

IN THE SENATE

SENATE BILL NO. 1122

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
4 ORDER IS FILED WHERE THE ACTION MAY BE SUBJECT TO THE SERVICEMEMBERS
5 CIVIL RELIEF ACT, TO PROVIDE THAT UNDER CERTAIN CIRCUMSTANCES THE COURT
6 MAY ONLY ENTER AN ORDER OR DECREE TEMPORARILY MODIFYING THE EXISTING
7 CHILD CUSTODY ORDER DURING A PERIOD OF DEPLOYMENT, TO PROVIDE FOR EX-
8 PIRATION OF THE ORDER OR DECREE, TO PROVIDE FOR EXPEDITED OR EMERGENCY
9 HEARINGS RELATING TO THE EXPIRATION OF ORDERS OR DECREES, TO PROVIDE
10 FOR THE EXTENSION OF TEMPORARY ORDERS, TO PROVIDE FOR TEMPORARY ORDERS
11 GRANTING DEPLOYED PARENTS REASONABLE CONTACT WITH THE CHILD, TO PROVIDE
12 FOR EXPEDITED HEARINGS RELATING TO PETITIONS TO MODIFY, TO PROVIDE FOR
13 THE PRESENTATION OF TESTIMONY AND EVIDENCE BY ELECTRONIC MEANS UNDER
14 CERTAIN CONDITIONS AND TO DEFINE TERMS.
15

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

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

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

30 (a) If the court determines that modification is in the best interest of
31 the child pursuant to the provisions of section 32-717, Idaho Code, and
32 the party who is a servicemember is deployed, the court may only enter an
33 order or decree temporarily modifying the existing child custody order
34 during the period of deployment, and upon completion by the servicemem-
35 ber of the period of deployment, the order or decree shall expire sixty
36 (60) days after notification to the court, and to all persons entitled
37 to notice in the action, of the deployed servicemember's completion of
38 deployment. Provided however, that:

39 (i) The court may thereafter conduct an expedited or emergency
40 hearing for resolution of the child's custody on the filing of a
41 motion, filed prior to the expiration of the order, alleging that

1 it would not be in the best interests of the child pursuant to the
2 provisions of section 32-717, Idaho Code, if the order expires;

3 (ii) If a motion is so filed, the temporary order shall be extended
4 until the court rules on the motion; and

5 (iii) Following the return from deployment of a deploying parent
6 and until the temporary order for child custody is terminated, the
7 court shall enter a temporary order granting the deploying par-
8 ent reasonable contact with the child unless it is contrary to the
9 best interests of the child pursuant to the provisions of section
10 32-717, Idaho Code.

11 (b) If the deployment of a party who is a servicemember affects the
12 party's ability or anticipated ability to appear at a regularly sched-
13 uled hearing related to a petition for modification of child custody,
14 the court may provide for an expedited hearing to allow the servicemem-
15 ber to appear.

16 (c) If the deployment of a party who is a servicemember prevents the
17 servicemember from appearing in person at a hearing related to a pe-
18 tition for the modification of child custody, the court may provide,
19 upon reasonable advance notice to the parties, for the servicemember to
20 present testimony and evidence by electronic means, if such can be done
21 without prejudice to the ability of the servicemember to adequately and
22 reasonably present such testimony and evidence.

23 (2) For purposes of this section:

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

32 (b) "Electronic means" includes communication by telephone, video
33 teleconference or the internet.