H.B. NO. ²⁰⁶¹ H.D. 1 S.D. 2

C.D. 1

A BILL FOR AN ACT

RELATING TO CHILDREN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Hawaii has approximately fifty thousand activeduty military personnel and sixty-one thousand associated family 2 members. Additionally, Hawaii has approximately twelve thousand 3 4 Reserve and National Guard members. According to the 2000 5 United States Census, Hawaii has the highest percentage of 6 people ages sixteen to sixty-four in the armed forces. 7 The issues surrounding military duty which separate parents 8 from children have a significant effect on the military readiness of the parents and the well-being of the children. 9 10 The purpose of this Act, therefore, is to require special 11 consideration in custody matters involving deploying parents.

SECTION 2. Chapter 571, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

15

"PART . MILITARY DEPLOYMENT PROVISIONS

16 "§571-A Definitions. As used in this part:

17 "Deployment" or "deployed" means military services

18 performed in compliance with a valid order received by an active HB2061 CD1 HMS 2010-3312

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1 duty or reserve member of the armed forces of the United States 2 or National Guard to report for combat operations, contingency 3 operations, peacekeeping operations, temporary duty greater than 4 sixty days, a remote tour of duty, or other active service for 5 which the deploying parent reports unaccompanied by any family 6 member.

7 "Deploying parent" or "deployed parent" means a legal
8 parent or a legal guardian of a child under the age of eighteen,
9 who is deployed, will likely deploy within the next sixty days,
10 or who has received written orders to deploy.

II "Military service" includes the period from which the deployed parent receives and is subject to deployment orders and the period in which the parent is awaiting travel or remains deployed because of sickness, wounds, leave, or other lawful cause.

16 "Other parent" means the legal parent or legal guardian17 other than the deploying parent.

18 §571-B Application. This part shall only apply to actions
19 under chapters 580 and 584. Nothing in this part shall
20 supersede any provision of any existing state or federal law.
21 The provisions in this part shall be interpreted consistently



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1 with other relevant laws and the standard of "best interest of 2 the child" shall remain paramount. §571-C Duty to cooperate and disclose information. (a) 3 4 Both the deploying parent and other parent shall cooperate with and provide information to each other in an effort to reach a 5 mutually agreeable resolution regarding custody of and 6 visitation with the child. 7 8 (b) A deploying parent shall provide a copy of the

deploying parent's orders to the other parent promptly before 9 deployment. Notification to the other parent shall be made at 10 least sixty days prior to the likely start of the deployment if 11 12 known, or within ten days of the deploying parent's receipt of the deploying parent's deployment orders. If fewer than ten 13 days' notice is received by the deploying parent, then notice 14 shall be given immediately upon receipt of the deployment 15 16 orders.

17 (c) The court may consider the deploying parent's
18 timeliness in disclosing an impending deployment under this
19 section to the other parent when making any orders under this
20 part, unless a delay or failure to disclose was necessitated by
21 valid military or operational security concerns.

