

SENATE BILL REPORT

SHB 1107

As Reported by Senate Committee On:
Law & Justice, March 29, 2013

Title: An act relating to residential provisions for children of parents with military duties.

Brief Description: Regarding residential provisions for children of parents with military duties.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives McCoy, Shea, Appleton, Orwall, Jinkins, Morrell, Ryu, Green and Freeman).

Brief History: Passed House: 3/04/13, 98-0.

Committee Activity: Law & Justice: 3/18/13, 3/29/13 [DP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; Kline, Ranking Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Jessica Stevenson (786-7465)

Background: In dissolution or legal separation cases that involve minor children, the court must establish a parenting plan that includes residential provisions for the children. A court cannot modify a parenting plan unless a substantial change in circumstances of the child or the nonmoving party occurs, the modification is in the best interests of the child, and the modification is necessary to serve the best interests of the child. The effect of a parent's military duties potentially impacting parenting functions cannot, by itself, be a substantial change of circumstances justifying a permanent modification of a prior parenting plan or decree.

A court may enter a temporary custody order for a child if the parent with whom the child resides a majority of the time receives military orders that involve moving a substantial distance away or that would have a material effect on the parent's ability to exercise parenting functioning and responsibilities. The temporary custody order must end no later than ten days after the returning parent gives notice to the temporary custodian. The temporary duty, activation, mobilization, or deployment, and the temporary disruption to the child's schedule must not be factors in a determination of changed circumstances if a motion is filed to transfer residential placement from the parent who is a military service member.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

When a parent receives military orders that involve moving a substantial distance away, or that would have a material effect on the parent's ability to exercise residential time or visitation rights, the court may delegate the military parent's residential time or visitation rights to a family member or another person upon the military parent's request. The family member or other person must have a close and substantial relationship to the child and the delegation must be in the best interests of the child. The delegation does not create separate rights to residential time or visitation for the other person. The delegation may only last as long as the military parent is absent.

Summary of Bill: The definition of military duties potentially impacting parenting functions includes the potential impacts on other temporary or permanent court orders designating residential time with a child.

A military parent may seek delegation of residential time or visitation rights when the parent receives or will receive temporary duty that involves being more than one night away from the military parent's residence at the time that parent is scheduled to have residential time or visitation with the child. A military parent can delegate residential time or visitation when establishing a temporary or permanent parenting plan or other court order designating residential time or visitation, or when modifying an existing parenting plan.

If the parties have a parenting plan, the parties must attempt to resolve disputes about delegation of residential time or visitation rights through the dispute resolution process specified in their parenting plan.

A parent who receives or will receive temporary duty that involves being more than one night away from that military parent's residence when residential or visitation time is scheduled cannot be used as a factor in a determination of change of circumstances if a motion is filed to transfer residential placement from the parent who is a military service member.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Many parents made sacrifices while deployed, and many of them are divorced and have a custody plan. It is in the best interest of the child to allow delegation while the military parent is away from home. A child is best served with a stable and consistent parent in addition to the custodial parent. Society must ensure that a child is receiving the best parenting. The bill only adds additional protections for military parents to the legislation passed in 2009, as this bill extends delegation rights to military parents in the process of establishing a parenting plan, not just to plans already established. It is important for members of the military to maintain consistent contact with their children while deployed. The bill corrects a problem that arises when parents who are divorced or separated do not communicate well enough to make sure the military parent stays in contact

with children. Deployed parents can have peace of mind knowing that their children are being cared for by the person they selected.

Persons Testifying: PRO: Representative Appleton, on behalf of Representative McCoy, prime sponsor; Mark San Souci, Dept. of Defense State Liaison Office; Melissa Gombosky, Capital Classroom Project.