

**Stricken language would be deleted from and underlined language would be added to the law as it existed  
prior to this session of the General Assembly.  
Act 301 of the Regular Session**

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

# A Bill

HOUSE BILL 1345

5 By: Representative Wood  
6  
7

## For An Act To Be Entitled

AN ACT TO ENSURE THAT THE ORDERS OF CHILD CUSTODY  
AND VISITATION FOR PARENTS WHO ARE MEMBERS OF THE  
ARMED FORCES ARE NOT PERMANENTLY MODIFIED FOR THE  
SOLE REASON OF THE PARENT'S MILITARY  
MOBILIZATION; TO ALLOW COURTS TO TEMPORARILY  
MODIFY ORDERS OF CHILD CUSTODY AND VISITATION FOR  
PARENTS WHO ARE MILITARY MOBILIZED; AND FOR OTHER  
PURPOSES.

## Subtitle

TO PROVIDE FLEXIBILITY FOR COURTS IN  
MODIFYING ORDERS OF CHILD CUSTODY AND  
VISITATION FOR PARENTS WHO ARE MEMBERS  
OF THE ARMED FORCES AND WHO ARE MILITARY  
MOBILIZED.

17  
18  
19  
20  
21  
22  
23  
24  
25  
26 WHEREAS, members of the armed forces of the United States play a vital  
27 role in our national security and in the security and safety of the State of  
28 Arkansas; and

29  
30 WHEREAS, it is vital to the short-term and long-term interests of the  
31 armed forces of the United States, and therefore the nation and this state,  
32 to attract and retain qualified, competent people; a substantial number of  
33 Arkansas adults have children from relationships that have terminated through  
34 divorce or otherwise; and it is contrary to public policy to discourage these  
35 adults from service in the armed forces; and



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

WHEREAS, recent national emergencies have demonstrated that noncustodial parents will sometimes attempt to use a custodial parent’s military mobilization, in and of itself, as a “material change in circumstances” to attempt to justify a change in custody; and

WHEREAS, recent national emergencies have demonstrated that parents with physical custody of a child or children will sometimes use the fact of the noncustodial parent’s military mobilization as an excuse to deny or curtail the visitation of the noncustodial parent; such visitation is even more critical to both parent and child during military mobilization and deployment than it would be under normal circumstances; and

WHEREAS, periods of military mobilization and deployment are stressful enough for a service member and his or her children without facing the added stress of court proceedings and of potentially losing custody rights or visitation rights; and

WHEREAS, children of members of the armed forces of the United States should not view service to their country as a negative experience to be avoided,

NOW THEREFORE,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 9, Chapter 13, Subchapter 1 is amended to add an additional section to read as follows:

9-13-110. Parents who are members of the armed services.

(a) As used in this section:

(1) "Armed forces" means the National Guard and the reserve components of the armed forces, the United States Army, the United States Navy, the United States Marine Corps, the United States Coast Guard, and the United States Air Force, and any other branch of the military and naval forces or auxiliaries of the United States or Arkansas; and

(2) "Mobilized parent" means a parent who:

(A) Is a member of the armed forces; and

1                   (B) Is called to active duty or receives orders for duty  
 2 that is outside the state or country.

3                   (b) A court shall not permanently modify an order for child custody or  
 4 visitation solely on the basis that one (1) of the parents is a mobilized  
 5 parent.

6                   (c)(1) A court of competent jurisdiction shall determine whether a  
 7 temporary modification to an order for child custody or visitation is  
 8 appropriate for a child or children of a mobilized parent.

9                   (2) The determination under this subsection (c) includes  
 10 consideration of any and all circumstances that are necessary to maximize the  
 11 mobilized parent's time and contact with his or her child that is consistent  
 12 with the best interest of the child, including without limitation:

13                   (A) The ordered length of the mobilized parent's call to  
 14 active duty;

15                   (B) The mobilized parent's duty station or stations;

16                   (C) The opportunity that the mobilized parent will have  
 17 for contact with the child through a leave, a pass, or other authorized  
 18 absence from duty;

19                   (D) The contact that the mobilized parent has had with the  
 20 child before the call to active military duty;

21                   (E) The nature of the military mission, if known; and

22                   (F) Any other factor that the court deems appropriate  
 23 under the circumstances.

24                   (d) This section shall not limit the power of a court of competent  
 25 jurisdiction to permanently modify an order of child custody or visitation in  
 26 the event that a parent volunteers for permanent military duty as a career  
 27 choice regardless of whether the parent volunteered for permanent military  
 28 duty while a member of the armed forces.

29  
 30                   SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
 31 General Assembly of the State of Arkansas that members of the armed forces  
 32 are spending inordinate time and energy dealing with issues of child custody  
 33 and visitation as a sole consequence of being mobilized in support of  
 34 national emergencies; that such issues detract and degrade from morale,  
 35 training, military readiness, and mission accomplishment and, therefore, have  
 36 a direct adverse impact on the security of the United States and this state;

1 that recent national military mobilizations of Arkansas members of the armed  
2 forces have magnified these problems; that adding the stress of potential  
3 permanent changes in custody or visitation during a time when a parent is  
4 mobilized to military service is generally not in the best interest of the  
5 child, and that this act is immediately necessary to protect the security of  
6 the United States and the State of Arkansas and to protect the best interests  
7 of children. Therefore, an emergency is declared to exist and this act being  
8 necessary for the preservation of the public peace, health, and safety shall  
9 become effective on:

10 (1) The date of its approval by the Governor;

11 (2) If the bill is neither approved nor vetoed by the Governor,  
12 the expiration of the period of time during which the Governor may veto the  
13 bill; or

14 (3) If the bill is vetoed by the Governor and the veto is  
15 overridden, the date the last house overrides the veto.

16  
17 **APPROVED: 3/16/2007**  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36