

House Bill 282

By: Representatives Yates of the 73<sup>rd</sup>, Black of the 174<sup>th</sup>, Coomer of the 14<sup>th</sup>, Hatchett of the 143<sup>rd</sup>, Parent of the 81<sup>st</sup>, 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 permanent modification of child support or  
12 visitation in certain cases; to provide for related matters; to repeal conflicting laws; and for  
13 other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

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

19 "Part 5

20 19-9-120.

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

22 19-9-121.

23 As used in this part, the term:

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

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

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

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

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

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

51 19-9-122.

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

56 (b) Absence created by deployment or mobilization or the potential for future deployment  
57 or mobilization shall not be the sole factor supporting a real, substantial, and unanticipated  
58 change in circumstances pursuant to Code Section 19-9-123 or grounds sufficient to

59 support a permanent modification of the parental rights and responsibilities or parent-child  
60 contact established in an existing order.

61 19-9-123.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

112 19-9-124.

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

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

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

131 19-9-125.

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

139 19-9-126.

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

149 19-9-127.

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

159 19-9-128.

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

163 19-9-129.

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

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

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

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

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

173 19-9-130.

174 Nothing in this part shall prevent the court from permanently modifying a decree of child  
175 custody or visitation in those cases where a military parent repeatedly volunteers for  
176 successive or frequent duties that removes him or her from the state and that makes him or  
177 her unavailable to supervise and care for a child effectively."

178 **SECTION 2.**

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