CHAPTER 518E

UNIFORM DEPLOYED PARENTS CUSTODY AND VISITATION ACT

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GENERAL PROVISIONS

518E.101 SHORT TITLE.

This chapter may be cited as the "Uniform Deployed Parents Custody and Visitation Act."

History: *2015 c 30 art 2 s 1*

518E.102 DEFINITIONS.

(a) The definitions in this section apply to this chapter.

(b) "Adult" means an individual who has attained 18 years of age or an emancipated minor.

(c) "Caretaking authority" means the right to live with and care for a child on a day-to-day basis. The term includes physical custody, parenting time, right to access, and visitation.

(d) "Child" means:

(1) an unemancipated individual who has not attained 18 years of age; or

(2) an adult son or daughter by birth or adoption, or under law of this state other than this chapter, who is the subject of a court order concerning custodial responsibility.

(e) "Court" means a tribunal, including an administrative agency, authorized under law of this state other than this chapter to make, enforce, or modify a decision regarding custodial responsibility.

(f) "Custodial responsibility" includes all powers and duties relating to caretaking authority and decision-making authority for a child. The term includes physical custody, legal custody, parenting time, right to access, visitation, and authority to grant limited contact with a child.

(g) "Decision-making authority" means the power to make important decisions regarding a child, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel. The term does not include the power to make decisions that necessarily accompany a grant of caretaking authority.

(h) "Deploying parent" means a service member, who is deployed or has been notified of impending deployment and is:

(1) a parent of a child under law of this state other than this chapter; or

(2) an individual who has custodial responsibility for a child under law of this state other than this chapter.

(i) "Deployment" means the movement or mobilization of a service member for more than 90 days but less than 18 months pursuant to uniformed service orders that:

(1) are designated as unaccompanied;

(2) do not authorize dependent travel; or

(3) otherwise do not permit the movement of family members to the location to which the service member is deployed.

(j) "Family member" means a sibling, aunt, uncle, cousin, stepparent, or grandparent of a child or an individual recognized to be in a familial relationship with a child under law of this state other than this chapter.

(k) "Limited contact" means the authority of a nonparent to visit a child for a limited time. The term includes authority to take the child to a place other than the residence of the child.

(l) "Nonparent" means an individual other than a deploying parent or other parent.

(m) "Other parent" means an individual who, in common with a deploying parent, is:

(1) a parent of a child under law of this state other than this chapter; or

(2) an individual who has custodial responsibility for a child under law of this state other than this chapter.

(n) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(o) "Return from deployment" means the conclusion of service of the deploying parent:

(1) as specified in the deploying parent's service orders;

(2) as specified in the deploying parent's command service orders; or

(3) as specified in a letter to the deploying parent from the deploying parent's command, on command letterhead, stating that the deploying parent has concluded service.

(p) "Service member" means a member of a uniformed service.

(q) "Sign" means, with present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic symbol, sound, or process.

(r) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(s) "Uniformed service" means:

(1) active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;

(2) the United States Merchant Marine;

(3) the commissioned corps of the United States Public Health Service;

(4) the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(5) the National Guard of a state.

History: *2015 c 30 art 2 s 2*

518E.103 REMEDIES FOR NONCOMPLIANCE.

In addition to other remedies under law of this state other than this chapter, if a court finds that a party to a proceeding under this chapter has acted in bad faith or intentionally failed to comply with this chapter or a court order issued under this chapter, the court may assess reasonable attorney fees and costs against the party and order other appropriate relief.

History: *2015 c 30 art 2 s 3*

518E.104 JURISDICTION.

(a) A court may issue an order regarding custodial responsibility under this chapter only if the court has jurisdiction under chapter 518D.

(b) If a court has issued an order regarding custodial responsibility pursuant to sections 518E.301 to 518E.311, the residence of the deploying parent is not changed by reason of the deployment for the purposes of chapter 518D during the deployment.

