

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015
COMMITTEE STATEMENT
LB219

Hearing Date: Friday January 23, 2015
Committee On: Judiciary
Introducer: Crawford
One Liner: Change and eliminate child custody provisions and adopt the Uniform Deployed Parents Custody and Visitation Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 6 Senators Seiler, Coash, Ebke, Morfeld, Pansing Brooks, Williams
Nay:
Absent:
Present Not Voting: 2 Senators Chambers, Krist

Verbal Testimony:

Proponents:
SEN. SUE CRAWFORD
LARRY RUTH

TERRY MORROW
LAWRENCE STUNKEL
DANELLE NELSON

Representing:
INTRODUCER
NEBRASKA COMMISSION OF UNIFORM STATE
LAWS
UNIFORM LAW COMMISSION
SELF
SELF

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 219 seeks to create a framework for delegation and temporary orders regarding custodial responsibilities of deploying military parents.

Section 2 provides definitions of relevant terms.

Section 3 authorizes an award of attorney's fees if a court finds a party has acted in bad faith or intentionally failed to comply with a court order.

Section 4 ties the court's jurisdiction under the Uniform Deployed Parents Custody and Visitation Act (UDPCVA) to jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act. Generally speaking, jurisdiction is determined by the child's home state. However, a parent's residence may be relevant in certain circumstances. Section 4 further provides that a deployment does not change the residence of the deploying parent.

Section 5 requires a deploying parent to notify the other parent of a pending deployment within seven days of receiving notice of the deployment. Section 6 requires individuals with custodial responsibility to notify other individuals with custodial responsibility and the deploying parent of any address change.

Section 7 prohibits a court from considering a parent's past deployment or possible future deployment "in itself" in determining the best interest of the child in a proceeding for custodial responsibility of a child of a service member. This section would allow a court to consider "any significant impact" on the best interest of a child as a result of a deployment.

Sections 8 to 12 allow parents to enter into a temporary agreement regarding custodial responsibility during a deployment. Section 8 requires that such an agreement be in writing, signed by the parties and contain certain provisions. Section 9 provides that such an agreement terminates when the deployed parent returns from deployment. Section 10 allows the parties to modify an agreement. Section 11 allows a deploying parent to delegate custodial responsibility by power of attorney to an adult nonparent if no other parent is in the state or permitted to contact the child. Section 12 requires that an agreement or power of attorney be filed with the court.

Sections 13 to 23 provide for procedures for parents to file motions for court orders regarding custodial responsibility. Either parent may file a motion for a determination of custodial responsibility. The court is required to conduct an expedited hearing and allow parties and witnesses not reasonably available to appear electronically. Section 17 would require a court to enforce a prior judicial order or prior written agreement between the parents, unless the agreement is contrary to the best interests of the child. Sections 18 and 19 would permit a court to grant caretaking authority or limited contact to a nonparent under certain circumstances. Section 20 states that any such order is temporary and Section 23 provides that an order may be modified. Section 21 requires court orders to contain certain details and Section 22 allows a court to enter a temporary child support order. Sections 24, 25 and 27 provide the procedures for termination of an agreement or order upon the return of the deployed parent.

Section 26 would require a court to enter another temporary order to address parental contact in the time period between the return of the deployed parent and termination of the original temporary order.

Explanation of amendments:

AM43 would amend LB219 to change the definition of "adult" under the Act to an individual who has attained nineteen years of age or an emancipated minor.

This amendment would also clarify that any change to the "best interests of the child" analysis would apply only in a proceeding under the UDPCVA and not any other action.

Les Seiler, Chairperson