

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 117,  
2 Page 2, Section 253.048, Line 6, by inserting immediately after said line the following:

3  
4 "452.413. 1. As used in this section, the following terms shall mean:

5 (1) "Deploying parent", a parent of a child less than eighteen years of age whose parental  
6 rights have not been terminated by a court of competent jurisdiction or a guardian of a child less than  
7 eighteen years of age who is deployed or who has received written orders to deploy with the United  
8 States Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, or any other reserve  
9 component thereof;

10 (2) "Deployment", military service in compliance with military orders received by a member  
11 of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, or any  
12 other reserve component thereof to report for combat operations, contingency operations,  
13 peacekeeping operations, temporary duty (TDY), a remote tour of duty, or other service for which  
14 the deploying parent is required to report unaccompanied by any family member. Military service  
15 includes a period during which a military parent remains subject to deployment orders and remains  
16 deployed on account of sickness, wounds, leave, or other lawful cause;

17 (3) "Military parent", a parent of a child less than eighteen years of age whose parental rights  
18 have not been terminated by a court of competent jurisdiction or a guardian of a child less than  
19 eighteen years of age who is a service member of the United States Army, Navy, Air Force, Marine  
20 Corps, Coast Guard, National Guard, or any other reserve component thereof;

21 (4) "Nondeploying parent", a parent or guardian not subject to deployment.

22 2. If a military parent is required to be separated from a child due to deployment, a court  
23 shall not enter a final order modifying the terms establishing custody or visitation contained in an  
24 existing order until ninety days after the deployment ends unless there is a written agreement by both  
25 parties.

26 3. In accordance with section 452.412, deployment or the potential for future deployment  
27 shall not be the sole factor supporting a change in circumstances or grounds sufficient to support a  
28 permanent modification of the custody or visitation terms established in an existing order.

29 4. (1) An existing order establishing the terms of custody or visitation in place at the time a  
30 military parent is deployed may be temporarily modified to make reasonable accommodation for the  
31 parties due to the deployment.

32 (2) A temporary modification order issued under this section shall provide that the deploying

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1 parent shall have custody of the child or reasonable visitation, whichever is applicable under the  
2 original order, during a period of leave granted to the deploying parent, unless it is not in the best  
3 interest of the child.

4 (3) Any court order modifying a previously ordered custody or visitation due to deployment  
5 shall specify that the deployment is the basis for the order and shall be entered by the court as a  
6 temporary order.

7 (4) Any such temporary custody or visitation order shall require the nondeploying parent to  
8 provide the court and the deploying parent with written notice of the nondeploying parent's address  
9 and telephone number, and update such information within seven days of any change. However, if a  
10 valid order of protection under chapter 455 from this or another jurisdiction is in effect that requires  
11 that the address or contact information of the parent who is not deployed be kept confidential, the  
12 notification shall be made to the court only, and a copy of the order shall be included in the  
13 notification. Nothing in this subdivision shall be construed to eliminate the requirements under  
14 section 452.377.

15 (5) Upon motion of a deploying parent, with reasonable advance notice and for good cause  
16 shown, the court shall hold an expedited hearing in any custody or visitation matters instituted under  
17 this section when the military duties of the deploying parent have a material effect on his or her  
18 ability or anticipated ability to appear in person at a regularly scheduled hearing.

19 5. (1) A temporary modification of such an order automatically ends no later than thirty  
20 days after the return of the deploying parent and the original terms of the custody or visitation order  
21 in place at the time of deployment are automatically reinstated.

22 (2) Nothing in this section shall limit the power of the court to conduct an expedited or  
23 emergency hearing regarding custody or visitation upon return of the deploying parent, and the court  
24 shall do so within ten days of the filing of a motion alleging an immediate danger or irreparable harm  
25 to the child.

26 (3) The nondeploying parent shall bear the burden of showing that reentry of the custody or  
27 visitation order in effect before the deployment is no longer in the child's best interests. The court  
28 shall set any nonemergency motion by the nondeploying parent for hearing within thirty days of the  
29 filing of the motion.

30 6. (1) Upon motion of the deploying parent or upon motion of a family member of the  
31 deploying parent with his or her consent, the court may delegate his or her visitation rights, or a  
32 portion of such rights, to a family member with a close and substantial relationship to the minor child  
33 or children for the duration of the deployment if it is in the best interest of the child.