(c) If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that order temporarily by agreement pursuant to sections 518E.201 to 518E.205, the residence of the deploying parent is not changed by reason of the deployment for the purposes of chapter 518D.

(d) If a court in another state has issued an order regarding custodial responsibility as a result of impending or current deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of chapter 518D.

(e) This section does not prevent a court from exercising temporary emergency jurisdiction under chapter 518D.

History: *2015 c 30 art 2 s 4*

518E.105 NOTIFICATION REQUIRED OF DEPLOYING PARENT.

(a) Except as otherwise provided in paragraph (d) and subject to paragraph (c), a deploying parent shall notify in a record the other parent of a pending deployment not later than seven days after receiving notice of deployment unless reasonably prevented from doing so by the circumstances of service. If the circumstances of service prevent giving notification within the seven days, the deploying parent shall give the notification as soon as reasonably possible.

(b) Except as otherwise provided in paragraph (d) and subject to paragraph (c), each parent shall provide in a record the other parent with a plan for fulfilling that parent's share of custodial responsibility during deployment. Each parent shall provide the plan as soon as reasonably possible after notification of deployment is given under paragraph (a).

(c) If a court order currently in effect prohibits disclosure of the address or contact information of the other parent, notification of deployment under paragraph (a), or notification of a plan for custodial responsibility during deployment under paragraph (b), may be made only to the issuing court. If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent. The court shall keep confidential the address or contact information of the other parent.

(d) Notification in a record under paragraph (a) or (b) is not required if the parents are living in the same residence and both parents have actual notice of the deployment or plan.

(e) In a proceeding regarding custodial responsibility, a court may consider the reasonableness of a parent's efforts to comply with this section.

History: *2015 c 30 art 2 s 5*

518E.106 DUTY TO NOTIFY OF CHANGE OF ADDRESS.

(a) Except as otherwise provided in paragraph (b), an individual to whom custodial responsibility has been granted during deployment pursuant to sections 518E.201 to 518E.205 or sections 518E.301 to 518E.311 shall notify the deploying parent and any other individual with custodial responsibility of a child of any change of the individual's mailing address or residence until the grant is terminated. The individual shall provide the notice to any court that has issued a custody or child support order concerning the child which is in effect.

(b) If a court order currently in effect prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been granted, a notification under paragraph (a) may be made only to the court that issued the order. The court shall keep confidential the mailing address or residence of the individual to whom custodial responsibility has been granted.

History: *2015 c 30 art 2 s 6*

AGREEMENT ADDRESSING CUSTODIAL RESPONSIBILITY DURING DEPLOYMENT

518E.201 FORM OF AGREEMENT.

(a) The parents of a child may enter into an agreement under sections 518E.201 to 518E.205 granting custodial responsibility during deployment.

(b) An agreement under paragraph (a) must be:

(1) in writing; and

(2) signed by both parents and any nonparent to whom custodial responsibility is granted.

(c) Subject to paragraph (d), an agreement under paragraph (a), if feasible, must:

(1) identify the destination, duration, and conditions of the deployment that is the basis for the agreement;

(2) specify the allocation of caretaking authority among the deploying parent, the other parent, and any nonparent;

(3) specify any decision-making authority that accompanies a grant of caretaking authority;

(4) specify any grant of limited contact to a nonparent;

(5) if under the agreement custodial responsibility is shared by the other parent and a nonparent, or by other nonparents, provide a process to resolve any dispute that may arise;

(6) specify the frequency, duration, and means, including electronic means, by which the deploying parent will have contact with the child, any role to be played by the other parent in facilitating the contact, and the allocation of any costs of contact;

(7) specify the contact between the deploying parent and child during the time the deploying parent is on leave or is otherwise available;

(8) acknowledge that any party's child support obligation cannot be modified by the agreement, and that changing the terms of the obligation during deployment requires modification in the appropriate court;

(9) provide that the agreement will terminate according to the procedures under sections 518E.401 to 518E.404 after the deploying parent returns from deployment; and

(10) if the agreement must be filed pursuant to section 518E.205, specify which parent is required to file the agreement.

