

HOUSE BILL REPORT

HB 2478

As Passed House:

February 1, 2008

Title: An act relating to custody of children of parents deployed in the military.

Brief Description: Addressing the custody of children of parents deployed in the military.

Sponsors: By Representatives McCoy, Bailey, Wallace, Chase, Appleton, Morrell, Kenney, Moeller, Sells, Dickerson, Lantz, Conway, Hurst, Smith, Kagi and Barlow.

Brief History:

Committee Activity:

Judiciary: 1/15/08, 1/18/08 [DP].

Floor Activity:

Passed House: 2/1/08, 88-0.

Brief Summary of Bill

- Provides that a parent's activation in military service and deployment outside the state is not, by itself, a factor justifying a permanent modification to a child custody decree or parenting plan.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 11 members: Representatives Lantz, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Ahern, Flannigan, Kirby, Moeller, Pedersen, Ross and Williams.

Staff: Trudes Tango (786-7384).

Background:

Custody Decrees and Parenting Plans

When determining residential placement of a child under a custody decree or parenting plan, the court bases its decision on the best interests of the child. The court considers such factors as each parent's potential for future performance of parenting functions and each parent's employment schedule.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Once a custody decree or parenting plan is final, courts favor stability for the child and will modify the residential provisions only under certain circumstances. With a few exceptions, the petitioner for modification must show that there has been a substantial change in circumstances of the child or the nonmoving party and that modification is necessary to serve the child's best interests. The court may modify the child's residential schedule if the child has integrated into the petitioner's family with the consent of the other parent in a substantial deviation from the parenting plan.

Service Members' Civil Relief Act

The Washington Service Members' Civil Relief Act (Act) provides certain rights and protections in civil proceedings to service members called to active duty during the period of military service or within 180 days after military service ends. The Act generally prohibits a court in a civil matter from entering a default judgment against an absent defendant who is a service member in military service. The Act also allows a service member to apply for a stay of civil proceedings if the service member is a defendant to a civil suit during the service member's military service or within 180 days after termination of military service. Washington's Act, as well as the federal Service Members' Civil Relief Act, do not prohibit courts from ordering permanent child custody changes based on a parent's military deployment.

Summary of Bill:

Unless agreed to by the parties, a party's absence, relocation, or failure to comply with a custody decree or parenting plan is not, by itself, a substantial change in circumstances to justify a permanent modification of a custody decree or parenting plan if the reason for the absence, relocation, or failure to comply is because of the party's activation to military service and out-of-state deployment.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The current Service Members' Civil Relief Act doesn't protect a parent from another parent unilaterally making changes to the custody of the children while the service member parent is deployed. This bill protects the child's relationship with his or her parent serving in the military. Simply being deployed should not be enough to warrant a change in custody. A parent's relationship with his or her child should not be put at risk when the parent is serving the country.

(Opposed) None.

Persons Testifying: Representative McCoy, prime sponsor; and Rick Bartholomew, Family Law Section of the Washington State Bar Association.

Persons Signed In To Testify But Not Testifying: None.