

Senate Bill 112

By: Senators McKoon of the 29th, Harbison of the 15th, Rogers of the 21st, Carter of the 1st, Gooch of the 51st and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 9 of Title 19 of the Official Code of Georgia Annotated,
2 relating to the Child Custody Intrastate Jurisdiction Act, so as to provide a short title; to
3 provide procedures governing parental rights in the event one parent is subject to military
4 deployment; to define certain terms; to provide that a court shall not enter a final order
5 modifying parental rights of a deploying parent until 90 days after the deployment ends; to
6 provide for a temporary order modifying parental rights and responsibilities or parent-child
7 contact during the period of deployment or mobilization; to provide that either parent may
8 file a motion to modify the temporary order upon the return of the deploying parent; to
9 provide for testimony and evidence by electronic means; to provide for expedited procedures
10 when a deployment is imminent; to provide for cooperation and disclosure of information;
11 to provide for attorney's fees; to provide for related matters; to repeal conflicting laws; and
12 for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

15 Article 2 of Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to the
16 Child Custody Intrastate Jurisdiction Act, is amended by adding a new part to read as
17 follows:

18 Part 5

19 19-9-120.

20 This part shall be known and may be cited as the 'Military Parents' Rights Act.'

21 19-9-121.

22 As used in this part, the term:

23 (1) 'Deploy' or 'deployment' means military service in compliance with military orders
24 received by a member of the United States Armed Forces, including any reserve
25 component thereof and the National Guard, to report for combat operations, contingency
26 operations, peacekeeping operations, a remote tour of duty, or other active service for
27 which the deploying parent is required to report unaccompanied by any family member.
28 Deployment includes a period during which a military parent remains subject to
29 deployment orders and remains deployed on account of sickness, wounds, leave, or other
30 lawful cause.

31 (2) 'Deploying parent' means a military parent who has been notified by military
32 leadership that he or she will deploy or mobilize with the United States Armed Forces,
33 including any reserve component thereof and the National Guard, or who is currently
34 deployed or mobilized with the United States Armed Forces, including any reserve
35 component thereof and the National Guard.

36 (3) 'Military parent' means a natural parent, adoptive parent, legal parent, or guardian of
37 a child under the age of 18 whose parental rights have not been terminated by a court of
38 competent jurisdiction, and who is a member of the United States Armed Forces,
39 including any reserve component thereof and the National Guard.

40 (4) 'Mobilization' or 'mobilize' means the call-up of National Guard or reserve service
41 members to extended active service. Such term shall not include National Guard or
42 reserve annual training, inactive duty days, drill weekends, temporary duty, or state active
43 duty.

44 (5) 'Nondeploying parent' means a parent who is either not a member of the United
45 States Armed Forces, including any reserve component thereof or the National Guard, or
46 is a military parent who is currently not a deploying parent.

47 (6) 'State active duty' means the call-up by a governor for the performance of any
48 military duty in state status.

49 (7) 'Temporary duty' means the transfer of a service member to a geographic location
50 outside the state for a limited period of time to accomplish training or to assist in the
51 performance of a noncombat mission.

52 19-9-122.

53 (a) If a deploying parent is required to be separated from a child, a court shall not enter a
54 final order modifying parental rights and responsibilities and parent-child contact in an
55 existing order until 90 days after the deployment ends, unless such modification is agreed
56 to by the deploying parent.

57 (b) Absence created by deployment or mobilization or the potential for future deployment
58 or mobilization shall not be the sole factor supporting a real, substantial, and unanticipated

59 change in circumstances pursuant to Code Section 19-9-123 or grounds sufficient to
60 support a permanent modification of the parental rights and responsibilities or parent-child
61 contact established in an existing order.

62 19-9-123.

63 (a) Upon motion of a deploying or nondeploying parent, the court shall enter a temporary
64 order modifying parental rights and responsibilities or parent-child contact during the
65 period of deployment or mobilization when:

66 (1) A military parent who has shared, sole, or primary legal or physical parental rights
67 and responsibilities for a child or who has parent-child contact pursuant to an existing
68 court order has received notice from military leadership that he or she will deploy or
69 mobilize in the near future; and

70 (2) The deployment or mobilization would have a material effect upon his or her ability
71 to exercise such parental rights and responsibilities or parent-child contact.

72 (b) Motions for modification because of deployment shall be heard by the court as
73 expeditiously as possible and shall be a priority for this purpose.

74 (c)(1) All temporary modification orders shall include a specific transition schedule to
75 facilitate a return to the preemployment order over the shortest reasonable time period
76 after the deployment ends, taking into consideration the child's best interests.

77 (2) The temporary order shall set a date certain for the end of deployment and the start
78 of the transition period. If deployment is extended, the temporary order shall remain in
79 effect during the extended deployment, and the transition schedule shall take effect at the
80 end of the extended deployment. In that case, the nondeployed parent shall notify the
81 court of the extended deployment. Failure of the nondeployed parent to notify the court
82 in accordance with this paragraph shall not prejudice the deployed parent's right to return
83 to the prior order once the temporary order expires as provided in paragraph (3) of this
84 subsection.

85 (3) The temporary order shall expire upon the completion of the transition, and the prior
86 order for parental rights and responsibilities and parent-child contact shall be in effect.