(d) The omission of any of the items specified in paragraph (c) does not invalidate an agreement under this section.

History: *2015 c 30 art 3 s 1*

518E.202 NATURE OF AUTHORITY CREATED BY AGREEMENT.

(a) An agreement under sections 518E.201 to 518E.205 terminates pursuant to sections 518E.401 to 518E.404 after the deploying parent returns from deployment, unless the agreement has been terminated before that time by court order or modification under section 518E.203. The agreement does not create an

independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom custodial responsibility is given.

(b) A nonparent who has caretaking authority, decision-making authority, or limited contact by an agreement under sections 518E.201 to 518E.205 has standing to enforce the agreement until it has been terminated by court order, by modification under section 518E.203, or under sections 518E.401 to 518E.404.

History: *2015 c 30 art 3 s 2*

518E.203 MODIFICATION OF AGREEMENT.

(a) By mutual consent, the parents of a child may modify an agreement regarding custodial responsibility made pursuant to sections 518E.201 to 518E.205.

(b) If an agreement is modified under paragraph (a) before deployment of a deploying parent, the modification must be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

(c) If an agreement is modified under paragraph (a) during deployment of a deploying parent, the modification must be agreed to in a record by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

History: *2015 c 30 art 3 s 3*

518E.204 POWER OF ATTORNEY.

A deploying parent, by power of attorney, may delegate all or part of custodial responsibility to an adult nonparent for the period of deployment if no other parent possesses custodial responsibility under law of this state other than this chapter, or if a court order currently in effect prohibits contact between the child and the other parent. The deploying parent may revoke the power of attorney by signing a revocation of the power.

History: *2015 c 30 art 3 s 4*

518E.205 FILING AGREEMENT OR POWER OF ATTORNEY WITH COURT.

An agreement or power of attorney under sections 518E.201 to 518E.205 must be filed within a reasonable time with any court that has entered an order on custodial responsibility or child support that is in effect concerning the child who is the subject of the agreement or power. The case number and heading of the pending case concerning custodial responsibility or child support must be provided to the court with the agreement or power.

History: *2015 c 30 art 3 s 5*

JUDICIAL PROCEDURE FOR GRANTING CUSTODIAL RESPONSIBILITY DURING DEPLOYMENT

518E.301 DEFINITION.

In sections 518E.301 to 518E.311, "close and substantial relationship" means a relationship in which a significant bond exists between a child and a nonparent.

History: *2015 c 30 art 4 s 1*

518E.302 PROCEEDING FOR CUSTODY ORDER.

(a) After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue an order granting custodial responsibility unless prohibited by the Servicemembers Civil Relief Act, United States Code, title 50, appendix sections 521 and 522. A court may not issue a permanent order granting custodial responsibility without the consent of the deploying parent.

(b) At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment. The motion must be filed in a pending proceeding for custodial responsibility in a court with jurisdiction under section 518E.104 or, if there is no pending proceeding in a court with jurisdiction under section 518E.104, in a new action for granting custodial responsibility during deployment.

History: *2015 c 30 art 4 s 2*

518E.303 EXPEDITED EVIDENTIARY HEARING.

If a motion to grant custodial responsibility is filed under section 518E.302, paragraph (b), before a deploying parent deploys, the court shall conduct an expedited evidentiary hearing within 30 days of filing the motion. In determining whether to grant custodial responsibility, the court shall consider the best interests of the child as prescribed in section 518.17. The court shall issue an order on the motion not later than 30 days from the date of the expedited evidentiary hearing.

History: *2015 c 30 art 4 s 3*

518E.304 TESTIMONY BY ELECTRONIC MEANS.