34 (2) Such delegated visitation time or access does not create an entitlement or standing to  
35 assert separate rights to parent time or access for any person other than a parent, and shall terminate  
36 by operation of law upon the end of the deployment, as set forth in this section.

37 (3) Such delegated visitation time shall not exceed the visitation time granted to the  
38 deploying parent under the existing order; except that, the court may take into consideration the  
39 travel time necessary to transport the child for such delegated visitation time.

40 (4) In addition, there is a rebuttable presumption that a deployed parent's visitation rights  
41 shall not be delegated to a family member who has a history of perpetrating domestic violence as

1 defined under section 455.010 against another family or household member, or delegated to a family  
2 member with an individual in the family member's household who has a history of perpetrating  
3 domestic violence against another family or household member.

4 (5) The person or persons to whom delegated visitation time has been granted shall have full  
5 legal standing to enforce such rights.

6 7. Upon motion of a deploying parent and upon reasonable advance notice and for good  
7 cause shown, the court shall permit such parent to present testimony and evidence by affidavit or  
8 electronic means in support, custody, and visitation matters instituted under this section when the  
9 military duties of such parent have a material effect on his or her ability to appear in person at a  
10 regularly scheduled hearing. Electronic means includes communication by telephone, video  
11 conference, or the internet.

12 8. Any order entered under this section shall require that the nondeploying parent:

13 (1) Make the child or children reasonably available to the deploying parent when the  
14 deploying parent has leave;

15 (2) Facilitate opportunities for telephonic and electronic mail contact between the deploying  
16 parent and the child or children during deployment; and

17 (3) Receive timely information regarding the deploying parent's leave schedule.

18 9. (1) If there is no existing order establishing the terms of custody and visitation and it  
19 appears that deployment is imminent, upon the filing of initial pleadings and motion by either parent,  
20 the court shall expedite a hearing to establish temporary custody or visitation to ensure the deploying  
21 parent has access to the child, to ensure disclosure of information, to grant other rights and duties set  
22 forth in this section, and to provide other appropriate relief.

23 (2) Any initial pleading filed to establish custody or visitation for a child of a deploying  
24 parent shall be so identified at the time of filing by stating in the text of the pleading the specific  
25 facts related to deployment.

26 10. (1) Since military necessity may preclude court adjudication before deployment, the  
27 parties shall cooperate with each other in an effort to reach a mutually agreeable resolution of  
28 custody, visitation, and child support.

29 (2) A deploying parent shall provide a copy of his or her orders to the nondeploying parent  
30 promptly and without delay prior to deployment. Notification shall be made within ten days of  
31 receipt of deployment orders. If less than ten days notice is received by the deploying parent, notice  
32 shall be given immediately upon receipt of military orders. If all or part of the orders are classified  
33 or restricted as to release, the deploying parent shall provide, under the terms of this subdivision, all  
34 such nonclassified or nonrestricted information to the nondeploying parent.

35 11. In an action brought under this chapter, whenever the court declines to grant or extend a  
36 stay of proceedings under the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections  
37 521-522, and decides to proceed in the absence of the deployed parent, the court shall appoint a  
38 guardian ad litem to represent the minor child's interests.

39 12. Service of process on a nondeploying parent whose whereabouts are unknown may be  
40 accomplished in accordance with the provisions of section 506.160.

41 13. In determining whether a parent has failed to exercise visitation rights, the court shall not

1 count any time periods during which the parent did not exercise visitation due to the material effect  
2 of such parent's military duties on visitation time.

3 14. Once an order for custody has been entered in Missouri, any absence of a child from this  
4 state during deployment shall be denominated a temporary absence for the purposes of application of  
5 the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). For the duration of the  
6 deployment, Missouri shall retain exclusive jurisdiction under the UCCJEA and deployment shall  
7 not be used as a basis to assert inconvenience of the forum under the UCCJEA.

8 15. In making determinations under this section, the court may award attorney's fees and  
9 costs based on the court's consideration of:

10 (1) The failure of either party to reasonably accommodate the other party in custody or  
11 visitation matters related to a military parent's service;

12 (2) Unreasonable delay caused by either party in resolving custody or visitation related to a  
13 military parent's service;

14 (3) Failure of either party to timely provide military orders, income, earnings, or payment  
15 information, housing or education information, or physical location of the child to the other party;  
16 and

17 (4) Other factors as the court may consider appropriate and as may be required by law.

18 "; and

19  
20 Further amend said bill by amending the title, enacting clause, and intersectional references  
21 accordingly.  
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