

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 117

AN ACT

To repeal sections 8.012 and 253.048, RSMo, and to enact in lieu thereof four new sections relating to military affairs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 8.012 and 253.048, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as
3 sections 8.012, 173.1150, 253.048, and 452.413, to read as
4 follows:

5 8.012. At all state buildings and upon the grounds thereof,
6 the board of public buildings may accompany the display of the
7 flag of the United States and the flag of this state with the
8 display of the POW/MIA flag, which is designed to commemorate the
9 service and sacrifice of the members of the Armed Forces of the
10 United States who were prisoners of war or missing in action and
11 with the display of the Honor and Remember flag as an official
12 recognition and in honor of fallen members of the Armed Forces of
13 the United States.

14 173.1150. 1. Notwithstanding any provision of law to the

1 contrary, any individual who is in the process of separating from
2 any branch of the military forces of the United States with an
3 honorable discharge or a general discharge shall have student
4 resident status for purposes of admission and in-state tuition at
5 any approved public four-year institution in Missouri or in-
6 state, in-district tuition at any approved two-year institution
7 in Missouri.

8 2. To be eligible for student resident status under this
9 section, any such individual shall demonstrate presence and
10 declare residency within the state of Missouri. For purposes of
11 attending a community college, an individual shall demonstrate
12 presence and declare residency within the taxing district of the
13 community college he or she attends.

14 3. The coordinating board for higher education shall
15 promulgate rules to implement this section.

16 4. For purposes of this section, "approved public
17 institution" shall have the same meaning as provided in
18 subdivision (3) of section 173.1102.

19 5. Any rule or portion of a rule, as that term is defined
20 in section 536.010 that is created under the authority delegated
21 in this section shall become effective only if it complies with
22 and is subject to all of the provisions of chapter 536, and, if
23 applicable, section 536.028. This section and chapter 536 are
24 nonseverable and if any of the powers vested with the general
25 assembly pursuant to chapter 536, to review, to delay the
26 effective date, or to disapprove and annul a rule are
27 subsequently held unconstitutional, then the grant of rulemaking
28 authority and any rule proposed or adopted after August 28, 2013,

1 shall be invalid and void.

2 253.048. Within the state parks, the department may
3 accompany the display of the flag of the United States and the
4 flag of this state with the display of the MIA/POW flag, which is
5 designed to commemorate the service and sacrifice of members of
6 the Armed Forces of the United States who were prisoners of war
7 or missing in action and with the display of the Honor and
8 Remember flag as an official recognition and in honor of fallen
9 members of the Armed Forces of the United States.

10 452.413. 1. As used in this section, the following terms
11 shall mean:

12 (1) "Deploying parent", a parent of a child less than
13 eighteen years of age whose parental rights have not been
14 terminated by a court of competent jurisdiction or a guardian of
15 a child less than eighteen years of age who is deployed or who
16 has received written orders to deploy with the United States
17 Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard,
18 or any other reserve component thereof;

19 (2) "Deployment", military service in compliance with
20 military orders received by a member of the United States Army,
21 Navy, Air Force, Marine Corps, Coast Guard, National Guard, or
22 any other reserve component thereof to report for combat
23 operations, contingency operations, peacekeeping operations,
24 temporary duty (TDY), a remote tour of duty, or other service for
25 which the deploying parent is required to report unaccompanied by
26 any family member. Military service includes a period during
27 which a military parent remains subject to deployment orders and
28 remains deployed on account of sickness, wounds, leave, or other

1 lawful cause;

2 (3) "Military parent", a parent of a child less than
3 eighteen years of age whose parental rights have not been
4 terminated by a court of competent jurisdiction or a guardian of
5 a child less than eighteen years of age who is a service member
6 of the United States Army, Navy, Air Force, Marine Corps, Coast
7 Guard, National Guard, or any other reserve component thereof;

8 (4) "Nondeploying parent", a parent or guardian not subject
9 to deployment.

