

**DEPLOYED PARENTS  
CUSTODY AND VISITATION  
ACT**



## **PREFACE**

The Alabama Law Institute presents to the Bench and Bar of Alabama, for consideration and constructive criticism, the following proposed act.

This bill is drafted by the Standing Family Law Committee of the Alabama Law Institute. It is in conformity with a provision of the National Defense Authorization Act of 2014 passed by the United States Congress in December, 2013. It provides that a military deployment may not be the sole factor considered by the court in making a custody determination.

Furthermore, it provides clarification to the court on its ability to issue a pendent lite custody determination order in situations in which a case is continued or stayed based on Federal law.

This act was the result of a great deal of scholarly work by a committee of judges, professors, and practitioners with extensive backgrounds in this area of the law. The committee was chaired by Dean Noah Funderburg and Penny Davis served the committee as Reporter.

Othni J. Lathram  
Director

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## **DEPLOYED PARENTS CUSTODY AND VISITATION ACT**

**Section 1.** A military deployment, including past, previous, or future deployments, may not be considered by the court as the sole factor when making an original child custody determination, or in modifying an existing child custody determination, in any proceeding involving any person who has, or is seeking, custodial rights to, or visitation rights with, a child.

**Section 2.** Any order granting a continuance or stay of a child custody case granted pursuant to the Federal Servicemembers Civil Relief Act, 50 App. U.S.C. Section 501 et seq., may include a pendente lite custody determination order.

**Section 3.** Nothing in this act shall be construed so as to limit or expand the legal rights of any person under any existing law.

**Section 4.** This act shall become effective immediately following its passage and approval by the Governor, or otherwise becoming law.

### **Alabama Comment**

Section 1 of this bill is in agreement with a provision of the National Defense Authorization Act of 2014 passed by the United States Congress in December, 2013. The term "child custody determination" is a defined term in the Uniform Child Custody Jurisdiction and Enforcement Act. Ala. Code § 30-3B-102 (3)

The Servicemembers Civil Relief Act, 50 App. U.S.C. Section 501 et seq, formerly known as, the Soldiers' and Sailors' Civil Relief Act, provides for the continuance or stay of an action under specific circumstances.

Section 2 clarifies that a court is permitted to enter a pendente lite custody determination order if a case is continued or stayed based on that federal act.

Section 3 is an expression of the legislative intent of the bill. It is an acknowledgment of the existing law with regard to the effect of military deployment in cases in which a custody determination order has been entered and is an expression of the legislative intent with regard to future cases.