and

25           (ii) is not an individual described in paragraph

26           (1).

27       "Partial physical custody." As defined in 23 Pa.C.S. § 5322.

28       "Physical custody." As defined in 23 Pa.C.S. § 5322.

29       "Primary physical custody." As defined in 23 Pa.C.S. § 5322.

30       "Record." Information that is inscribed on a tangible medium

1 or that is stored in an electronic or other medium and is  
2 retrievable in perceivable form.

3 "Return from deployment." The conclusion of a service  
4 member's deployment as specified in official orders.

5 "Service member." An individual who meets all of the  
6 following:

7 (1) Is a member of:

8 (i) the active or reserve components of the Army,  
9 Navy, Air Force, Marine Corps or Coast Guard of the  
10 United States;

11 (ii) the United States merchant marine, the  
12 Commissioned Corps of the Public Health Service of the  
13 Department of Health and Human Services or the  
14 Commissioned Corps of the National Oceanic and  
15 Atmospheric Administration of the United States; or

16 (iii) the National Guard or Pennsylvania National  
17 Guard.

18 (2) Is deployed.

19 "Sign." With present intent to authenticate or adopt a  
20 record:

21 (1) to execute or adopt a tangible symbol; or

22 (2) to attach to or logically associate with the record  
23 an electronic symbol, sound or process.

24 "State." A state of the United States, the District of  
25 Columbia, Puerto Rico, the Virgin Islands or any territory or  
26 insular possession subject to the jurisdiction of the United  
27 States.

28 § 4603. Remedies for noncompliance.

29 In addition to other remedies under law of this Commonwealth  
30 other than this chapter, if a court finds that a party to a

1 proceeding under this chapter has acted in bad faith or  
2 intentionally failed to comply with this chapter or a court  
3 order issued under this chapter, the court may assess reasonable  
4 attorney fees and costs against the party and order other  
5 appropriate relief.

6 § 4604. Jurisdiction.

7 (a) Exercise.--A court may issue an order regarding  
8 custodial responsibility under this chapter only if the court  
9 has jurisdiction under 23 Pa.C.S. Ch. 54 (relating to uniform  
10 child custody jurisdiction and enforcement).

11 (b) Order of temporary custodial responsibility.--If a court  
12 has issued an order regarding temporary custodial responsibility  
13 under Subchapter C (relating to judicial procedure for granting  
14 custodial responsibility during deployment), the residence of  
15 the deploying parent is not changed by reason of the deployment  
16 for the purposes of 23 Pa.C.S. Ch. 54 during the deployment.

17 (c) Order of custodial responsibility.--If a court has  
18 issued an order regarding custodial responsibility before notice  
19 of deployment and the parents modify that order temporarily by  
20 agreement under Subchapter B (relating to agreement addressing  
21 custodial responsibility during deployment), the residence of  
22 the deploying parent is not changed by reason of the deployment  
23 for the purposes of 23 Pa.C.S. Ch. 54.

24 (d) Action in other state.--If a court in another state has  
25 issued an order regarding temporary custodial responsibility as  
26 a result of impending or current deployment, the residence of  
27 the deploying parent is not changed by reason of the deployment  
28 for the purposes of 23 Pa.C.S. Ch. 54.

29 (e) Temporary emergency jurisdiction.--This section does not  
30 prevent a court from exercising jurisdiction under 23 Pa.C.S. §

1 5424 (relating to temporary emergency jurisdiction).

2 § 4605. Notices.

3 (a) Pending deployment.--Except as otherwise provided in  
4 subsection (d) and subject to subsection (c), a deploying parent  
5 shall provide the other parent with notice in a record of a  
6 pending deployment:

7 (1) not later than 72 hours after receiving notice of  
8 deployment unless reasonably prevented from doing so by the  
9 circumstances of service; or

10 (2) if the circumstances of service prevent giving  
11 notice within the time period specified in paragraph (1), as  
12 soon as reasonably possible.

13 (b) Plan.--Except as otherwise provided in subsection (e)  
14 and subject to subsection (d), each parent shall provide the  
15 other parent, in a record, with a plan for fulfilling that  
16 parent's share of custodial responsibility during deployment.  
17 Each parent shall provide the plan not later than 120 hours  
18 after notice of deployment is given under subsection (a).

