

## CHAPTER 107

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**CHILDREN AND DOMESTIC MATTERS**

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**HOUSE BILL 08-1176**

BY REPRESENTATIVE(S) Labuda, Borodkin, Carroll M., Frangas, Gallegos, Gardner B., Lambert, Loooper, Lundberg, Marostica, Massey, Middleton, Mitchell V., Rice, Stafford, and Todd;  
also SENATOR(S) Ward, Boyd, Brophy, Cadman, Gibbs, Groff, Isgar, Kester, Kopp, Morse, Penry, Renfroe, Romer, Sandoval, Schultheis, Schwartz, Shaffer, Spence, Tapia, Taylor, Tochtrop, Tupa, Wiens, and Williams.

**AN ACT****CONCERNING THE MODIFICATION OF THE ALLOCATION OF PARENTAL RESPONSIBILITIES OF CERTAIN DEPLOYED SERVICE MEMBERS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Article 10 of title 14, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**14-10-131.3. Modification of the allocation of parental responsibilities and parenting time based upon military service - legislative declaration - definitions.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(I) AN ARMED FORCES RESERVES OR STATE NATIONAL GUARD MEMBER WHO IS CALLED TO ACTIVE DUTY FACES UNIQUE CHALLENGES WITH RESPECT TO PARENTING HIS OR HER CHILD WHILE AT THE SAME TIME MEETING HIS OR HER OBLIGATION TO SERVE IN THE MILITARY;

(II) THE ALLOCATION OF PARENTAL RESPONSIBILITIES AND THE PARENTING PLAN FOR A CHILD IS OFTEN MODIFIED AS A RESULT OF A PARENT BEING DEPLOYED OR CALLED TO FEDERAL ACTIVE DUTY. IT IS IMPORTANT THAT SERVICE MEMBERS, CHILDREN, AND OTHER PARENTS SHARE THE SAME EXPECTATION AS TO WHAT THE PARENTAL RESPONSIBILITIES AND PARENTING TIME ORDERS WILL BE WHEN THE SERVICE MEMBER PARENT RETURNS AND THAT THE RELATIONSHIP BETWEEN A SERVICE MEMBER PARENT AND HIS OR HER CHILD WILL NOT BE UNFAIRLY IMPACTED DUE TO MILITARY SERVICE.

(b) THE GENERAL ASSEMBLY THEREFORE FINDS THAT THE INTERESTS OF THE

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

PARENTS AND THE CHILD ARE BEST SERVED WHEN:

(I) MODIFICATIONS OF PARENTAL RESPONSIBILITIES AND PARENTING TIME THAT ARE BASED SOLELY UPON THE DEPLOYMENT OR FEDERAL ACTIVE DUTY OF RESERVE OR NATIONAL GUARD MEMBERS ARE LIMITED IN DURATION; AND

(II) UPON THE SERVICE MEMBER PARENT'S RETURN FROM DEPLOYMENT OR ACTIVE DUTY, THE ALLOCATION OF PARENTAL RESPONSIBILITIES AND PARENTING TIME REVERTS TO THE ORDERS IN PLACE AT THE TIME THE SERVICE MEMBER WAS DEPLOYED OR CALLED TO FEDERAL ACTIVE DUTY.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACTIVE DUTY" MEANS FULL-TIME SERVICE IN:

(I) A RESERVE COMPONENT OF THE ARMED FORCES; OR

(II) THE NATIONAL GUARD FOR A PERIOD THAT EXCEEDS THIRTY CONSECUTIVE DAYS IN A CALENDAR YEAR.

(b) "ARMED FORCES" INCLUDES THE RESERVE COMPONENTS OF THE UNITED STATES ARMY, NAVY, MARINE CORPS, AIR FORCE, AND COAST GUARD.

(c) "PARENT" MEANS PARENT, LEGAL GUARDIAN, OR PERSON AWARDED PARENTAL DECISION-MAKING RESPONSIBILITIES OR PARENTING TIME.

(d) "SERVICE MEMBER" MEANS A MEMBER OF A RESERVE COMPONENT OF THE UNITED STATES ARMED FORCES OR A MEMBER OF A STATE NATIONAL GUARD.

