

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**HOUSE BILL 1634
RATIFIED BILL**

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

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

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

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

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

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

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

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

- (1) The term 'deployment' means the temporary transfer of a service member serving in an active-duty status to another location in support of combat or some other military operation.
- (2) The term 'mobilization' means the call-up of a National Guard or Reserve service member to extended active duty status. For purposes of this definition, 'mobilization' does not include National Guard or Reserve annual training.
- (3) The term 'temporary duty' means the transfer of a service member from one military base to a different location, usually another base, for a limited period of time to accomplish training or to assist in the performance of a noncombat mission.

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

- (1) Any temporary custody order for the child during the parent's absence shall end no later than 10 days after the parent returns, but shall not impair the discretion of the court to conduct a hearing for emergency custody upon return of the parent and within 10 days of the filing of a verified motion for emergency custody alleging an immediate danger of irreparable harm to the child; and
- (2) The temporary duty, mobilization, or deployment and the temporary disruption to the child's schedule shall not be a factor in a determination of change of circumstances if a motion is filed to transfer custody from the service member.

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

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

(f) Electronic Communications. – Upon motion of a parent who has received military temporary duty, deployment, or mobilization orders, the court shall, upon reasonable advance notice and for good cause shown, allow the parent to present testimony and evidence by electronic means in custody and visitation matters instituted under this section 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 phrase 'electronic means' includes communication by telephone, video teleconference, or the Internet.

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

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

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Beverly E. Perdue
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2007