Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
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CHAPTER 202

HOUSE BILL 2635

AN ACT

AMENDING SECTION 25-411, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-1013; RELATING TO CUSTODIAL RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 25-411, Arizona Revised Statutes, is amended to read:

25-411. Modification of custody decree; affidavit; contents

A. A person shall not make a motion to modify a custody decree earlier than one year after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may seriously endanger the child's physical, mental, moral or emotional health. At any time after a joint custody order is entered, a parent may petition the court for modification of the order on the basis of evidence that domestic violence ~~pursuant to~~ INVOLVING A VIOLATION OF section 13-1201 or 13-1204, spousal abuse or child abuse occurred since the entry of the joint custody order. Six months after a joint custody order is entered, a parent may petition the court for modification of the order based on the failure of the other parent to comply with the provisions of the order. A motion or petition to modify a custody order shall meet the requirements of this section. Except as otherwise provided in subsection B of this section, if a custodial parent is a member of the United States armed forces, the court shall consider the terms of that parent's military family care plan to determine what is in the child's best interest during the custodial parent's military deployment.

B. For the purposes of a motion to modify a custody decree, the military deployment of a custodial parent who is a member of the United States armed forces is not a change in circumstances that materially affects the welfare of the child if the custodial parent has filed a military family care plan with the court at a previous custody proceeding and if the military deployment is less than six months.

C. A CUSTODY DECREE OR ORDER THAT A COURT ENTERS IN CONTEMPLATION OF OR DURING THE MILITARY DEPLOYMENT OF A CUSTODIAL PARENT OUTSIDE OF THE CONTINENTAL UNITED STATES SHALL SPECIFICALLY REFERENCE THE DEPLOYMENT AND INCLUDE PROVISIONS GOVERNING THE CUSTODY OF THE MINOR CHILD AFTER THE DEPLOYMENT ENDS. EITHER PARENT MAY FILE A PETITION WITH THE COURT AFTER THE DEPLOYMENT ENDS TO MODIFY THE DECREE OR ORDER, IN COMPLIANCE WITH SUBSECTION F OF THIS SECTION. THE COURT SHALL HOLD A HEARING OR CONFERENCE ON THE PETITION WITHIN THIRTY DAYS AFTER THE PETITION IS FILED.

~~C.~~ D. The court may modify an order granting or denying parenting time rights whenever modification would serve the best interest of the child, but the court shall not restrict a parent's parenting time rights unless it finds that the parenting time would endanger seriously the child's physical, mental, moral or emotional health.

~~D.~~ E. If after a custody or parenting time order is in effect one of the parents is charged with a dangerous crime against children as defined in section 13-604.01, child molestation as defined in section 13-1410 or an act of domestic violence as ~~defined~~ PRESCRIBED in section 13-3601 in which the victim is a minor, the other parent may petition the court for an expedited

hearing. Pending the expedited hearing, the court may suspend parenting time or change custody ex parte.

~~E.~~ F. To modify any type of custody order a person shall submit an affidavit or verified petition setting forth detailed facts supporting the requested modification and shall give notice, together with a copy of the affidavit or verified petition, to other parties to the proceeding, who may file opposing affidavits. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the pleadings, in which case it shall set a date for hearing on why the requested modification should not be granted.

~~F.~~ G. The court shall assess attorney fees and costs against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

~~G.~~ H. Subsection E of this section does not apply if the requested relief is for the modification or clarification of visitation and not for a change of joint custody, joint legal custody, joint physical custody or sole custody.

Sec. 2. Title 25, chapter 8, article 1, Arizona Revised Statutes, is amended by adding section 25-1013, to read:

25-1013. Military deployment; home state

NOTWITHSTANDING SECTION 25-1002, IF THIS STATE IS THE HOME STATE OF A CHILD AT THE TIME OF THE MILITARY DEPLOYMENT OF THAT CHILD'S CUSTODIAL PARENT OUTSIDE OF THE UNITED STATES AND THE CHILD IS RELOCATED OUTSIDE OF THE UNITED STATES DURING THE DEPLOYMENT, THIS STATE REMAINS THE HOME STATE OF THE CHILD UNTIL THE DEPLOYMENT ENDS.

APPROVED BY THE GOVERNOR MAY 11, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2007.