(3) (a) IF A MOTION TO MODIFY AN ORDER CONCERNING THE ALLOCATION OF PARENTAL RESPONSIBILITIES OR PARENTING TIME IS FILED EITHER PRIOR TO OR DURING A SERVICE MEMBER PARENT'S ACTIVE DUTY DEPLOYMENT, AND THE COURT FINDS THAT THE SERVICE MEMBER PARENT'S ACTIVE DUTY DEPLOYMENT IS THE SOLE BASIS FOR THE MODIFICATION, ANY RESULTING ORDER SHALL BE AN INTERIM ORDER.

(b) UPON A SERVICE MEMBER PARENT'S FILING OF WRITTEN NOTICE WITH THE COURT OF HIS OR HER RETURN TO COLORADO FROM ACTIVE DUTY DEPLOYMENT, AND SERVICE OF THE NOTICE ON THE OTHER PARENT, THE INTERIM ORDERS ARE VACATED, AND THE ORDERS CONCERNING THE ALLOCATION OF PARENTAL RESPONSIBILITIES AND PARENTING TIME THAT WERE IN EFFECT AT THE TIME THE INTERIM ORDERS WERE ENTERED SHALL BE IMMEDIATELY REINSTATED WITHOUT THE NEED FOR COURT ACTION.

(4) NOTHING IN THIS SECTION RESTRICTS THE RIGHT OF A PARENT TO:

(a) CONSENT TO A MODIFICATION OF THE ALLOCATION OF PARENTAL RESPONSIBILITIES OR PARENTING TIME THAT CONTINUES BEYOND THE END OF THE SERVICE MEMBER PARENT'S ACTIVE DUTY DEPLOYMENT; OR

(b) FILE A MOTION, PURSUANT TO APPLICABLE LAW, SEEKING A MODIFICATION OF THE ALLOCATION OF PARENTAL RESPONSIBILITIES OR PARENTING TIME AFTER THE

INTERIM ORDERS ARE VACATED.

(5) A SERVICE MEMBER PARENT'S AGREEMENT TO A MODIFICATION OF PARENTAL RESPONSIBILITIES OR PARENTING TIME ON AN INTERIM BASIS, DUE TO HIS OR HER ACTIVE DUTY DEPLOYMENT, SHALL NOT BE CONSIDERED AGREEMENT TO A MODIFICATION OR CONSENT TO THE INTEGRATION OF THE CHILD INTO THE OTHER PARENT'S HOUSEHOLD FOR THE PURPOSE OF A MOTION FILED PURSUANT TO SECTION 14-10-129 (2) OR 14-10-131 (2).

(6) MODIFICATION OF CHILD SUPPORT MAY BE APPROPRIATE WHEN AN INTERIM ORDER IS ENTERED BASED UPON A SERVICE MEMBER PARENT'S ACTIVE DUTY DEPLOYMENT. IN ANY MOTION FILED PURSUANT TO THIS SECTION, IT IS THE PARTIES' RESPONSIBILITY TO ADDRESS CHILD SUPPORT AT THAT TIME PURSUANT TO SECTIONS 14-10-115 AND 14-10-122.

(7) MOTIONS FILED PURSUANT TO THIS SECTION SHALL NOT QUALIFY AS MOTIONS FILED FOR PURPOSES OF THE TWO-YEAR LIMITATION ON MOTIONS CONTAINED IN SECTIONS 14-10-129 AND 14-10-131.

**SECTION 2.** 14-13-102 (7), Colorado Revised Statutes, is amended to read:

**14-13-102. Definitions.** As used in this article, unless the context otherwise requires:

(7) (a) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (7), "HOME STATE" DOES NOT MEAN A STATE IN WHICH A CHILD LIVED WITH A PARENT OR A PERSON ACTING AS A PARENT ON A TEMPORARY BASIS AS THE RESULT OF AN INTERIM ORDER ENTERED PURSUANT TO SECTION 14-10-131.3.

**SECTION 3. Applicability.** This act shall apply to motions filed on or after the effective date of this act.

**SECTION 4. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 7, 2008