

# House Bill 3162

Sponsored by COMMITTEE ON JUDICIARY

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits court from setting aside, altering or modifying custody or parenting time provisions of annulment, separation or dissolution judgment involving deployed parent in military service until 90 days after completion of deployment.

Authorizes temporary order modifying custody or parenting time provisions of judgment involving deployed parent to reasonably accommodate circumstances of deployment. Provides that preexisting judgment is automatically reinstated upon completion of deployment.

Requires expedited hearing in proceeding involving deployed parent and reasonable accommodations for provision of deployed parent's testimony when deployed parent cannot personally appear.

## A BILL FOR AN ACT

1  
2 Relating to family law proceedings involving deployed parents in military service.

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

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

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

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

10 (b) **"Deployment" or "deployed":**

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

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

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

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

27 (3)(a) **Notwithstanding ORS 107.138 and 107.139, a court may enter a temporary order**  
28 **modifying the terms of a preexisting judgment of annulment, separation or dissolution of**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 marriage that provides for the custody, parenting time, visitation, support and welfare of a  
 2 minor child of a deployed parent to reasonably accommodate the circumstances of the de-  
 3 ployed parent's deployment in the best interests of the child, upon motion filed by either  
 4 party and after service of notice on the other party in the manner provided by ORCP 7, and  
 5 after notice to the Division of Child Support of the Department of Justice when required by  
 6 subsection (4) of this section. The nondeployed parent bears the burden of proof that the  
 7 provisions of a temporary order made under this subsection are not in the best interests of  
 8 the child.

9 (b) A temporary order entered under this subsection must include the following pro-  
 10 visions:

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

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

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

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

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

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

27 (G) That deployment is considered completed for purposes of reinstating the provisions  
 28 of the preexisting judgment that have been modified by the temporary order 10 days after  
 29 the date on which the deployed parent serves the nondeployed parent and provides to the  
 30 court, whichever is later, copies of written orders or other official notification that the de-  
 31 ployed parent is no longer deployed or in active military service.

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

36 (5) Prior to reinstatement of the provisions of a preexisting judgment, a parent may re-  
 37 quest ex parte a temporary order alleging that the child will be irreparably harmed or placed  
 38 in immediate danger if the provisions of the preexisting judgment are automatically rein-  
 39 stated upon completion of deployment.

40 (6) When a court has entered a temporary order under subsection (3) of this section, the  
 41 absence of a child from this state during a deployed parent's deployment is considered a  
 42 temporary absence for purposes of the Uniform Child Custody Jurisdiction and Enforcement  
 43 Act and this state shall retain exclusive continuing jurisdiction in accordance with ORS  
 44 109.701 to 109.834.

45 (7) The court may award attorney fees and costs reasonably incurred in a proceeding

1 under this section if the court finds that a party caused unreasonable delays, failed to pro-  
2 vide information as required by this section or acted to unreasonably interfere with or  
3 frustrate contact between a deployed parent and a minor child.

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

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

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

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

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

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