

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1759 Session of  
2007

INTRODUCED BY BELFANTI, PHILLIPS, MANN, FAIRCHILD, BENNINGHOFF,  
BLACKWELL, BRENNAN, CAPPELLI, CARROLL, CAUSER, CONKLIN,  
CREIGHTON, EVERETT, GEIST, HALUSKA, HARKINS, HESS, HORNAMAN,  
JAMES, KIRKLAND, KORTZ, KOTIK, LEVDANSKY, MAHONEY,  
McILVAINE SMITH, MELIO, R. MILLER, PASHINSKI, RAPP, SANTONI,  
SAYLOR, SCAVELLO, SCHRODER, SOLOBAY, STERN, SWANGER,  
TANGRETTI, THOMAS, J. WHITE, WOJNAROSKI AND YOUNGBLOOD,  
JULY 17, 2007

REFERRED TO COMMITTEE ON JUDICIARY, JULY 17, 2007

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, providing for modification of custody  
3 order during military duty.

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

6 Section 1. Title 23 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a section to read:

8 § 5310.1. Modification of custody order during military duty.

9 (a) General rule.--If a motion for modification of custody  
10 is filed during the time a parent is in active military duty,  
11 the court shall not enter an order modifying or amending a  
12 previous judgment or order, or issue a new order, that changes  
13 the child's placement that existed on the date the parent was  
14 called to active military duty; but the court may enter a  
15 temporary custody order if there is clear and convincing

1 evidence that it is in the best interest of the child. Upon a  
2 parent's return from active military duty, the court shall  
3 reinstate the custody order in effect immediately preceding that  
4 period of active military duty.

5 (b) Consideration.--If a motion for change of custody is  
6 filed after a parent returns from active military duty, the  
7 court shall not consider a parent's absence due to that military  
8 duty in a best interest of the child determination. A parent's  
9 absence, relocation or failure to comply with custody and  
10 visitation orders shall not, by itself, be sufficient to justify  
11 a modification of a custody or visitation order if the reason  
12 for the absence, relocation or failure to comply is the parent's  
13 activation to military service and deployment out of State.

14 Section 2. This act shall take effect in 60 days.