19 (c) Change of residence or mailing address.--Except as  
20 otherwise provided in subsection (d), the following apply:

21 (1) An individual to whom custodial responsibility has  
22 been granted during deployment under Subchapter B (relating  
23 to agreement addressing custodial responsibility during  
24 deployment) or C (relating to judicial procedure for granting  
25 custodial responsibility during deployment) and who proposes  
26 to change the residence of the child who is the subject of  
27 the agreement or proceeding shall comply with the provisions  
28 of 23 Pa.C.S. § 5337 (relating to relocation).

29 (2) An individual to whom custodial responsibility has  
30 been granted during deployment under Subchapter B or C shall

1 notify, in a record, the deploying parent and any other  
2 individual with custodial responsibility of a child of a  
3 change of the individual's mailing address. The obligation  
4 under this paragraph continues until the grant is terminated.

5 (3) The individual shall provide each notice under  
6 paragraph (1) or (2) to a court that has issued an order  
7 regarding custodial responsibility or child support which is  
8 in effect concerning the child.

9 (d) Court order on disclosure.--

10 (1) If a court order currently in effect prohibits  
11 disclosure of the residence, mailing address or contact  
12 information of the other parent or the other individual to  
13 whom custodial responsibility has been granted, the notice  
14 and documents required under subsections (a) and (b) shall be  
15 provided only to the counsel of record for the other parent  
16 and to the issuing court. If the mailing address of the other  
17 parent or other individual is available to the issuing court,  
18 the court shall forward the notice and document to the other  
19 parent or other individual.

20 (2) If a court order currently in effect prohibits  
21 disclosure of the residence, mailing address or contact  
22 information of an individual to whom custodial responsibility  
23 has been granted, the notice required under subsection (c)  
24 shall be provided only to the counsel of record of the  
25 individual and to the issuing court.

26 (3) The court shall keep confidential the residence,  
27 mailing address or contact information of any individual  
28 subject to an order prohibiting disclosure.

29 (e) Exception.--Notice under subsection (a) and the plan  
30 under subsection (b) are not required if the parents are living

1 in the same residence and both parents have actual notice of the  
2 deployment and plan.

3 (f) Proceeding on custodial responsibility.--In a proceeding  
4 regarding custodial responsibility, a court may consider the  
5 reasonableness of a parent's efforts to comply with this  
6 section.

7 § 4606. General consideration of parent's military service.

8 In a proceeding for custodial responsibility of a child of a  
9 deploying parent, a court may not consider a parent's past  
10 deployment or possible future deployment in itself in  
11 determining the best interest of the child but may consider any  
12 significant impact on the best interest of the child of the  
13 parent's past or possible future deployment.

14 SUBCHAPTER B

15 AGREEMENT ADDRESSING CUSTODIAL RESPONSIBILITY

16 DURING DEPLOYMENT

17 Sec.

18 4611. Form of agreement.

19 4612. Nature of authority created by agreement.

20 4613. Modification or termination of agreement.

21 4614. Power of attorney.

22 4615. Filing agreement or power of attorney with court.

23 § 4611. Form of agreement.

24 (a) Authorization.--The parents of a child may enter into an  
25 agreement under this subchapter granting temporary custodial  
26 responsibility during deployment.

27 (b) Formation.--An agreement entered into under subsection

28 (a) must:

29 (1) be in a record;

30 (2) be provided by the deploying parent to any nonparent

1 to whom custodial responsibility is granted;

2 (3) include notice that 23 Pa.C.S. § 5337 (relating to  
3 relocation) is applicable to any attempt to change the  
4 residence of the child who is the subject of the agreement;  
5 and

6 (4) be signed by both parents and any nonparent to whom  
7 custodial responsibility is granted.

8 (c) Contents.--An agreement entered into under subsection  
9 (a) may do any of the following to the extent feasible:

10 (1) Identify the destination, duration and conditions of  
11 the deployment which is the basis for the agreement.

12 (2) Specify the allocation of caretaking authority among  
13 the deploying parent, the other parent and any nonparent to  
14 whom custodial responsibility is granted.

