

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2287 Session of
2022

INTRODUCED BY C. WILLIAMS, RYAN, STAATS, HILL-EVANS, KAIL,
MILLARD, SCHLEGEL CULVER, PENNYCUICK, NEILSON, MOUL AND
CIRESI, JANUARY 27, 2022

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 27, 2022

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 related 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).

1 * * *

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 Sections 4109 and 4110 of Title 51 are repealed: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

Deployment

C. Judicial Procedure for Granting Custodial Responsibility
During Deployment

D. Return from Deployment

E. Miscellaneous Provisions

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

4601. Scope of chapter.

4602. Definitions.

4603. Remedies for noncompliance.

4604. Jurisdiction.

4605. Notices.

4606. General consideration of parent's military service.

§ 4601. Scope of chapter.

This chapter relates to deployed parents custody and
visitation.

§ 4602. Definitions.

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

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

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

"Child." An:

(1) unemancipated individual who has not attained 18
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." The movement or mobilization of a service

member, other than for training, to a location for at least 30 consecutive days under official orders which:

(1) are designated as unaccompanied;

(2) do not authorize dependent travel; or

(3) otherwise do not permit the movement of family members to the location where the service member is deployed.

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

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

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

"Parent." An individual who is:

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

(2) an individual who:

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

(ii) is not an individual described in paragraph

(1).

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

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

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

"Record." Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

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

3 "Service member." An individual who meets all of the
4 following:

5 (1) Is a member of:

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

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

14 (iii) the National Guard or Pennsylvania National
15 Guard.

16 (2) Is on active duty.

17 "Sign." With present intent to authenticate or adopt a
18 record:

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

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

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

26 § 4603. Remedies for noncompliance.

27 In addition to other remedies under law of this Commonwealth
28 other than this chapter, if a court finds that a party to a
29 proceeding under this chapter has acted in bad faith or
30 intentionally failed to comply with this chapter or a court

order issued under this chapter, the court may assess reasonable attorney fees and costs against the party and order other appropriate relief.

§ 4604. Jurisdiction.

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

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

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

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

(e) Temporary emergency jurisdiction.--This section does not prevent a court from exercising jurisdiction under 23 Pa.C.S. § 5424 (relating to temporary emergency jurisdiction).

§ 4605. Notices.

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

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

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

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

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

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

27 (2) An individual to whom custodial responsibility has
28 been granted during deployment under Subchapter B or C shall
29 notify, in a record, the deploying parent and any other
30 individual with custodial responsibility of a child of a

change of the individual's mailing address. The obligation under this paragraph continues until the grant is terminated.

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

(d) Court order on disclosure.--

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

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

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

(e) Exception.--Notice under subsection (a) and the plan under subsection (b) are not required if the parents are living in the same residence and both parents have actual notice of the deployment and plan.

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

5 § 4606. General consideration of parent's military service.

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

12 SUBCHAPTER B

13 AGREEMENT ADDRESSING CUSTODIAL RESPONSIBILITY

14 DURING DEPLOYMENT

15 Sec.

16 4611. Form of agreement.

17 4612. Nature of authority created by agreement.

18 4613. Modification or termination of agreement.

19 4614. Power of attorney.

20 4615. Filing agreement or power of attorney with court.

21 § 4611. Form of agreement.

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

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

26 (a) must:

27 (1) be in a record;

28 (2) be provided by the deploying parent to any nonparent
29 to whom custodial responsibility is granted;

30 (3) include notice that 23 Pa.C.S. § 5337 (relating to

1 relocation) is applicable to any attempt to change the
2 residence of the child who is the subject of the agreement;
3 and

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

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

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

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

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

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

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

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

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

25 (8) Specify:

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

29 (ii) role to be played by the other parent or
30 nonparent in facilitating the contact; and

1 (iii) allocation of costs of contact.

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

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

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

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

17 § 4612. Nature of authority created by agreement.

18 (a) Temporary.--

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

26 (2) The agreement does not create an independent,
27 continuing right to caretaking authority, legal custody or
28 limited contact in an individual to whom custodial
29 responsibility is given.

30 (b) Standing.--A nonparent who was granted caretaking

authority, legal custody or limited contact by an agreement entered into under this subchapter has standing to enforce the agreement until it has been terminated by court order, by the parents under section 4613 or Subchapter D.

§ 4613. Modification or termination of agreement.

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

(b) Prior to deployment.--

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

(i) both parents; and

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

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

(c) During deployment.--

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

(i) both parents; and

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

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

§ 4614. Power of attorney.

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

(1) the deploying parent has sole legal custody

1 pursuant to a court order under the laws of this Commonwealth
2 other than this chapter; or

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

5 (b) Notice.--

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

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

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

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

18 (iii) the location of the other parent is unknown to
19 the deploying parent.

20 (c) Revocation.--

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

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

27 § 4615. Filing agreement or power of attorney with court.

28 A copy of an agreement entered into or power of attorney made
29 under this subchapter shall be filed within a reasonable time
30 with a court that has issued an order regarding custodial

responsibility or child support which is in effect concerning
the child who is the subject of the agreement or power. The case
number and heading of the pending case shall be provided to the
court with the agreement or power.

SUBCHAPTER C

JUDICIAL PROCEDURE FOR GRANTING CUSTODIAL

RESPONSIBILITY DURING DEPLOYMENT

Sec.

4621. Proceeding for order.

4622. Expedited hearing.

4623. Testimony by electronic means.

4624. Failure to appear.

4625. Effect of prior judicial order or agreement.

4626. Grant of caretaking authority to nonparent.

4627. Grant of legal custody to nonparent.

4628. Grant of limited contact to nonparent.

4629. Nature of authority created by order.

4630. Content of order.

4631. Order for child support.

4632. Modifying or terminating grant of custodial

responsibility to nonparent.

