STATE OF NEW YORK

5417

2023-2024 Regular Sessions

IN SENATE

March 3, 2023

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the domestic relations law and the family court act, in relation to the effect of military service on child care

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraph 1 of paragraph (a-2) of subdivision 1 of section 240 of the domestic relations law, as added by chapter 473 of the laws of 2009, is amended to read as follows:

(1) During the period of time that a parent is activated, deployed or temporarily assigned to military service, such that the parent's ability to continue as a joint caretaker or the primary caretaker of a minor child is materially affected by such military service, any orders issued pursuant to this section, based on the fact that the parent is activated, deployed or temporarily assigned to military service, which would materially affect or change a previous judgment or order regarding custody of that parent's child or children as such judgment or order existed on the date the parent was activated, deployed, or temporarily assigned to military service, shall be subject to review pursuant to subparagraph three of this paragraph. Any relevant provisions of the Service Member's Civil Relief Act shall apply to all proceedings governed by this section **and shall include the review of a suitable child care plan presented by the petitioning parent for the period of such deployment. Such child care plan shall include but not be limited to reasonable notice by deploying parent to other parent of deployment, procedures for parents to make out of court arrangements regarding custody and visitation during deployment, prohibit an order of permanent custody without deployed parent's consent, provide for expedited custody if parents do not agree thereby establishing custody before deployment**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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and provide for a procedure for termination of temporary custody when parents agree.

§ 2. Paragraph 1 of subdivision (f) of section 651 of the family court act, as added by chapter 473 of the laws of 2009, is amended to read as follows:

1. During the period of time that a parent is activated, deployed or temporarily assigned to military service, such that the parent's ability to continue as a joint caretaker or the primary caretaker of a minor child is materially affected by such military service, any orders issued pursuant to this section, based on the fact that the parent is activated, deployed or temporarily assigned to military service, which would materially affect or change a previous judgment or order regarding custody of that parent's child or children as such judgment or order existed on the date the parent was activated, deployed, or temporarily assigned to military service, shall be subject to review pursuant to paragraph three of this subdivision. Any relevant provisions of the Service Member's Civil Relief Act shall apply to all proceedings governed by this section **and shall include the review of a suitable child care plan presented by the petitioning parent for the period of such deployment. Such child care plan shall include but not be limited to reasonable notice by deploying parent to other parent of deployment, procedures for parents to make out of court arrangements regarding custody and visitation during deployment, prohibit an order of permanent custody without deployed parent's consent, provide for expedited custody if parents do not agree thereby establishing custody before deployment and provide for a procedure for termination of temporary custody when parents agree**.

§ 3. This act shall take effect immediately.