

Representative Tim M. Cosgrove proposes the following substitute bill:

**CUSTODY AND PARENT-TIME AMENDMENTS
FOR SERVICE MEMBERS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tim M. Cosgrove

Senate Sponsor: Gregory S. Bell

LONG TITLE

General Description:

This bill provides direction for custody and parent-time issues when a service member is away temporarily.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for notice when a service member is deployed, mobilized, or ordered to temporary duty;
- ▶ gives a noncustodial parent "first choice" when a service member must be away;
- ▶ provides for the delegation of parent-time to a close family member in the noncustodial parent's absence;
- ▶ requires support to follow the child; and
- ▶ prohibits a court from depriving a service member of custody who is deployed, mobilized, or ordered to temporary duty.

Monies Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 ENACTS:

29 **30-3-40**, Utah Code Annotated 1953

31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **30-3-40** is enacted to read:

33 **30-3-40. Custody and parent-time when one parent is a service member.**

34 (1) As used in this section:

35 (a) "Deployment" means the temporary transfer of a service member serving in an
36 active duty status to another location in support of combat or some other military operation.

37 (b) "Mobilization" means the call up of a National Guard or Reserve service member to
38 extended active duty status, but does not include National Guard or Reserve annual training.

39 (c) "Service member" means a person who is:

40 (i) a member of the Utah National Guard;

41 (ii) a member of a Reserve component based in the state; or

42 (iii) a member of the Armed Forces of the United States on active duty and stationed in
43 this state.

44 (d) "Temporary duty" means the transfer of a service member from a military base to a
45 different location, often another base, for a set period of time to accomplish training or to assist
46 in the performance of a noncombat mission.

47 (2) In the absence of a parenting plan or other agreement between the parties covering
48 such situations:

49 (a) A service member who is a custodial parent of minor children in this state, and who
50 is deployed, mobilized, or ordered to temporary duty at another location shall, if possible,
51 contact the noncustodial parent as soon as practicable after receiving orders. The service
52 member shall inform the noncustodial parent of the approximate dates the service member will
53 be away, if known.

54 (i) Unless the noncustodial parent has supervised or limited parent-time, if willing and
55 able, the noncustodial parent may provide care for any minor children during the time the
56 service member is away. The noncustodial parent shall notify the custodial parent of their

57 willingness to provide care as soon as practicable, but not less than five days before the service
58 member is required to leave. If the noncustodial parent will provide care while the service
59 member is away, the parents shall arrange a time and place for the delivery of the children to
60 the noncustodial parent.

61 (ii) If the noncustodial parent is unwilling or unable to provide care for any minor
62 children during the time the service member is away, the service member may make specific
63 arrangements for the housing and care of the minor children during the time the service
64 member will be away. Notice of arrangements made by the service member shall be provided
65 to the noncustodial parent and may not deprive the noncustodial parent of parent-time during
66 the same time period.

67 (b) If a service member who is a noncustodial parent is deployed, mobilized, or ordered
68 to temporary duty at another location, his or her parent-time rights may be exercised by a
69 family member with a close and substantial relationship to the minor child for the duration of
70 the service member's absence. The service member shall provide the custodial parent with
71 written notice of arrangements made regarding the exercise of parent-time in the service
72 member's absence.

73 (3) A temporary exchange of physical custody under this section may not alter the
74 original custody order of the court.

75 (4) In addition to the arrangements made for the care of minor children under this
76 section, both parents shall comply with the provisions of Section 78B-12-108.

77 (5) A service member who is deployed, mobilized, or ordered to temporary duty may
78 not be deprived of custodial or parent-time rights while unavailable pursuant to military orders.
79 Any petition, motion, or action brought by a parent or guardian before a court attempting to
80 deprive or alter custody or parent-time rights shall be stayed in accordance with Section
81 39-7-105 and Section 521 of the Federal Servicemembers Civil Relief Act, 50 U.S.C. 511, et
82 seq.

Fiscal Note

H.B. 401 1st Sub. (Buff) - Custody and Parent-time Amendments for Service Members

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