87 (d) Upon motion of the deploying parent, the court may delegate his or her parent-child
88 contact rights, or a portion of them, to a family member, a person with whom the deploying
89 parent cohabits, or another person with a close and substantial relationship to the minor
90 child or children for the duration of the deployment, upon a finding that it is in the child's
91 best interests. Such delegated contact does not create separate rights to parent-child contact
92 for a person other than a parent once the temporary order is no longer in effect.

93 (e) A temporary modification order issued pursuant to this Code section shall designate
94 the deploying parent's parental rights and responsibilities for and parent-child contact with

95 a child during a period of leave granted to the deploying parent, in the best interests of the
96 child.

97 (f) A temporary order issued under this Code section may require any of the following if
98 the court finds that it is in the best interests of the child:

99 (1) The nondeploying parent shall make the child reasonably available to the deploying
100 parent when the deploying parent has leave;

101 (2) The nondeploying parent shall facilitate opportunities for telephonic, e-mail, and
102 other such contact between the deploying parent and the child during deployment; and

103 (3) The deploying parent shall provide timely information regarding his or her leave
104 schedule to the nondeploying parent. Actual leave dates are subject to change with little
105 notice due to military necessity and shall not be used by the nondeploying parent to
106 prevent parent-child contact.

107 (g) A court order modifying a previous order for parental rights and responsibilities or
108 parent-child contact because of deployment shall specify that the deployment is the basis
109 for the order, and it shall be entered by the court as a temporary order. The order shall
110 further require the nondeploying parent to provide the court and the deploying parent with
111 30 days' advance written notice of any change of address and any change of telephone
112 number.

113 19-9-124.

114 (a) Upon the return of the deploying parent, either parent may file a motion to modify the
115 temporary order on the grounds that compliance with the order will result in immediate
116 danger of irreparable harm to the child, and may request that the court issue an ex parte
117 order. The deploying parent may file such a motion prior to his or her return. The motion
118 shall be accompanied by an affidavit in support of the requested order. Upon a finding of
119 irreparable harm based on the facts set forth in the affidavit, the court may issue an ex parte
120 order modifying parental rights and responsibilities and parent-child contact. If the court
121 issues an ex parte order, the court shall set the matter for hearing within ten days from the
122 issuance of the order.

123 (b) Nothing in this part shall preclude the court from hearing a motion for permanent
124 modification of parental rights and responsibilities or parent-child contact prior to or upon
125 return of the deploying parent. The moving party shall bear the burden of showing a real,
126 substantial, and unanticipated change in circumstances and that resumption of the parental
127 rights and responsibilities or parent-child order in effect before the deployment is no longer
128 in the child's best interests. The absence created by deployment or mobilization and any
129 resulting temporary disruption to the child shall not be considered the sole factors in

130 determining whether there has been a real, substantial, and unanticipated change of
131 circumstances in regard to the motion to modify.

132 19-9-125.

133 Upon motion of a deploying parent, provided reasonable advance notice is given and good
134 cause shown, the court shall allow such parent to present testimony and evidence by
135 electronic means with respect to parental rights and responsibilities or parent-child contact
136 matters instituted under this Code section when the deployment of that parent has a
137 material effect on his or her ability to appear in person at a regularly scheduled hearing.
138 The phrase 'electronic means' includes communication by telephone or video
139 teleconference.

140 19-9-126.

141 If there is no existing order establishing the terms of parental rights and responsibilities or
142 parent-child contact and it appears that deployment or mobilization is imminent, upon
143 motion by either parent, the court shall expedite a hearing to establish temporary parental
144 rights and responsibilities and parent-child contact to ensure the deploying parent has
145 access to the child, to ensure disclosure of information, to grant other rights and duties set
146 forth herein, and to provide other appropriate relief. Any initial pleading filed to establish
147 parental rights and responsibilities for or parent-child contact with a child of a deploying
148 parent shall be so identified at the time of filing by stating in the text of the pleading the
149 specific facts related to deployment.

150 19-9-127.

151 Where an impending deployment may preclude court adjudication before deployment, the
152 parties shall cooperate with each other in an effort to reach a mutually agreeable resolution
153 of parental rights and responsibilities, parent-child contact, and child support. Each party
154 shall provide information to one another in an effort to facilitate agreement on these issues.
155 Within 14 days of receiving notification of deployment or mobilization in the near future
156 from his or her military leadership, the military parent shall provide written notice to the
157 nondeploying parent of the same. If less than 14 days' notice is received by the military
158 parent, then notice must be given immediately upon receipt of notice to the nondeploying
159 parent.

160 19-9-128.

161 In determining whether a parent has failed to exercise parent-child contact, the court shall
162 not consider any time periods during which the parent did not exercise such contact due to
163 the material effect of that parent's military duties on the contact schedule.

164 19-9-129.

165 In making determinations pursuant to this part, the court may award attorney's fees and
166 costs based on the court's consideration of:

167 (1) Unreasonable failure of either party to accommodate the other party in parental rights
168 and responsibilities or parent-child contact matters related to a deploying parent;

169 (2) Unreasonable delay caused by either party in resolving parental rights and
170 responsibilities or parent-child contact related to a deploying parent;

171 (3) Failure of either party to provide timely information about income and earnings
172 information to the other party; and

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

174 **SECTION 2.**

175 All laws and parts of laws in conflict with this Act are repealed.