

# Enrolled House Bill 3162

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER .....

AN ACT

Relating to family law proceedings involving deployed parents in military service.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Sections 2 and 3 of this 2011 Act are added to and made a part of ORS 107.093 to 107.425.

**SECTION 2.** (1) As used in this section and section 3 of this 2011 Act:

(a) **“Deployed parent”** means a parent of a minor child whose parental rights have not been terminated who is deployed with the Armed Forces of the United States, National Guard or other reserve component.

(b) **“Deployment”** or **“deployed”**:

(A) Means military service in compliance with written orders received by an active duty or reserve member of the Armed Forces of the United States, National Guard or other reserve component to report for combat operations, contingency operations, peacekeeping operations, temporary duty, a remote tour of duty or other active military service;

(B) Includes the period of time from which the deployed parent receives and is subject to written orders to deploy to the actual date of deployment; and

(C) Includes any period of time in which the deployed parent is awaiting travel to or from a deployment destination or remains deployed because of sickness, wounds, leave or other lawful cause.

(2) Notwithstanding ORS 107.135 and except as provided in subsection (3) of this section, a court may not set aside, alter or modify any portion of a judgment of annulment, separation or dissolution of marriage that provides for the custody, parenting time, visitation, support and welfare of a minor child of a deployed parent until 90 days after the completion of the deployed parent’s deployment unless a motion to set aside, alter or modify was filed with, heard by and decided by the court before the commencement of the deployed parent’s deployment.

(3)(a) Notwithstanding ORS 107.138 and 107.139, a court may enter a temporary order modifying the terms of a preexisting judgment of annulment, separation or dissolution of marriage that provides for the custody, parenting time, visitation, support and welfare of a minor child of a deployed parent to reasonably accommodate the circumstances of the deployed parent’s deployment in the best interests of the child, upon motion filed by either party and after service of notice on the other party in the manner provided by ORCP 7, and after notice to the Administrator of the Division of Child Support of the Department of Justice or the branch office providing support services when required by subsection (4) of

this section. The nondeployed parent bears the burden of proof that the provisions of a temporary order made under this subsection are not in the best interests of the child.

(b) A temporary order entered under this subsection must include the following provisions:

(A) Parenting time for the deployed parent during periods of approved leave in the best interests of the child;

(B) Parenting time for the deployed parent during periods of deployment in the best interests of the child including but not limited to contact by telephone, electronic mail and other electronic means such as video and visual imaging;

(C) Modification of the child support provisions of the preexisting judgment to reflect the changed circumstances of the parents and the child during the period of deployment;

(D) A requirement that the nondeployed parent provide the court and the deployed parent with written notice 30 days prior to a change of address or telephone number during the period of deployment;

(E) That the temporary order entered under this subsection terminates by operation of law upon completion of deployment and that the provisions of the preexisting judgment that have been modified by the temporary order are automatically reinstated unless a request is made and granted under subsection (5) of this section;

(F) That all other provisions of the preexisting judgment not modified by the temporary order remain in effect; and

(G) That deployment is considered completed for purposes of reinstating the provisions of the preexisting judgment that have been modified by the temporary order 10 days after the date on which the deployed parent serves the nondeployed parent and provides to the court and to the Administrator of the Division of Child Support of the Department of Justice or the branch office providing support services to the county in which the motion is filed copies of written orders or other official notification that the deployed parent is no longer deployed or in active military service.

(4) A true copy of a motion under subsection (3) of this section shall be served by the moving party by mail or personal delivery on the Administrator of the Division of Child Support of the Department of Justice or on the branch office providing support services to the county in which the motion is filed.

(5) Prior to reinstatement of the provisions of a preexisting judgment, a parent may request ex parte a temporary order alleging that the child will be irreparably harmed or placed in immediate danger if the provisions of the preexisting judgment are automatically reinstated upon completion of deployment.

(6) When a court has entered a temporary order under subsection (3) of this section, the absence of a child from this state during a deployed parent's deployment is considered a temporary absence for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act and this state shall retain exclusive continuing jurisdiction in accordance with ORS 109.701 to 109.834.

(7) The court may award attorney fees and costs reasonably incurred in a proceeding under this section if the court finds that a party caused unreasonable delays, failed to provide information as required by this section or acted to unreasonably interfere with or frustrate contact between a deployed parent and a minor child.

**SECTION 3.** (1) Upon motion filed by a deployed parent or a parent whose deployment is imminent, the court shall hold an expedited hearing in:

(a) Any proceeding in a suit for marital annulment, dissolution or separation where a deployed parent or a parent whose deployment is imminent is a party;

(b) In any proceeding under ORS 107.135, 107.138 and 107.139 where a deployed parent or a parent whose deployment is imminent is a party; and

(c) A proceeding under section 2 (3) of this 2011 Act.

(2) In any proceeding listed under subsection (1) of this section, whether or not a motion to expedite a hearing has been filed, the court shall make reasonable accommodations to allow a deployed parent, or a parent whose deployment is imminent, to provide video, electronic or Internet testimony if the proceeding involves the custody, parenting time, visitation, support and welfare of the parent's child and where the deployed parent or the parent whose deployment is imminent cannot personally appear.

**SECTION 4.** Sections 1 to 3 of this 2011 Act apply to proceedings involving a deployed parent or a parent whose deployment is imminent occurring on or after the effective date of this 2011 Act.

**Passed by House March 31, 2011**

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

**Passed by Senate May 5, 2011**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2011

**Approved:**

.....M,....., 2011

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John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2011

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Kate Brown, Secretary of State