10 2. If a military parent is required to be separated from a
11 child due to deployment, a court shall not enter a final order
12 modifying the terms establishing custody or visitation contained
13 in an existing order until ninety days after the deployment ends
14 unless there is a written agreement by both parties.

15 3. In accordance with section 452.412, deployment or the
16 potential for future deployment shall not be the sole factor
17 supporting a change in circumstances or grounds sufficient to
18 support a permanent modification of the custody or visitation
19 terms established in an existing order.

20 4. (1) An existing order establishing the terms of custody
21 or visitation in place at the time a military parent is deployed
22 may be temporarily modified to make reasonable accommodation for
23 the parties due to the deployment.

24 (2) A temporary modification order issued under this
25 section shall provide that the deploying parent shall have
26 custody of the child or reasonable visitation, whichever is
27 applicable under the original order, during a period of leave
28 granted to the deploying parent, unless it is not in the best

1 interest of the child.

2 (3) Any court order modifying a previously ordered custody
3 or visitation due to deployment shall specify that the deployment
4 is the basis for the order and shall be entered by the court as a
5 temporary order.

6 (4) Any such temporary custody or visitation order shall
7 require the nondeploying parent to provide the court and the
8 deploying parent with written notice of the nondeploying parent's
9 address and telephone number, and update such information within
10 seven days of any change. However, if a valid order of
11 protection under chapter 455 from this or another jurisdiction is
12 in effect that requires that the address or contact information
13 of the parent who is not deployed be kept confidential, the
14 notification shall be made to the court only, and a copy of the
15 order shall be included in the notification. Nothing in this
16 subdivision shall be construed to eliminate the requirements
17 under section 452.377.

18 (5) Upon motion of a deploying parent, with reasonable
19 advance notice and for good cause shown, the court shall hold an
20 expedited hearing in any custody or visitation matters instituted
21 under this section when the military duties of the deploying
22 parent have a material effect on his or her ability or
23 anticipated ability to appear in person at a regularly scheduled
24 hearing.

25 5. (1) A temporary modification of such an order
26 automatically ends no later than thirty days after the return of
27 the deploying parent and the original terms of the custody or
28 visitation order in place at the time of deployment are

1 automatically reinstated.

2 (2) Nothing in this section shall limit the power of the
3 court to conduct an expedited or emergency hearing regarding
4 custody or visitation upon return of the deploying parent, and
5 the court shall do so within ten days of the filing of a motion
6 alleging an immediate danger or irreparable harm to the child.

7 (3) The nondeploying parent shall bear the burden of
8 showing that reentry of the custody or visitation order in effect
9 before the deployment is no longer in the child's best interests.
10 The court shall set any nonemergency motion by the nondeploying
11 parent for hearing within thirty days of the filing of the
12 motion.

13 6. (1) Upon motion of the deploying parent or upon motion
14 of a family member of the deploying parent with his or her
15 consent, the court may delegate his or her visitation rights, or
16 a portion of such rights, to a family member with a close and
17 substantial relationship to the minor child or children for the
18 duration of the deployment if it is in the best interest of the
19 child.

20 (2) Such delegated visitation time or access does not
21 create an entitlement or standing to assert separate rights to
22 parent time or access for any person other than a parent, and
23 shall terminate by operation of law upon the end of the
24 deployment, as set forth in this section.

25 (3) Such delegated visitation time shall not exceed the
26 visitation time granted to the deploying parent under the
27 existing order; except that, the court may take into
28 consideration the travel time necessary to transport the child

1 for such delegated visitation time.

2 (4) In addition, there is a rebuttable presumption that a
3 deployed parent's visitation rights shall not be delegated to a
4 family member who has a history of perpetrating domestic violence
5 as defined under section 455.010 against another family or
6 household member, or delegated to a family member with an
7 individual in the family member's household who has a history of
8 perpetrating domestic violence against another family or
9 household member.