In a proceeding under sections 518E.301 to 518E.311, a party or witness who is not reasonably available to appear personally may appear, provide testimony, and present evidence by electronic means unless the court finds good cause to require a personal appearance.

History: *2015 c 30 art 4 s 4*

518E.305 EFFECT OF PRIOR JUDICIAL ORDER OR AGREEMENT.

In a proceeding for a grant of custodial responsibility pursuant to sections 518E.301 to 518E.311, the following rules apply:

(1) a prior judicial order designating custodial responsibility in the event of deployment is binding on the court unless the circumstances meet the requirements of law of this state other than this chapter for modifying a judicial order regarding custodial responsibility; and

(2) the court shall enforce a prior written agreement between the parents for designating custodial responsibility in the event of deployment, including an agreement executed under sections 518E.201 to 518E.205, unless the court finds that the agreement is contrary to the best interest of the child.

History: *2015 c 30 art 4 s 5*

518E.306 GRANT OF CARETAKING OR DECISION-MAKING AUTHORITY TO NONPARENT.

(a) On motion of a deploying parent and in accordance with law of this state other than this chapter, if it is in the best interests of the child, a court may grant caretaking authority to a nonparent who is an adult family member of the child or to another adult. The individual who is granted caretaking authority must have a close and substantial relationship with the child.

(b) Unless a grant of caretaking authority to a nonparent under paragraph (a) is agreed to by the other parent, the grant is limited to an amount of time not greater than:

(1) the amount of time granted to the deploying parent under a permanent custody order, but the court may add unusual travel time necessary to transport the child; or

(2) in the absence of a permanent custody order that is currently in effect, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, but the court may add unusual travel time necessary to transport the child.

(c) A court may grant part of a deploying parent's decision-making authority to a nonparent who is an adult family member of the child or another adult only if granting part of the deploying parent's decision-making authority is in the best interests of the child and the deploying parent is unable to exercise that authority. The individual who is granted decision-making authority must have a close and substantial relationship with the child. If a court grants the authority to a nonparent, the court shall specify the decision-making powers granted, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel.

History: *2015 c 30 art 4 s 6*

518E.307 GRANT OF LIMITED CONTACT.

On motion of a deploying parent, and in accordance with law of this state other than this chapter, unless the court finds that the contact would be contrary to the best interest of the child, a court shall grant limited contact to a nonparent who is a family member of the child or an individual with whom the child has a close and substantial relationship.

History: *2015 c 30 art 4 s 7*

518E.308 NATURE OF AUTHORITY CREATED BY CUSTODY ORDER.

(a) A grant of authority under sections 518E.301 to 518E.311 terminates under sections 518E.401 to 518E.404 after the return from deployment of the deploying parent, unless the grant has been terminated before that time by court order. The grant does not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom it is granted.

(b) A nonparent granted caretaking authority, decision-making authority, or limited contact under sections 518E.301 to 518E.311 has standing to enforce the grant until it is terminated by court order or under sections 518E.401 to 518E.404.

History: *2015 c 30 art 4 s 8*

518E.309 CONTENT OF CUSTODY ORDER.

(a) An order granting custodial responsibility under sections 518E.301 to 518E.311 must:

(1) designate the order as being of limited duration;

(2) identify to the extent feasible the destination, duration, and conditions of the deployment;

(3) identify and address any issues of domestic abuse as prescribed in section 518.17, subdivision 1, clause (12); and

(4) appoint a parenting time expeditor in accordance with section 518.1751, subdivision 2.

(b) If applicable, an order for custodial responsibility under sections 518E.301 to 518E.311 must:

(1) specify the allocation of caretaking authority, decision-making authority, or limited contact among the deploying parent, the other parent, and any nonparent;

(2) if the order divides caretaking or decision-making authority between individuals, or grants caretaking authority to one individual and limited contact to another, provide a process to resolve any dispute that may arise;

(3) provide for liberal communication between the deploying parent and the child during deployment, including through electronic means, unless contrary to the best interest of the child, and allocate any costs of communications;

(4) provide for liberal contact between the deploying parent and the child during the time the deploying parent is on leave or otherwise available, unless contrary to the best interest of the child;

(5) provide for reasonable contact between the deploying parent and the child after return from deployment until the order is terminated, even if the time of contact exceeds the time the deploying parent spent with the child before entry of the order; and

(6) provide that the order will terminate pursuant to sections 518E.401 to 518E.404 after the deploying parent returns from deployment.

