

**HOUSE . . . . . No. 797**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Colleen M. Garry*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to child custody when parent is on active military duty.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/10/2017</i>

**HOUSE . . . . . No. 797**

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By Miss Garry of Dracut, a petition (accompanied by bill, House, No. 797) of Colleen M. Garry relative to child custody when a parent is on active military duty. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1318 OF 2015-2016.]

**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
\_\_\_\_\_

An Act relative to child custody when parent is on active military duty.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           1) Amend Section 31A of Chapter 208 by adding at the end thereof the following:

2           (a) A party's absence, relocation, or failure to comply with custody and parenting time  
3 orders shall not be considered in determining whether to modify a custody or parenting order if  
4 the reason for the absence, relocation, or failure to comply is the party's activation to military  
5 duty or temporary duty, mobilization in support of combat or other military operation, or military  
6 deployment out of state.

7           (b) If a party with sole or joint physical custody or parenting time receives temporary  
8 duty, deployment, or mobilization orders from the military that requires the party to move a  
9 substantial distance from his or her residence or otherwise has a material effect on the ability of  
10 the party to exercise custody or parenting time rights, the court may do both of the following:

11 (1) Issue a temporary custody or parenting time order for the period extending from the  
12 date of the party's departure to the date of his or her return. This temporary custody or parenting  
13 time order shall terminate upon the return of the party, at which time the prior custody or  
14 parenting time order shall return to effect.

15 (2) Issue an order delegating all or part of the party's parenting time rights to a family  
16 member with a close relationship to the  
17 child, or a stepparent of the child, for the purpose of ensuring that the child's contact with  
18 the party is frequent and continued while the party is deployed, mobilized, or on temporary duty,  
19 if the court finds that delegating parenting time rights is in the best interest of the child.

20 (c) If a party's deployment, mobilization, or temporary duty will have a material effect  
21 on his or her ability, or anticipated ability,

22 to appear in person at a regularly scheduled hearing, the court shall do either of the  
23 following:

24 The following terms have the following meanings:

25 (d) "Deployment" means the temporary transfer of a member of the Armed Forces in  
26 active-duty status in support of combat or some other military operation.

27 "Mobilization" means the transfer of a member of the National Guard or Military Reserve  
28 to extended active-duty status, but does

29 not include National Guard or Military Reserve annual training.

30 "Temporary duty" means the transfer of a service member from one military base to a  
31 different location, usually another base, for  
32 a limited period of time to accomplish training or to assist in the performance of a  
33 noncombat mission.

34

35 (1) Upon motion of the party, hold an expedited hearing to determine custody and  
36 parenting issues prior to the departure of the  
37 party.

38 (2) Upon motion of the party, allow the party to present testimony and evidence by  
39 electronic means, including, but not limited to,  
40 telephone, video teleconferencing, or the Internet.

41 2) Amend Section 11 of Chapter 209C by adding at the end thereof the following:

42 (a) A party's absence, relocation, or failure to comply with custody and parenting time  
43 orders shall not be considered in determining whether to modify a custody or parenting order if  
44 the reason for the absence, relocation, or failure to comply is the party's activation to military  
45 duty or temporary duty, mobilization in support of combat or other military operation, or military  
46 deployment out of state.

47 (b) If a party with sole or joint physical custody or parenting time receives temporary  
48 duty, deployment, or mobilization orders from the military that requires the party to move a

49 substantial distance from his or her residence or otherwise has a material effect on the ability of  
50 the party to exercise custody or parenting time rights, the

51 court may do both of the following:

52 (1) Issue a temporary custody or parenting time order for the period extending from the  
53 date of the party's departure to the date of his or her return. This temporary custody or parenting  
54 time order shall terminate upon the return of the party, at which time the prior custody or  
55 parenting time order shall return to effect.

56 (2) Issue an order delegating all or part of the party's parenting time rights to a family  
57 member with a close relationship to the

58 child, or a stepparent of the child, for the purpose of ensuring that the child's contact with  
59 the party is frequent and continued while the party is deployed, mobilized, or on temporary duty,  
60 if the court finds that delegating parenting time rights is in the best interest of the child.

61 (c) If a party's deployment, mobilization, or temporary duty will have a material effect  
62 on his or her ability, or anticipated ability,

63 to appear in person at a regularly scheduled hearing, the court shall do either of the  
64 following:

65 (d)The following terms have the following meanings:

66 "Deployment" means the temporary transfer of a member of the Armed Forces in active-  
67 duty status in support of combat or some other military operation.

68 "Mobilization" means the transfer of a member of the National Guard or Military Reserve  
69 to extended active-duty status, but does  
70 not include National Guard or Military Reserve annual training.

71 "Temporary duty" means the transfer of a service member from one military base to a  
72 different location, usually another base, for  
73 a limited period of time to accomplish training or to assist in the performance of a  
74 noncombat mission.

75 (1) Upon motion of the party, hold an expedited hearing to determine custody and  
76 parenting issues prior to the departure of the  
77 party.

78 (2) Upon motion of the party, allow the party to present testimony and evidence by  
79 electronic means, including, but not limited to,  
80 telephone, video conferencing, or the Internet.