

# 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 Assem-  
bly, do enact as follows:

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

4 (1) During the period of time that a parent is activated, deployed or  
5 temporarily assigned to military service, such that the parent's ability  
6 to continue as a joint caretaker or the primary caretaker of a minor  
7 child is materially affected by such military service, any orders issued  
8 pursuant to this section, based on the fact that the parent is acti-  
9 vated, deployed or temporarily assigned to military service, which would  
10 materially affect or change a previous judgment or order regarding  
11 custody of that parent's child or children as such judgment or order  
12 existed on the date the parent was activated, deployed, or temporarily  
13 assigned to military service, shall be subject to review pursuant to  
14 subparagraph three of this paragraph. Any relevant provisions of the  
15 Service Member's Civil Relief Act shall apply to all proceedings  
16 governed by this section and shall include the review of a suitable  
17 child care plan presented by the petitioning parent for the period of  
18 such deployment. Such child care plan shall include but not be limited  
19 to reasonable notice by deploying parent to other parent of deployment,  
20 procedures for parents to make out of court arrangements regarding  
21 custody and visitation during deployment, prohibit an order of permanent  
22 custody without deployed parent's consent, provide for expedited custody  
23 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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1 and provide for a procedure for termination of temporary custody when  
2 parents agree.

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

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

28 § 3. This act shall take effect immediately.