

IN THE SENATE

SENATE BILL NO. 1380, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO CHILD CUSTODY; AMENDING CHAPTER 7, TITLE 32, IDAHO CODE, BY THE
2 ADDITION OF A NEW SECTION 32-720, IDAHO CODE, TO PROVIDE A PROCEDURE FOR
3 THE COURT IN THE EVENT A PETITION FOR MODIFICATION OF A CHILD CUSTODY OR-
4 DER IS FILED WHERE THE ACTION MAY BE SUBJECT TO THE SERVICEMEMBERS CIVIL
5 RELIEF ACT, TO PROVIDE THAT IN THOSE ACTIONS WHERE THE ACT DOES APPLY,
6 THE COURT MAY ONLY TEMPORARILY MODIFY THE EXISTING CHILD CUSTODY ORDER
7 DURING THE PERIOD OF DEPLOYMENT, TO PROVIDE FOR EXPIRATION OF SUCH TEM-
8 PORARY ORDER, TO PROVIDE FOR EXPEDITED AND EMERGENCY HEARINGS, TO PRO-
9 VIDE FOR EXTENSIONS OF TEMPORARY ORDERS, TO PROVIDE FOR EXPEDITED HEAR-
10 INGS, TO PROVIDE FOR THE PRESENTATION OF TESTIMONY AND EVIDENCE BY ELEC-
11 TRONIC MEANS IN CERTAIN ACTIONS AND TO DEFINE TERMS.
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Chapter 7, Title 32, Idaho Code, be, and the same is
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
16 ignated as Section 32-720, Idaho Code, and to read as follows:

17 32-720. PETITIONS FOR MODIFICATION -- CHILD CUSTODY ORDERS -- SER-
18 VICEMEMBERS. (1) In the event a petition for modification of a child custody
19 order is filed during the time that the court action may be subject to the
20 servicemembers civil relief act, 50 U.S.C. App. section 501 et seq., because
21 one (1) of the parties is a servicemember as defined in said act, the court
22 shall determine if said act applies to the action pursuant to the jurisdic-
23 tion provisions of the act. If the court determines that the act does apply,
24 the court shall thereafter act in compliance with the terms of said act and,
25 in addition, the following shall apply to the extent not in violation of said
26 act:

27 (a) If the court determines that modification is in the best interest
28 of the child pursuant to the provisions of section 32-717, Idaho Code,
29 and the party who is a servicemember is deployed, the court may only enter
30 an order or decree temporarily modifying the existing child custody
31 order during the period of deployment, and upon completion by the ser-
32 vicemember of the period of deployment, the order or decree shall expire
33 twenty-one (21) days after notification to the court, and to all per-
34 sons entitled to notice in the action, of the deployed servicemember's
35 completion of deployment, provided however, that the court may conduct
36 an expedited or emergency hearing for resolution of the child's custody
37 within twenty-one (21) days of the filing of a motion filed prior to the
38 expiration of the order, alleging an immediate danger of irreparable
39 harm to the child if the order expires, and provided further, that if
40 a motion is so filed, the temporary order shall be extended until the
41 court rules on the motion;

1 (b) If the deployment of a party who is a servicemember affects the
2 party's ability or anticipated ability to appear at a regularly sched-
3 uled hearing related to a petition for modification of child custody,
4 the court may provide for an expedited hearing to allow the servicemem-
5 ber to appear;

6 (c) If the deployment of a party who is a servicemember prevents the
7 servicemember from appearing in person at a hearing related to a pe-
8 tition for the modification of child custody, the court may provide,
9 upon reasonable advance notice to the parties, for the servicemember to
10 present testimony and evidence by electronic means, if such can be done
11 without prejudice to the ability of the servicemember to adequately and
12 reasonably present such testimony and evidence.

13 (2) For purposes of this section:

14 (a) "Deployed" or "deployment" means military service performed in
15 compliance with a valid order received by an active duty or reserve mem-
16 ber of the armed services of the United States, national guard or United
17 States coast guard to report for combat operations, contingency opera-
18 tions, peacekeeping operations, temporary duty, a remote tour of duty
19 or other active service for which the deploying party reports. The term
20 shall include those members who are actually deployed as well as those
21 members with valid orders preparing to be deployed;

22 (b) "Electronic means" includes communication by telephone, video
23 teleconference or internet.