

HOUSE BILL REPORT

HB 1107

As Reported by House Committee On:
Judiciary

Title: An act relating to residential provisions for children of parents with military duties.

Brief Description: Regarding residential provisions for children of parents with military duties.

Sponsors: Representatives McCoy, Shea, Appleton, Orwall, Jinkins, Morrell, Ryu, Green and Freeman.

Brief History:

Committee Activity:

Judiciary: 1/30/13, 2/21/13 [DPS].

Brief Summary of Substitute Bill

- Addresses the ability of a military parent to seek delegation of residential time with a child when the military parent has received or will receive temporary duty that involves being more than one night away from the military parent's residence during scheduled residential time or visitation.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman, Hope, Jinkins, Kirby, Klippert, Nealey, Orwall, Roberts and Shea.

Staff: Edie Adams (786-7180).

Background:

In dissolution or legal separation cases in which there are minor children, the court must establish a parenting plan setting forth, among other things, each parent's residential time with the children. Residential time or visitation rights between parents and minor children may also be established in other types of proceedings, such as paternity actions. Generally, a court may modify a parenting plan only upon a showing of a substantial change of

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circumstances with respect to the child or the nonmoving party, and that the modification is in the best interests of the child. The court must retain the residential schedule unless certain factors are established.

In 2009 legislation was enacted to address the impact of a parent's military duties on his or her ability to exercise residential time or visitation with a child. The legislation created a process for a military parent to modify a parenting plan or custody order when the parent is unable to exercise residential time or visitation with his or her child because of the parent's military duties potentially impacting parenting functions.

When a parent receives military orders that involve moving a substantial distance away, or that would have a material effect on the parent's ability to exercise residential time or visitation rights, the court may, upon the military parent's request, delegate the military parent's time to a family member or another person. The family member or other person must have a close and substantial relationship to the child and the delegation must be in the best interest of the child. The delegation may last for as long as the military parent is absent. The delegation does not create separate rights to residential time or visitation for the other person.

A court may enter a temporary custody order for the child if the parent with whom the child resides a majority of time receives military orders that involve moving a substantial distance away or that would have a material effect on the parent's ability to exercise parenting functions and responsibilities. The temporary custody order for the child during the parent's absence must end no later than 10 days after the returning parent gives notice to the temporary custodian. The temporary duty, activation, mobilization, or deployment, and the temporary disruption to the child's schedule shall not be a factor in a determination of change of circumstances if a motion is filed to transfer residential placement from the parent who is a military service member.

Summary of Substitute Bill:

A military parent may seek delegation of his or her residential time or visitation rights when the parent has received or will receive temporary duty that involves being more than one night away from the military parent's residence at the time he or she is scheduled to have residential time or visitation with the child. The delegation provision can apply when a military parent is establishing a temporary or permanent parenting plan or other court order designating residential time or visitation rights with a child, or when modifying an existing parenting plan.

Temporary duty that involves being more than one night away from the military parent's residence, in addition to orders that involve moving a substantial distance away or that have a material impact on parenting functions, shall not be a factor in a determination of change of circumstances if a motion is filed to transfer residential placement from the parent who is a military service member.

Substitute Bill Compared to Original Bill:

The original bill included a provision allowing a temporary custody order to be entered when a parent with whom the child resides a majority of the time receives temporary duty that involves being more than one night away from the military parent's residence at the time he or she is scheduled to have residential time or visitation.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) It is important for military families to allow a member to delegate his or her residential time with a child when they have military duties away from home. There are a lot of military members in this situation. This bill takes care of the hole in the original law that does not address seeking delegation when parenting plans or other types of orders are entered. There is a case before the Supreme Court of the United States that raises the issue of what types of notifications are required in adoptions when a military parent is deployed, and that may need to be addressed depending on what happens in that case.

(With concerns) There is a concern with the changes to the temporary custody order section. The language seems to allow a temporary custody order when the military parent is away more than one night. Because the temporary custody order can remain in place until 10 days after the military parent returns, the temporary custody order could extend for a week and a half even though the military parent is gone just one weekend.

(Opposed) None.

Persons Testifying: (In support) Representative McCoy, prime sponsor; and Mark San Souci, U.S. Department of Defense State Liaison Office.

(With concerns) Rick Bartholomew, Washington State Bar Association.

Persons Signed In To Testify But Not Testifying: None.