10 (5) The person or persons to whom delegated visitation time
11 has been granted shall have full legal standing to enforce such
12 rights.

13 7. Upon motion of a deploying parent and upon reasonable
14 advance notice and for good cause shown, the court shall permit
15 such parent to present testimony and evidence by affidavit or
16 electronic means in support, custody, and visitation matters
17 instituted under this section when the military duties of such
18 parent have a material effect on his or her ability to appear in
19 person at a regularly scheduled hearing. Electronic means
20 includes communication by telephone, video conference, or the
21 internet.

22 8. Any order entered under this section shall require that
23 the nondeploying parent:

24 (1) Make the child or children reasonably available to the
25 deploying parent when the deploying parent has leave;

26 (2) Facilitate opportunities for telephonic and electronic
27 mail contact between the deploying parent and the child or
28 children during deployment; and

1 (3) Receive timely information regarding the deploying
2 parent's leave schedule.

3 9. (1) If there is no existing order establishing the
4 terms of custody and visitation and it appears that deployment is
5 imminent, upon the filing of initial pleadings and motion by
6 either parent, the court shall expedite a hearing to establish
7 temporary custody or visitation to ensure the deploying parent
8 has access to the child, to ensure disclosure of information, to
9 grant other rights and duties set forth in this section, and to
10 provide other appropriate relief.

11 (2) Any initial pleading filed to establish custody or
12 visitation for a child of a deploying parent shall be so
13 identified at the time of filing by stating in the text of the
14 pleading the specific facts related to deployment.

15 10. (1) Since military necessity may preclude court
16 adjudication before deployment, the parties shall cooperate with
17 each other in an effort to reach a mutually agreeable resolution
18 of custody, visitation, and child support.

19 (2) A deploying parent shall provide a copy of his or her
20 orders to the nondeploying parent promptly and without delay
21 prior to deployment. Notification shall be made within ten days
22 of receipt of deployment orders. If less than ten days' notice
23 is received by the deploying parent, notice shall be given
24 immediately upon receipt of military orders. If all or part of
25 the orders are classified or restricted as to release, the
26 deploying parent shall provide, under the terms of this
27 subdivision, all such nonclassified or nonrestricted information
28 to the nondeploying parent.

1 11. In an action brought under this chapter, whenever the
2 court declines to grant or extend a stay of proceedings under the
3 Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521-
4 522, and decides to proceed in the absence of the deployed
5 parent, the court shall appoint a guardian ad litem to represent
6 the minor child's interests.

7 12. Service of process on a nondeploying parent whose
8 whereabouts are unknown may be accomplished in accordance with
9 the provisions of section 506.160.

10 13. In determining whether a parent has failed to exercise
11 visitation rights, the court shall not count any time periods
12 during which the parent did not exercise visitation due to the
13 material effect of such parent's military duties on visitation
14 time.

15 14. Once an order for custody has been entered in Missouri,
16 any absence of a child from this state during deployment shall be
17 denominated a temporary absence for the purposes of application
18 of the Uniform Child Custody Jurisdiction and Enforcement Act
19 (UCCJEA). For the duration of the deployment, Missouri shall
20 retain exclusive jurisdiction under the UCCJEA and deployment
21 shall not be used as a basis to assert inconvenience of the forum
22 under the UCCJEA.

23 15. In making determinations under this section, the court
24 may award attorney's fees and costs based on the court's
25 consideration of:

26 (1) The failure of either party to reasonably accommodate
27 the other party in custody or visitation matters related to a
28 military parent's service;

(2) Unreasonable delay caused by either party in resolving custody or visitation related to a military parent's service;

(3) Failure of either party to timely provide military orders, income, earnings, or payment information, housing or education information, or physical location of the child to the other party; and

(4) Other factors as the court may consider appropriate and as may be required by law.

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Will Kraus

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