History: *2015 c 30 art 4 s 9*

518E.310 ORDER FOR CHILD SUPPORT.

If a court has issued an order granting caretaking authority under sections 518E.301 to 518E.311, or an agreement granting caretaking authority has been executed under sections 518E.201 to 518E.205, the court may enter a temporary order for child support consistent with law of this state other than this chapter if the court has jurisdiction under chapter 518C.

History: *2015 c 30 art 4 s 10*

518E.311 MODIFYING OR TERMINATING GRANT OF CUSTODIAL RESPONSIBILITY TO NONPARENT.

(a) Except for an order under section 518E.305, except as otherwise provided in paragraph (b), and consistent with the Servicemembers Civil Relief Act, United States Code, title 50, appendix sections 521 and 522, on motion of a deploying or other parent or any nonparent to whom caretaking authority, decision-making authority, or limited contact has been granted, the court may modify or terminate the grant if the modification or termination is consistent with sections 518E.301 to 518E.311 and it is in the best interest of the child. A modification terminates pursuant to sections 518E.401 to 518E.404 after the deploying parent returns from deployment, unless the grant has been terminated before that time by court order.

(b) On motion of a deploying parent, the court shall terminate a grant of limited contact.

History: *2015 c 30 art 4 s 11*

518E.312 MOTIONS FOR AMENDED FINDINGS AND ORDER.

A party who disagrees with an order issued under this chapter may bring a motion for amended findings and order before the district court within the time limits set forth under Minnesota Rules of Civil Procedure.

History: *2015 c 30 art 4 s 12*

RETURN FROM DEPLOYMENT

518E.401 PROCEDURE FOR TERMINATING GRANT OF CUSTODIAL RESPONSIBILITY ESTABLISHED BY AGREEMENT.

(a) At any time after return from deployment, an agreement granting custodial responsibility under sections 518E.201 to 518E.205 may be terminated by an agreement to terminate signed by the deploying parent and the other parent.

(b) An agreement under sections 518E.201 to 518E.205 granting custodial responsibility terminates:

(1) if an agreement to terminate under paragraph (a) specifies a date for termination, on that date; or

(2) if the agreement to terminate does not specify a date, on the date the agreement to terminate is signed by the deploying parent and the other parent.

(c) In the absence of an agreement under paragraph (a) to terminate, an agreement granting custodial responsibility terminates under sections 518E.201 to 518E.205 60 days after the deploying parent gives notice, pursuant to section 518E.4011, to the other parent that the deploying parent returned from deployment.

(d) If an agreement granting custodial responsibility was filed with a court pursuant to section 518E.205, an agreement to terminate the agreement also must be filed with that court within a reasonable time after the signing of the agreement. The case number and heading of the case concerning custodial responsibility or child support must be provided to the court with the agreement to terminate.

History: *2015 c 30 art 5 s 1*

518E.4011 RETURN FROM DEPLOYMENT; NOTIFICATION REQUIREMENT.

(a) When a deploying parent returns from deployment and a custodial responsibility order concerning the deploying parent's child has been previously issued by the court, the deploying parent or the appropriate commanding officer must provide notice in a record regarding the return of a deploying parent from deployment as provided in this section.

