

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 1167

Printer's No.: 1399

Sponsor: Senator Baker

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Synopsis: This bill amends the Domestic Relations Code, Title 23 of the Pennsylvania Consolidated Statutes, and the Military Code, Title 51, to allow a member of the armed forces, who is being deployed, to request the court for a modification in a custody order that would authorize the assignment of the servicemember's custody rights to a relative.

Summary: Under new section 4110 of the Military Code, if an eligible servicemember has received notice of deployment in support of a contingency operation, the servicemember may petition the court for a modification to an order granting the servicemember custody with a child. The modification may include a temporary assignment of the servicemember's custody rights to one or more biological relatives. The servicemember shall be joined in the petition by the relatives. The petition shall include a proposed custody schedule. The schedule shall not exceed the time granted to the servicemember prior to the filing of the petition.

The court may grant the servicemember's request for the assignment of custody rights as long as the terms are in the best interest of the child. The order shall terminate immediately upon the termination of the servicemember's deployment.

The terms "contingency operation" and "eligible servicemember" shall have the same meanings as given to them in section 4109, relating to child custody proceedings during military deployment.

Expedited proceedings

Upon motion of a parent who has received notice of deployment, the court shall, for good cause shown, hold an expedited hearing under section 4109 and 4110 when the military duties of the parent have a material effect on the parent's ability to appear in person at a regularly scheduled hearing. The court may also allow the parent to present testimony and evidence by electronic means.

Domestic Relations Code amendment

Section 5338, relating to the modification of an existing custody order, is amended to include references to sections 4109 and 4110 of the Military Code so that someone reviewing custody law in the Domestic Relations Code would be aware of the Military Code provision.

Effective date

This section takes effect in 60 days.

Background:

Senate Bill 1167 is based on legislation enacted in Tennessee to allow continuing contact between a servicemember's child and the servicemember's family while the service member is away because of a military commitment.

Section 4109

The Pennsylvania General Assembly enacted 2008 Act 127 (Senate Bill 1107) adding section 4109 to the Military Code prohibiting the modification of a custody order while a servicemember is deployed, except that the court may enter a temporary custody order if it is in the best interest of the child. Once the deployment is completed, the custody order that was in effect immediately preceding the date of the deployment is reinstated. The failure of a servicemember to appear in court due to deployment shall not, in and of itself, be sufficient to justify a modification of a custody order. Section 4110 proposed in Senate Bill 1167 complements section 4109.

2010 Act 112 (House Bill 1639) made substantial changes to Pennsylvania's child custody law including no longer using the term "visitation." This change in the law accounts for the amendment to section 4109 in Senate Bill 1167 removing the reference to visitation.

Legislative history

During the 2009-2010 legislative session, this legislation was introduced as Senate Bill 1221. The Senate Judiciary Committee amended and reported Senate Bill 1221 from committee. The bill was re-referred to the Senate Appropriations Committee.