

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**HOUSE BILL 1634  
Second Edition Engrossed 5/15/07  
Senate Judiciary II (Criminal) Committee Substitute Adopted 6/19/07**

Short Title: Custody/Visitation/Military Orders.

(Public)

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Sponsors:

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Referred to:

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April 19, 2007

A BILL TO BE ENTITLED

1  
2 AN ACT TO ESTABLISH CUSTODY, VISITATION, EXPEDITED HEARING,  
3 AND ELECTRONIC COMMUNICATIONS PROCEDURES WHEN A PARENT  
4 RECEIVES MILITARY TEMPORARY DUTY, DEPLOYMENT, OR  
5 MOBILIZATION ORDERS.

6       Whereas, currently there are six major military bases in North Carolina; and

7       Whereas, the military population of this State is the fourth largest in the  
8 nation, with active-duty service members numbering over 100,000; and

9       Whereas, temporary duty, the deployment of an active-duty service member,  
10 or the mobilization of a member of the National Guard or Reserves, sometimes with  
11 little advance notice, can have a disruptive effect on custody or visitation arrangements  
12 involving minor children of service members; and

13       Whereas, service members should be protected, as should their minor  
14 children, from the loss of custodial arrangements and disruption of family contact due to  
15 the service member's absence pursuant to military orders for temporary duty,  
16 deployment, or mobilization; and

17       Whereas, other members of a service member's family, such as parents or  
18 current spouses, can provide love, comfort, care, and continuity to the service member's  
19 child through delegated visitation when a service member is absent due to military  
20 orders; and

21       Whereas, the regular scheduling of hearings may be harmful to the interest of  
22 service members who, due to military orders, may need to have an expedited hearing or  
23 may need to use electronic means to give testimony when they cannot appear in person  
24 in court; and

25       Whereas, the use of expedited hearings and testimony by electronic means, at  
26 the request of the service member who is absent or about to depart, would aid and  
27 promote fair, efficient, and prompt judicial processes for the resolution of family law  
28 matters; Now, therefore,

1 The General Assembly of North Carolina enacts:

2 **SECTION 1.** G.S. 50-13.7(a) reads as rewritten:

3 "(a) ~~An~~ Except as otherwise provided in G.S. 50-13.7A, an order of a court of this  
4 State for support of a minor child may be modified or vacated at any time, upon motion  
5 in the cause and a showing of changed circumstances by either party or anyone  
6 interested subject to the limitations of G.S. 50-13.10. Subject to the provisions of  
7 G.S. 50A-201, 50A-202, and 50A-204, an order of a court of this State for custody of a  
8 minor child may be modified or vacated at any time, upon motion in the cause and a  
9 showing of changed circumstances by either party or anyone interested."

10 **SECTION 2.** Article 1 of Chapter 50 of the General Statutes is amended by  
11 adding a new section to read:

12 **§ 50-13.7A. Custody and visitation upon military temporary duty, deployment, or**  
13 **mobilization.**

14 (a) Purpose. – It is the purpose of this section to provide a means by which to  
15 facilitate a fair, efficient, and swift process to resolve matters regarding custody and  
16 visitation when a parent receives temporary duty, deployment, or mobilization orders  
17 from the military.

18 (b) Definitions. – As used in this section:

19 (1) The term 'deployment' means the temporary transfer of a service  
20 member serving in an active-duty status to another location in support  
21 of combat or some other military operation.

22 (2) The term 'mobilization' means the call-up of a National Guard or  
23 Reserve service member to extended active duty status. For purposes  
24 of this definition, 'mobilization' does not include National Guard or  
25 Reserve annual training.

26 (3) The term 'temporary duty' means the transfer of a service member  
27 from one military base to a different location, usually another base, for  
28 a limited period of time to accomplish training or to assist in the  
29 performance of a noncombat mission.

30 (c) Custody. – When a parent who has custody, or has joint custody with primary  
31 physical custody, receives temporary duty, deployment, or mobilization orders from the  
32 military that involve moving a substantial distance from the parent's residence or  
33 otherwise have a material effect on the parent's ability to exercise custody  
34 responsibilities:

35 (1) Any temporary custody order for the child during the parent's absence  
36 shall end no later than 10 days after the parent returns, but shall not  
37 impair the discretion of the court to conduct a hearing for emergency  
38 custody upon return of the parent and within 10 days of the filing of a  
39 verified motion for emergency custody alleging an immediate danger  
40 of irreparable harm to the child; and

41 (2) The temporary duty, mobilization, or deployment and the temporary  
42 disruption to the child's schedule shall not be a factor in a  
43 determination of change of circumstances if a motion is filed to  
44 transfer custody from the service member.

1       (d) Visitation. – If the parent with visitation rights receives military temporary  
2 duty, deployment, or mobilization orders that involve moving a substantial distance  
3 from the parent's residence or otherwise have a material effect on the parent's ability to  
4 exercise visitation rights, the court may delegate the parent's visitation rights, or a  
5 portion thereof, to a family member with a close and substantial relationship to the  
6 minor child for the duration of the parent's absence, if delegating visitation rights is in  
7 the child's best interest.

8       (e) Expedited Hearings. – Upon motion of a parent who has received military  
9 temporary duty, deployment, or mobilization orders, the court shall, for good cause  
10 shown, hold an expedited hearing in custody and visitation matters instituted under this  
11 section when the military duties of the parent have a material effect on the parent's  
12 ability, or anticipated ability, to appear in person at a regularly scheduled hearing.

13       (f) Electronic Communications. – Upon motion of a parent who has received  
14 military temporary duty, deployment, or mobilization orders, the court shall, upon  
15 reasonable advance notice and for good cause shown, allow the parent to present  
16 testimony and evidence by electronic means in custody and visitation matters instituted  
17 under this section when the military duties of the parent have a material effect on the  
18 parent's ability to appear in person at a regularly scheduled hearing. The phrase  
19 'electronic means' includes communication by telephone, video teleconference, or the  
20 Internet.

21       (g) Nothing in this section shall alter the duty of the court to consider the best  
22 interest of the child in deciding custody or visitation matters."

23       **SECTION 3.** This act becomes effective October 1, 2007, and applies to  
24 custody or visitation actions instituted on or after that date.