

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE BILL 1634**

Short Title: Custody/Visitation/Military Orders. (Public)

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Sponsors: Representatives Martin, Goodwin, Hall, Moore (Primary Sponsors);  
Brown, Fisher, Glazier, Harrison, Hurley, and Ross.

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Referred to: Homeland Security, Military and Veterans Affairs, if favorable, Judiciary  
I.

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April 19, 2007

A BILL TO BE ENTITLED

1  
2 AN ACT TO ESTABLISH CUSTODY, VISITATION, EXPEDITED HEARING,  
3 AND ELECTRONIC COMMUNICATIONS PROCEDURES WHEN A PARENT  
4 RECEIVES MILITARY TEMPORARY DUTY, DEPLOYMENT, OR  
5 MOBILIZATION ORDERS.

6       Whereas, currently there are six major military bases in North Carolina; and

7       Whereas, the military population of this State is the fourth largest in the  
8 nation, with active-duty service members numbering over 100,000; and

9       Whereas, temporary duty, the deployment of an active-duty service member,  
10 or the mobilization of a member of the National Guard or Reserves, sometimes with  
11 little advance notice, can have a disruptive effect on custody or visitation arrangements  
12 involving minor children of service members; and

13       Whereas, service members should be protected, as should their minor  
14 children, from the loss of custodial arrangements and disruption of family contact due to  
15 the service member's absence pursuant to military orders for temporary duty,  
16 deployment, or mobilization; and

17       Whereas, other members of a service member's family, such as parents or  
18 current spouses, can provide love, comfort, care, and continuity to the service member's  
19 child through delegated visitation when a service member is absent due to military  
20 orders; and

21       Whereas, the regular scheduling of hearings may be harmful to the interest of  
22 service members who, due to military orders, may need to have an expedited hearing or  
23 may need to use electronic means to give testimony when they cannot appear in person  
24 in court; and

25       Whereas, the use of expedited hearings and testimony by electronic means, at  
26 the request of the service member who is absent or about to depart, would aid and

1 promote fair, efficient, and prompt judicial processes for the resolution of family law  
2 matters; Now, therefore,

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 50-13.7(a) reads as rewritten:

5 "(a) ~~An~~ Except as otherwise provided in G.S. 50-13.7A, an order of a court of this  
6 State for support of a minor child may be modified or vacated at any time, upon motion  
7 in the cause and a showing of changed circumstances by either party or anyone  
8 interested subject to the limitations of G.S. 50-13.10. Subject to the provisions of  
9 G.S. 50A-201, 50A-202, and 50A-204, an order of a court of this State for custody of a  
10 minor child may be modified or vacated at any time, upon motion in the cause and a  
11 showing of changed circumstances by either party or anyone interested."

12 **SECTION 2.** Article 1 of Chapter 50 of the General Statutes is amended by  
13 adding a new section to read:

14 "**§ 50-13.7A. Custody and visitation upon military temporary duty, deployment, or**  
15 **mobilization.**

16 (a) Purpose. – It is the purpose of this section to provide a means by which to  
17 facilitate a fair, efficient, and swift process to resolve matters regarding custody and  
18 visitation when a parent receives temporary duty, deployment, or mobilization orders  
19 from the military.

20 (b) Definitions. – As used in this section:

21 (1) The term 'deployment' means the temporary transfer of a service  
22 member serving in an active-duty status to another location in support  
23 of combat or some other military operation.

24 (2) The term 'mobilization' means the call-up of National Guard or  
25 Reserve service member to extended active duty status. For purposes  
26 of this definition, 'mobilization' does not include National Guard or  
27 Reserve annual training.

28 (3) The term 'temporary duty' means the transfer of a service member  
29 from one military base to a different location, usually another base, for  
30 a limited period of time to accomplish training or to assist in the  
31 performance of a noncombat mission.

32 (c) Custody. – When a parent who has custody, or has joint custody with primary  
33 physical custody, receives temporary duty, deployment, or mobilization orders from the  
34 military that involve moving a substantial distance from the parent's residence or  
35 otherwise have a material effect on the parent's ability to exercise custody  
36 responsibilities:

37 (1) There shall be a presumption that it is in the best interest of the child to  
38 return custody of the child to the parent upon the parent's return,  
39 without the need to show a change of circumstances; and

40 (2) The temporary duty, mobilization, or deployment and the temporary  
41 disruption to the child's schedule shall not be a factor in a  
42 determination of change of circumstances if a motion is filed to  
43 transfer custody from the service member.

1       (d) Visitation. – If the parent with visitation rights receives military temporary  
2 duty, deployment, or mobilization orders that involve moving a substantial distance  
3 from the parent's residence or otherwise have a material effect on the parent's ability to  
4 exercise visitation rights, the court may delegate the parent's visitation rights, or a  
5 portion thereof, to a family member with a close and substantial relationship to the  
6 minor child for the duration of the parent's absence, if delegating visitation rights is in  
7 the child's best interest.

8       (e) Expedited Hearings. – Upon motion of a parent who has received military  
9 temporary duty, deployment, or mobilization orders, the court shall, for good cause  
10 shown, hold an expedited hearing in custody and visitation matters instituted under this  
11 section when the military duties of the parent have a material effect on the parent's  
12 ability, or anticipated ability, to appear in person at a regularly scheduled hearing.

13       (f) Electronic Communications. – Upon motion of a parent who has received  
14 military temporary duty, deployment, or mobilization orders, the court shall, upon  
15 reasonable advance notice and for good cause shown, allow the parent to present  
16 testimony and evidence by electronic means in custody and visitation matters instituted  
17 under this section when the military duties of the parent have a material effect on the  
18 parent's ability to appear in person at a regularly scheduled hearing. The phrase  
19 'electronic means' includes communication by telephone, video teleconference, or the  
20 Internet."

21       **SECTION 3.** This act becomes effective October 1, 2007, and applies to  
22 custody or visitation actions instituted on or after that date.