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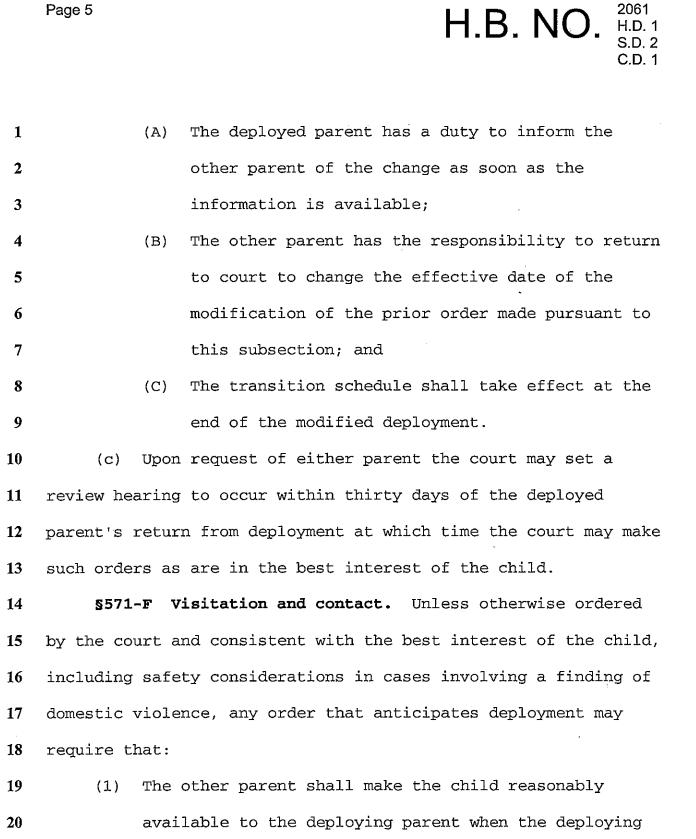
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1	§571-D Hearings; electronic participation. Upon
2	reasonable advance notice to the court and the other parent and
3	for good cause shown, the court may expedite custody hearings
4	involving deploying parents and may allow an already-deployed
5	parent to participate in a custody hearing by electronic means,
6	including telephone, video conference, and any other means
7	available to and deemed reliable by the court.
8	§571-E Sole factor; effect on existing orders. (a)
9	Deployment or the potential for future deployment shall not be
10	the sole factor in awarding custody and must be considered in
11	relation to all of the factors in section 571-46.
12	(b) If deployment or the potential for future deployment
13	results in the modification of the custody or visitation terms
14	established by a prior order, the court order shall include,
15	without limitation, the following conditions:
16	(1) A specific transition schedule to facilitate return to
17	the prior order over the shortest reasonable time
18	period after the deployment ends, taking into
19	consideration the best interest of the child;
20	(2) A specific date at which time the prior order will
21	return to full force and effect; and
22	(3) If the deployment is extended or shortened, then:



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parent has leave;

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1	(2)	The deployed parent shall provide timely information	
2		regarding the deployed parent's leave schedule;	
3	(3)	Both parents shall facilitate opportunities for	
4		telephonic and electronic contact, appropriate for	
5		each child, between the deployed parent and the child	
6		during deployment; and	
7	(4)	Each parent shall provide immediate notification to	
8		the other parent of a change of address or contact	
9		information, or both.	
10	<u>§57</u> 1	-G Delegation of the deployed parent's contact rights	
11	to anothe	r. (a) Upon motion of the deploying parent and	
12	consistent with the best interest of the child, including safety		
13	considerations in cases involving a finding of domestic		
14	violence, the court may delegate the deploying parent's parent-		
15	child contact rights, or a portion thereof, to a family member,		
16	whether biological or by adoption, or to a person to whom the		
17	deploying parent is married or with whom the deploying parent		
18	cohabitates; provided that the family member or person has an		
19	existing close and substantial relationship with the child.		
20	(b)	Any delegated parent-child contact under this section	
21	shall not create separate rights of or standing to assert any		
22	rights to	parent-child contact or any other contact for the	



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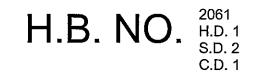


1 family member or person. Any parent-child contact delegated
2 under this section shall cease pursuant to court order, upon the
3 return of the deployed parent, or upon the deployed parent's
4 death."

5 SECTION 3. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun, before its effective date.

8 SECTION 4. In codifying the new part added to chapter 571,
9 Hawaii Revised Statutes, by section 2 of this Act, the revisor
10 of statutes shall substitute appropriate section numbers for the
11 letters used in designating the new sections in this Act.
12 SECTION 5. This Act shall take effect on August 1, 2010.

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Report Title: Child Custody; Military Deployment

Description:

Statutorily establishes a process by which the family court can resolve matters regarding custody and visitation for service members of the United States armed forces, armed forces reserves, and national guard whose military duties require temporary absences. Effective August 1, 2010. (HB2061 CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