§ 4621. Proceeding for order.

(a) Authorization.--After the deploying parent receives
notice of deployment and until the deployment terminates, a
court may issue an order granting temporary custodial
responsibility unless prohibited by sections 201 and 202 of the
Service Members Civil Relief Act (Public Law 108-89, 50 App.
U.S.C. §§ 521 and 522). A court may not issue an order granting
permanent custodial responsibility without the consent of the
deploying parent.

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

9 § 4622. Expedited hearing.

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

14 § 4623. Testimony by electronic means.

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

20 § 4624. Failure to appear.

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

24 § 4625. Effect of prior judicial order or agreement.

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

27 (1) A prior judicial order designating custodial
28 responsibility in the event of deployment is binding on the
29 court unless the circumstances meet the requirements of law
30 of this Commonwealth other than this chapter for modifying a

1 judicial order regarding custodial responsibility.

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

9 § 4626. Grant of caretaking authority to nonparent.

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

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

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

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

28 (c) (Reserved).

29 § 4627. Grant of legal custody to nonparent.

30 If the deploying parent is unable to exercise the scope of

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

6 § 4628. Grant of limited contact to nonparent.

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

13 § 4629. Nature of authority created by order.

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

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

26 § 4630. Content of order.

27 (a) Time and identification.--An order granting custodial
28 responsibility issued under this subchapter shall:

29 (1) designate the order as temporary; and

30 (2) identify to the extent feasible the destination,

duration and conditions of the deployment.

(b) Terms.--If applicable, an order for custodial responsibility issued under this subchapter shall:

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

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

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

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

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

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

§ 4631. Order for child support.

If a court has issued an order granting caretaking authority under this subchapter or an agreement granting caretaking

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

7 § 4632. Modifying or terminating grant of custodial
8 responsibility to nonparent.

9 (a) Authorization.--

10 (1) Except for an order under section 4625 (relating to
11 effect of prior judicial order or agreement) or as otherwise
12 provided under subsection (b) and consistent with sections
13 201 and 202 of the Service Members Civil Relief Act (Public
14 Law 108-89, 50 App. U.S.C. §§ 521 and 522), on motion of a
15 deploying or other parent or a nonparent to whom caretaking
16 authority, legal custody or limited contact has been granted,
17 the court may modify or terminate the grant if the
18 modification or termination is consistent with this
19 subchapter and is in the best interest of the child.

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

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

26 SUBCHAPTER D

27 RETURN FROM DEPLOYMENT

28 Sec.

29 4641. Procedure for terminating custodial responsibility
30 granted by agreement.

1 4642. Consent procedure for terminating custodial
2 responsibility granted by court order.

3 4643. Visitation before termination of grant of custodial
4 responsibility.

5 4644. Termination by operation of law of custodial
6 responsibility granted by court order.

7 § 4641. Procedure for terminating custodial responsibility
8 granted by agreement.

9 (a) Agreement to terminate.--After the deploying parent
10 returns from deployment, an agreement granting custodial
11 responsibility under Subchapter B (relating to agreement
12 addressing custodial responsibility during deployment) may be
13 terminated by an agreement to terminate signed by both parents.
14 An agreement to terminate is not required to be signed by a
15 nonparent granted temporary custodial responsibility under the
16 agreement.

17 (b) Termination under agreement.--An agreement entered into
18 under Subchapter B terminates:

19 (1) if an agreement to terminate under subsection (a)
20 specifies a date for termination, on that date; or

21 (2) if the agreement to terminate does not specify a
22 date, on the date the agreement to terminate is signed by
23 both parents.

24 (c) Termination absent agreement.--In the absence of an
25 agreement to terminate under subsection (a), an agreement
26 granting custodial responsibility entered into under Subchapter
27 B terminates 60 days after the deploying parent gives notice, to
28 the other parent and to any nonparent to whom custodial
29 responsibility was granted, of the deploying parent's return
30 from deployment.

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

9 § 4642. Consent procedure for terminating custodial
10 responsibility granted by court order.

11 (a) Filing of agreement.--

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

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

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

25 § 4643. Visitation before termination of grant of custodial
26 responsibility.

27 Upon petition of a deploying parent who has returned from
28 deployment, the court shall issue an order granting the
29 deploying parent reasonable contact with the child until the
30 agreement entered into under Subchapter B (relating to agreement

1 addressing custodial responsibility during deployment) or the
2 order issued under Subchapter C (relating to judicial procedure
3 for granting custodial responsibility during deployment) is
4 terminated, unless it is contrary to the best interest of the
5 child, even if the time of contact exceeds the time the
6 deploying parent spent with the child before deployment.

7 § 4644. Termination by operation of law of custodial
8 responsibility granted by court order.

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

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

20 SUBCHAPTER E

21 MISCELLANEOUS PROVISIONS

22 Sec.

23 4651. Relation to Electronic Signatures in Global and National
24 Commerce Act.

25 4652. Savings clause.

26 § 4651. Relation to Electronic Signatures in Global and
27 National Commerce Act.

28 To the extent permitted by section 102 of the Electronic
29 Signatures in Global and National Commerce Act (Public Law 106-
30 229, 15 U.S.C. § 7002), this chapter may supersede provisions of

1 that act.

2 § 4652. Savings clause.

3 This chapter does not affect the validity of any court order

4 or agreement concerning custodial responsibility during

5 deployment which was issued or entered into before the effective

6 date of this section.

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