15 (3) Require a nonparent to whom legal custody is granted  
16 to make each decision consistent with the known wishes of the  
17 deploying parent unless making the decision in this manner is  
18 not in the best interest of the child.

19 (4) Specify the scope of legal custody which accompanies  
20 a grant of caretaking authority.

21 (5) Include the signed agreement of each nonparent's  
22 designee to comply with the parents' agreement.

23 (6) Specify a grant of limited contact to a nonparent.

24 (7) If custodial responsibility is shared by the other  
25 parent and a nonparent or by other nonparents, provide a  
26 process to resolve a dispute which may arise.

27 (8) Specify:

28 (i) frequency, duration and means, including  
29 electronic means, by which the deploying parent will have  
30 contact with the child;

1           (ii) role to be played by the other parent or  
2           nonparent in facilitating the contact; and  
3           (iii) allocation of costs of contact.

4           (9) Specify the contact between the deploying parent and  
5           child during the time the deploying parent is on leave or is  
6           otherwise available.

7           (10) Acknowledge that a party's child-support obligation  
8           cannot be modified by the agreement and that changing the  
9           terms of the obligation during deployment requires  
10           modification in the appropriate court.

11           (11) Provide that the agreement will terminate according  
12           to the procedures under Subchapter D (relating to return from  
13           deployment) after the deploying parent returns from  
14           deployment.

15           (12) If the agreement is required to be filed under  
16           section 4615 (relating to filing agreement or power of  
17           attorney with court), specify who is required to file the  
18           agreement.

19 § 4612. Nature of authority created by agreement.

20           (a) Temporary.--

21           (1) An agreement entered into under this subchapter is  
22           temporary and terminates under Subchapter D (relating to  
23           return from deployment) after the deploying parent returns  
24           from deployment unless the agreement has been terminated  
25           before that time by court order or by the parents under  
26           section 4613 (relating to modification or termination of  
27           agreement).

28           (2) The agreement does not create an independent,  
29           continuing right to caretaking authority, legal custody or  
30           limited contact in an individual to whom custodial

1 responsibility is given.

2 (b) Standing.--A nonparent who was granted caretaking  
3 authority, legal custody or limited contact by an agreement  
4 entered into under this subchapter has standing to enforce the  
5 agreement until it has been terminated by court order, by the  
6 parents under section 4613 or Subchapter D.

7 § 4613. Modification or termination of agreement.

8 (a) Authorization.--The parents may modify or terminate an  
9 agreement regarding custodial responsibility entered into under  
10 this subchapter.

11 (b) Prior to deployment.--

12 (1) If an agreement is modified before deployment, the  
13 modification must be in a record and signed by:

14 (i) both parents; and

15 (ii) any nonparent who will exercise custodial  
16 responsibility under the modified agreement.

17 (2) If an agreement is terminated before deployment, the  
18 termination must be in a record and signed by both parents.

19 (c) During deployment.--

20 (1) If an agreement is modified during deployment, the  
21 modification must be agreed to in a record by:

22 (i) both parents; and

23 (ii) any nonparent who will exercise custodial  
24 responsibility under the modified agreement.

25 (2) If an agreement is terminated during deployment, the  
26 termination must be agreed to in a record by both parents.

27 § 4614. Power of attorney.

28 (a) Authorization.--A deploying parent, by power of  
29 attorney, may delegate all or part of custodial responsibility  
30 to an adult family member or spouse for the period of deployment

1 if:

2 (1) the deploying parent has sole legal custody  
3 pursuant to a court order under the laws of this Commonwealth  
4 other than this chapter; or

5 (2) a court order currently in effect prohibits contact  
6 between the child and the other parent.

7 (b) Notice.--

8 (1) For an authorization under subsection (a) to be  
9 valid, except as set forth in paragraph (2), the deploying  
10 parent must give notice in a record to the other parent of  
11 the delegation of custodial responsibility through the power  
12 of attorney within 72 hours of the execution of the power.

