

H.R.2647

National Defense Authorization Act for Fiscal Year 2010 (Reported in House)

SEC. 208. CHILD CUSTODY PROTECTION.

(a) Restriction on Change of Custody- If a motion for change of custody of a child of a servicemember is filed while the servicemember is deployed in support of a contingency operation, no court may enter an order modifying or amending any previous judgment or order, or issue a new order, that changes the custody arrangement for that child that existed as of the date of the deployment of the servicemember, except that a court may enter a temporary custody order if the court finds that it is in the best interest of the child.

(b) Completion of Deployment- In any proceeding covered under subsection (a), a court shall require that, upon the return of the servicemember from deployment in support of a contingency operation, the custody order that was in effect immediately preceding the date of the deployment of the servicemember is reinstated, unless the court finds that such a reinstatement is not in the best interest of the child, except that any such finding shall be subject to subsection (c).

(c) Exclusion of Military Service From Determination of Child's Best Interest- If a motion for the change of custody of the child of a servicemember is filed, no court may consider the absence of the servicemember by reason of deployment, or possibility of deployment, in determining the best interest of the child.

(d) No Federal Right of Action- Nothing in this section shall create a Federal right of action.

(e) Preemption- In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent who is a servicemember than the rights provided under this section, the State or Federal court shall apply the State or Federal standard.

(f) Contingency Operation Defined- In this section, the term 'contingency operation' has the meaning given that term in section 101(a)(13) of title 10, United States Code, except that the term may include such other deployments as the Secretary may prescribe.'

(b) Clerical Amendment- The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title II the following new item:

'208. Child custody protection.'