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3 **Alabama Mobilized Parent Protection Act**

4 **SYNOPSIS:** This bill addresses (1) custody modifications to  
5 mobilized parents in the armed forces; and (2) when any legal  
6 action not listed within this Act is filed against a mobilized  
7 parent, provisions of the federal Servicemembers Civil Relief  
8 Act (SCRA) shall be applicable.  
9

10 **A BILL**  
11 **TO BE ENTITLED**  
12 **AN ACT**

13  
14 **BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:**

15  
16 **Definitions**

17  
18 For the purposes of this article the following words shall  
19 have the following meanings:  
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21 (1) **ARMED FORCES.** The National Guard and the Reserve  
22 Components of the Armed Forces, the United States  
23 Army, the United States Navy, the United States Marine  
24 Corps, the United States Coast Guard, and the United  
25 States Air Force, and any other branch of the military  
26 and naval forces or auxiliaries of the United States  
27 or this state.  
28

29 (2) **MOBILIZED PARENT.** A parent who:

30  
31 (a) Is a member of the armed forces; and

32  
33 (b) Is called to active duty or receives  
34 orders for duty that is outside the state or  
35 country, which is consistent with provision of  
36 the SCRA.  
37

38 **Actions filed against a mobilized parent.**

39  
40 A court shall apply the Servicemember Civil Relief Act to any  
41 legal action filed against a mobilized parent while said parent  
42 is on active duty in the armed forces.  
43

44 **Temporary modification of decree for child custody or parenting**  
45 **time for children of a mobilized parent.**  
46

47 (1) A court shall not permanently modify a decree for child  
48 custody or parenting time solely on the basis that one (1) of  
49 the parents is a mobilized parent.  
50

51 (2) Any modification of a child custody decree based on the  
52 active duty of a mobilized parent shall be temporary and shall  
53 revert back to the previous child custody decree at the end of  
54 the deployment, as appropriate.  
55

56 **Petition for assignment of parenting time rights to legal or**  
57 **biological relatives while a mobilized parent is out of the**  
58 **state on active duty military service.**  
59

60 (a) When a mobilized parent has been called to active duty  
61 military service and the active duty service requires the  
62 parent to be out of the state for a period of at least  
63 ninety (90) days, the mobilized parent may petition the  
64 court with jurisdiction of the order granting parenting  
65 time for a modification of that order for the temporary  
66 assignment of that parent's parenting time rights to a  
67 legal or biological relative or relatives, provided said  
68 relatives, are determined to be fit, willing and capable of  
69 exercising said parenting times. The mobilized parent  
70 shall be joined in the petition by the relative or  
71 relatives to whom the parent is seeking to assign parenting  
72 time rights. The petition shall include a proposed  
73 parenting time schedule with the relative or relatives that  
74 shall not exceed the parenting time granted to the parent  
75 at the time of filing the petition.  
76

77 (b) A court shall hold a hearing regarding sub section (a)  
78 within 60 days from date petition is filed, and shall issue  
79 an order within 30 days of said hearing, unless the court  
80 has valid concerns to the fitness of said relatives.  
81

82 (c) Any time a valid concern of fitness regarding legal or  
83 biological relative or relatives of the mobilized parent is  
84 brought to the courts attention, the court shall order a  
85 home study or other investigation as required to protect  
86 the children. Said investigation shall conclude within 30  
87 days concerns are brought to the courts attention.  
88

89 (d) Any findings of unfitness under subsection (c) shall be  
90 determined by clear and convincing evidence. The court  
91 shall list written findings of fact to support such  
92 determination.  
93

- 94 (e) Any party that makes false accusations of unfitness  
95 against a legal or biological relative of a military parent  
96 regarding sub section (a) shall be fined no less than  
97 \$5,000, plus reasonable attorney fees payable to the  
98 parties required to defend such false accusations.  
99
- 100 (f) If the mobilized parent does not petition the court for  
101 said temporary modification within ninety days (90 days) of  
102 mobilization, the children shall remain first, in the  
103 primary care of the non-mobilized parent, provided said  
104 parent desires primary care of the children, or second, in  
105 the care of the guardian the mobilized parent approved  
106 under the military care plan required by the armed  
107 services. Said parenting times shall revert back to the  
108 previous custody decree at the end of the deployment, as  
109 appropriate.  
110
- 111 (g) The court shall presume, unless the petitioning mobilized  
112 parent has been found unfit - by clear and convincing  
113 evidence - that said parent has a fundamental parental  
114 right to make best interests decisions for said children.  
115
- 116 (h) The court shall grant the petitioner's request for  
117 assignment of parenting time if the court finds that said  
118 parenting time is not inconsistent with this Act, and not  
119 inconsistent with the federal Servicemembers Civil Relief  
120 Act.  
121
- 122 (i) An order granting an assignment of parenting time rights  
123 pursuant to this Act shall terminate immediately upon the  
124 termination of the petitioner's term of out of state active  
125 duty military service.  
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