13 (2) Paragraph (1) does not apply if:

14 (i) the deploying parent has sole legal custody  
15 pursuant to a court order under the laws of this  
16 Commonwealth other than this chapter;

17 (ii) the other parent has not participated in the  
18 life of the child for a period of at least six months  
19 immediately preceding the execution of the power; or

20 (iii) the location of the other parent is unknown to  
21 the deploying parent.

22 (c) Revocation.--

23 (1) The deploying parent may revoke the power of  
24 attorney in a record signed by the deploying parent.

25 (2) If the power of attorney is required to be filed  
26 with a court under section 4615 (relating to filing agreement  
27 or power of attorney with court), a copy of the signed  
28 revocation shall also be filed with the court.

29 § 4615. Filing agreement or power of attorney with court.

30 A copy of an agreement entered into or power of attorney made

1 under this subchapter shall be filed within a reasonable time  
2 with a court that has issued an order regarding custodial  
3 responsibility or child support which is in effect concerning  
4 the child who is the subject of the agreement or power. The case  
5 number and heading of the pending case shall be provided to the  
6 court with the agreement or power.

7 SUBCHAPTER C

8 JUDICIAL PROCEDURE FOR GRANTING CUSTODIAL

9 RESPONSIBILITY DURING DEPLOYMENT

10 Sec.

11 4621. Proceeding for order.

12 4622. Expedited hearing.

13 4623. Testimony by electronic means.

14 4624. Failure to appear.

15 4625. Effect of prior judicial order or agreement.

16 4626. Grant of caretaking authority to nonparent.

17 4627. Grant of legal custody to nonparent.

18 4628. Grant of limited contact to nonparent.

19 4629. Nature of authority created by order.

20 4630. Content of order.

21 4631. Order for child support.

22 4632. Modifying or terminating grant of custodial

23 responsibility to nonparent.

24 § 4621. Proceeding for order.

25 (a) Authorization.--After the deploying parent receives  
26 notice of deployment and until the deployment terminates, a  
27 court may issue an order granting temporary custodial  
28 responsibility unless prohibited by 50 U.S.C. §§ 3931 (relating  
29 to protection of servicemembers against default judgments) and  
30 3932 (relating to stay of proceedings when servicemember has

1 notice). A court may not issue an order granting permanent  
2 custodial responsibility without the consent of the deploying  
3 parent.

4 (b) Custodial responsibility.--After the deploying parent  
5 receives notice of deployment, either parent may file a motion  
6 regarding custodial responsibility during deployment. The motion  
7 must be filed in a pending proceeding for custodial  
8 responsibility in a court with jurisdiction under section 4604  
9 (relating to jurisdiction) or, if there is no pending proceeding  
10 in a court with jurisdiction under section 4604, in a new action  
11 for granting custodial responsibility during deployment.

12 § 4622. Expedited hearing.

13 If a motion to grant custodial responsibility is filed under  
14 section 4621(b) (relating to proceeding for order) before the  
15 deploying parent deploys, the court shall conduct an expedited  
16 hearing.

17 § 4623. Testimony by electronic means.

18 In a proceeding under this subchapter, a party or witness who  
19 is not reasonably available to appear personally may appear,  
20 provide testimony and present evidence by electronic means  
21 unless the court finds good cause to require a personal  
22 appearance.

23 § 4624. Failure to appear.

24 The failure of a deploying parent to appear in court due to  
25 deployment shall not, by itself, be sufficient to justify a  
26 modification of an order concerning custodial responsibility.

27 § 4625. Effect of prior judicial order or agreement.

28 In a proceeding for a grant of custodial responsibility under  
29 this subchapter, the following apply:

30 (1) A prior judicial order designating custodial

1 responsibility in the event of deployment is binding on the  
2 court unless the circumstances meet the requirements of law  
3 of this Commonwealth other than this chapter for modifying a  
4 judicial order regarding custodial responsibility.

5 (2) The court shall enforce a prior written agreement  
6 between the parents for designating custodial responsibility  
7 in the event of deployment, including an agreement executed  
8 under Subchapter B (relating to agreement addressing  
9 custodial responsibility during deployment), unless the court  
10 finds that the agreement is contrary to the best interest of  
11 the child.

12 § 4626. Grant of caretaking authority to nonparent.

