

ASSEMBLY, No. 1956

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 8, 2010

Sponsored by:

Assemblyman JACK CONNERS

District 7 (Burlington and Camden)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington and Camden)

Co-Sponsored by:

Assemblyman Scalera

SYNOPSIS

Prohibits permanent change of child custody during period of active military service; provides that absence due to active military duty, by itself, is insufficient justification to modify a child custody or visitation order.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/19/2010)

1 AN ACT concerning changes in child custody during active military
2 duty and amending R.S. 9:2-4.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. R.S. 9:2-4 is amended to read as follows:

8 9:2-4. The Legislature finds and declares that it is in the public
9 policy of this State to assure minor children of frequent and
10 continuing contact with both parents after the parents have
11 separated or dissolved their marriage and that it is in the public
12 interest to encourage parents to share the rights and responsibilities
13 of child rearing in order to effect this policy.

14 In any proceeding involving the custody of a minor child, the
15 rights of both parents shall be equal and the court shall enter an
16 order which may include:

17 a. Joint custody of a minor child to both parents, which is
18 comprised of legal custody or physical custody which shall include:
19 (1) provisions for residential arrangements so that a child shall
20 reside either solely with one parent or alternatively with each parent
21 in accordance with the needs of the parents and the child; and (2)
22 provisions for consultation between the parents in making major
23 decisions regarding the child's health, education and general
24 welfare;

25 b. Sole custody to one parent with appropriate parenting time
26 for the noncustodial parent; or

27 c. Any other custody arrangement as the court may determine
28 to be in the best interests of the child.

29 In making an award of custody, the court shall consider but not
30 be limited to the following factors: the parents' ability to agree,
31 communicate and cooperate in matters relating to the child; the
32 parents' willingness to accept custody and any history of
33 unwillingness to allow parenting time not based on substantiated
34 abuse; the interaction and relationship of the child with its parents
35 and siblings; the history of domestic violence, if any; the safety of
36 the child and the safety of either parent from physical abuse by the
37 other parent; the preference of the child when of sufficient age and
38 capacity to reason so as to form an intelligent decision; the needs of
39 the child; the stability of the home environment offered; the quality
40 and continuity of the child's education; the fitness of the parents;
41 the geographical proximity of the parents' homes; the extent and
42 quality of the time spent with the child prior to or subsequent to the
43 separation; the parents' employment responsibilities; and the age
44 and number of the children. A parent shall not be deemed unfit

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 unless the parents' conduct has a substantial adverse effect on the
2 child.

3 The court, for good cause and upon its own motion, may appoint
4 a guardian ad litem or an attorney or both to represent the minor
5 child's interests. The court shall have the authority to award a
6 counsel fee to the guardian ad litem and the attorney and to assess
7 that cost between the parties to the litigation.

8 d. The court shall order any custody arrangement which is
9 agreed to by both parents unless it is contrary to the best interests of
10 the child.

11 e. In any case in which the parents cannot agree to a custody
12 arrangement, the court may require each parent to submit a custody
13 plan which the court shall consider in awarding custody.

14 f. The court shall specifically place on the record the factors
15 which justify any custody arrangement not agreed to by both
16 parents.

17 g. If a motion for a change of custody is filed during a time a
18 parent is in active military duty, the court shall not enter an order
19 modifying or amending a judgment or order previously entered, or
20 enter a new order that permanently alters the custody arrangement
21 in existence on the date the parent was called to active military
22 duty. The court may enter a temporary custody order if there is
23 clear and convincing evidence that it is in the best interest of the
24 child.

25 If a motion for a change of custody is filed after a parent returns
26 from active military duty, the court shall not consider a parent's
27 absence due to military duty, by itself, to be sufficient to justify a
28 modification of a child custody or visitation order.

29 (cf: P.L.1997, c.299, s.9)

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31 2. This act shall take effect immediately.

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STATEMENT

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36 This bill provides that in cases involving custody of a minor
37 child, if a motion for a change of custody is filed during a time a
38 parent is in active military duty, the court shall not enter an order
39 modifying or amending a previous judgment or order, or enter a
40 new order that permanently changes the custody arrangement in
41 existence on the date the parent was called to active military duty.
42 Under the bill, the court may enter a temporary custody order if
43 there is clear and convincing evidence that it is in the best interest
44 of the child.

45 The bill also provides that if a motion for a change of custody is
46 filed after a parent returns from active military duty, the court shall
47 not consider a parent's absence due to military duty, by itself, to be

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- 1 sufficient to justify a modification of a child custody or visitation
- 2 order.