13 (a) Authorization.--On motion of a deploying parent and in  
14 accordance with law of this Commonwealth other than this  
15 chapter, if it is in the best interest of the child, a court may  
16 grant caretaking authority to a nonparent who is an adult with  
17 whom the child has a close and substantial relationship.

18 (b) Duration.--Unless a grant of caretaking authority to a  
19 nonparent under subsection (a) is agreed to by the other parent,  
20 the grant is limited to an amount of time not greater than the  
21 following:

22 (1) The amount of time granted to the deploying parent  
23 under an order regarding custodial responsibility which is  
24 currently in effect. The court may add unusual travel time  
25 necessary to transport the child.

26 (2) In the absence of an order regarding custodial  
27 responsibility which is currently in effect, the amount of  
28 time when the deploying parent habitually cared for the child  
29 before being notified of deployment. The court may add  
30 unusual travel time necessary to transport the child.

1 (c) (Reserved).

2 § 4627. Grant of legal custody to nonparent.

3 If the deploying parent is unable to exercise the scope of  
4 legal custody awarded to the deploying parent, a court may grant  
5 part of the deploying parent's scope of legal custody to a  
6 nonparent who is an adult with whom the child has a close and  
7 substantial relationship. A court order under this section shall  
8 specify the scope of legal custody granted.

9 § 4628. Grant of limited contact to nonparent.

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

16 § 4629. Nature of authority created by order.

17 (a) Duration and effect.--A grant of authority under this  
18 subchapter is temporary and terminates under Subchapter D  
19 (relating to return from deployment) after the return from  
20 deployment of the deploying parent unless the grant has been  
21 terminated before that time by court order. The grant does not  
22 create an independent, continuing right to caretaking authority,  
23 legal custody or limited contact in an individual to whom it is  
24 granted.

25 (b) Standing.--A nonparent granted caretaking authority,  
26 legal custody or limited contact under this subchapter has  
27 standing to enforce the grant until it is terminated by court  
28 order.

29 § 4630. Content of order.

30 (a) Time and identification.--An order granting custodial

1 responsibility issued under this subchapter shall:

2 (1) designate the order as temporary; and

3 (2) identify to the extent feasible the destination,  
4 duration and conditions of the deployment.

5 (b) Terms.--If applicable, an order for custodial

6 responsibility issued under this subchapter shall:

7 (1) specify the allocation of caretaking authority,  
8 legal custody or limited contact among the deploying parent,  
9 the other parent and any nonparent to whom caretaking  
10 authority is granted;

11 (2) if the order divides caretaking authority or legal  
12 custody among individuals or grants caretaking authority to  
13 one individual and limited contact to another, provide a  
14 process to resolve a dispute which may arise;

15 (3) provide for liberal communication between the  
16 deploying parent and the child during deployment, including  
17 through electronic means, unless contrary to the best  
18 interest of the child, and allocate costs of communications;

19 (4) provide for liberal contact between the deploying  
20 parent and the child during the time the deploying parent is  
21 on leave or otherwise available, unless contrary to the best  
22 interest of the child;

23 (5) provide for reasonable contact between the deploying  
24 parent and the child after the deploying parent returns from  
25 deployment and until the order is terminated, even if the  
26 time of contact exceeds the time the deploying parent spent  
27 with the child before entry of the order; and

28 (6) provide that the order will terminate under  
29 Subchapter D (relating to return from deployment) after the  
30 deploying parent returns from deployment.

1 § 4631. Order for child support.

2 If a court has issued an order granting caretaking authority  
3 under this subchapter or an agreement granting caretaking  
4 authority has been entered into under Subchapter B (relating to  
5 agreement addressing custodial responsibility during  
6 deployment), the court may enter a temporary order for child  
7 support consistent with law of this Commonwealth other than this  
8 chapter if the court has jurisdiction under 23 Pa.C.S. Pt. VIII  
9 (relating to uniform interstate family support).

10 § 4632. Modifying or terminating grant of custodial  
11 responsibility to nonparent.

12 (a) Authorization.--

13 (1) Except for an order under section 4625 (relating to  
14 effect of prior judicial order or agreement) or as otherwise  
15 provided under subsection (b) and consistent with 50 U.S.C.  
16 §§ 3931 (relating to protection of servicemembers against  
17 default judgments) and 3932 (relating to stay of proceedings  
18 when servicemember has notice), on motion of a deploying or  
19 other parent or a nonparent to whom caretaking authority,  
20 legal custody or limited contact has been granted, the court  
21 may modify or terminate the grant if the modification or  
22 termination is consistent with this subchapter and is in the  
23 best interest of the child.

24 (2) A modification is temporary and terminates under  
25 Subchapter D (relating to return from deployment) after the  
26 deploying parent returns from deployment unless the grant has  
27 been terminated before that time by court order.

28 (b) Grant of limited contact.--On motion of a deploying  
29 parent, the court shall terminate a grant of limited contact.

30 SUBCHAPTER D



1 B terminates 60 days after the deploying parent gives notice, to  
2 the other parent and to any nonparent to whom custodial  
3 responsibility was granted, of the deploying parent's return  
4 from deployment.

5 (d) Judicial filing.--If an agreement entered into under  
6 Subchapter B was filed with a court under section 4615 (relating  
7 to filing agreement or power of attorney with court), an  
8 agreement to terminate the agreement shall be filed with that  
9 court within a reasonable time after the signing of the  
10 agreement. The case number and heading of the case concerning  
11 custodial responsibility or child support shall be provided to  
12 the court with the agreement to terminate.

13 § 4642. Consent procedure for terminating custodial  
14 responsibility granted by court order.

15 (a) Filing of agreement.--

16 (1) After the deploying parent returns from deployment,  
17 both parents may file with the court an agreement to  
18 terminate an order for temporary custodial responsibility  
19 issued under Subchapter C (relating to judicial procedure for  
20 granting custodial responsibility during deployment).

21 (2) An agreement to terminate an order entered into  
22 under this section is not required to be signed by a  
23 nonparent to whom custodial responsibility has been granted.

24 (b) Order.--After an agreement has been filed, the court  
25 shall issue an order terminating the temporary order effective  
26 on the date specified in the agreement. If a date is not  
27 specified, the order shall take effect immediately upon  
28 issuance.

29 § 4643. Visitation before termination of grant of custodial  
30 responsibility.

1 Upon petition of a deploying parent who has returned from  
2 deployment, the court shall issue an order granting the  
3 deploying parent reasonable contact with the child until the  
4 agreement entered into under Subchapter B (relating to agreement  
5 addressing custodial responsibility during deployment) or the  
6 order issued under Subchapter C (relating to judicial procedure  
7 for granting custodial responsibility during deployment) is  
8 terminated, unless it is contrary to the best interest of the  
9 child, even if the time of contact exceeds the time the  
10 deploying parent spent with the child before deployment.

11 § 4644. Termination by operation of law of custodial  
12 responsibility granted by court order.

13 (a) Absence of filed agreement.--If an agreement to  
14 terminate an order for temporary custodial responsibility issued  
15 under Subchapter C (relating to judicial procedure for granting  
16 custodial responsibility during deployment) has not been filed,  
17 the order shall terminate 60 days after the deploying parent  
18 gives notice, to the other parent and any nonparent granted  
19 custodial responsibility, that the deploying parent has returned  
20 from deployment.

21 (b) Applicable law.--A proceeding seeking to prevent  
22 termination of an order for temporary custodial responsibility  
23 is governed by law of this Commonwealth other than this chapter.

#### 24 SUBCHAPTER E

#### 25 MISCELLANEOUS PROVISIONS

26 Sec.

27 4651. Relation to Electronic Signatures in Global and National  
28 Commerce Act.

29 4652. Savings clause.

30 § 4651. Relation to Electronic Signatures in Global and

1                   National Commerce Act.

2           To the extent permitted by 15 U.S.C. § 7002 (relating to  
3 exemption to preemption), this chapter may supersede provisions  
4 of that act.

5 § 4652. Savings clause.

6           This chapter does not affect the validity of any court order  
7 or agreement concerning custodial responsibility during  
8 deployment which was issued or entered into before the effective  
9 date of this section.

10           Section 4. This act shall take effect in 30 days.