(b) The notice must be given not later than seven days after the deploying parent or the appropriate commanding officer receives the deploying parent's conclusion of service order or a letter from the deploying parent's command, on command letterhead, stating that the deploying parent has concluded service, unless the deploying parent and the commanding officer are reasonably prevented from doing so by the circumstances of the return from deployment. If the circumstances of the return from deployment prevent giving notification within seven days of receiving the deploying parent's conclusion of service order or a letter from the deploying parent's command, on command letterhead, stating that the deploying parent has concluded service, the deploying parent or the appropriate commanding officer must give the notification of return from deployment as soon as reasonably possible.

(c) The notice of return from deployment must include the following:

(1) the names of both parents;

(2) the names of each child of the parents;

(3) the case number and the heading of the case concerning the custodial responsibility or child support of the child;

(4) the IV-D number, if applicable; and

(5) the date of the deployed parent's return from deployment.

(d) The notice of return from deployment must be accompanied by the following:

(1) the conclusion of the deploying parent's service in that parent's service orders;

(2) the conclusion of the deploying parent's service as specified in that parent's command service orders; or

(3) a letter from the deploying parent's command, on command letterhead, stating that the deploying parent has concluded service.

(e) The notice of return from deployment must be filed with the court and served by mail upon:

(1) the other parent of the child;

(2) a nonparent who was granted custodial responsibility; and

(3) the county attorney, if a IV-D case.

(f) If a court order currently in effect prohibits disclosure of the address or contact information of the other parent, notification of return from deployment under this section may be made only to the issuing court. If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent. The court shall keep confidential the address or contact information of the other parent.

(g) Notification in a record under this section is not required if the parents are living in the same residence immediately after the return from deployment and both parents have actual notice of the return from deployment.

History: *2015 c 30 art 5 s 2*

518E.402 CONSENT PROCEDURE FOR TERMINATING GRANT OF CUSTODIAL RESPONSIBILITY ESTABLISHED BY COURT ORDER.

At any time after a deploying parent returns from deployment, the deploying parent and the other parent may file with the court an agreement to terminate an order for custodial responsibility issued under sections 518E.301 to 518E.311. After an agreement has been filed, the court shall issue an order terminating the order effective on the date specified in the agreement. If a date is not specified, the order is effective immediately.

History: *2015 c 30 art 5 s 3*

518E.403 VISITATION BEFORE TERMINATION OF GRANT OF CUSTODIAL RESPONSIBILITY.

After a deploying parent returns from deployment until an agreement or order for custodial responsibility established under sections 518E.201 to 518E.205 or 518E.301 to 518E.311 is terminated, the court shall

issue an order granting the deploying parent reasonable contact with the child unless it is contrary to the best interest of the child, even if the time of contact exceeds the time the deploying parent spent with the child before deployment.

History: *2015 c 30 art 5 s 4*

518E.404 TERMINATION BY OPERATION OF LAW OF GRANT OF CUSTODIAL RESPONSIBILITY ESTABLISHED BY COURT ORDER.

(a) If an agreement between the parties to terminate an order for custodial responsibility under sections 518E.301 to 518E.311 has not been filed, the order terminates 60 days after the deploying parent or the appropriate commanding officer gives notice as prescribed by section 518E.4011. If notice of return from deployment is not given as provided in section 518E.4011, the order for custodial responsibility is terminated by operation of law as of the date that the deploying parent's conclusion of service order is issued, and the court shall address future custody and related matters accordingly.

(b) A proceeding seeking to prevent termination of an order for custodial responsibility is governed by law of this state other than this chapter.

History: *2015 c 30 art 5 s 5*

MISCELLANEOUS

518E.501 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

History: *2015 c 30 art 6 s 1*

518E.502 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, United States Code, title 15, section 7001, et seq., but does not modify, limit, or supersede section 101(c) of that act; United States Code, title 15, section 7001(c); or authorize electronic delivery of any of the notices described in section 103(b) of that act, United States Code, title 15, section 7003(b).

History: *2015 c 30 art 6 s 2*

518E.503 SAVINGS CLAUSE.

This chapter does not affect the validity of a court order concerning custodial responsibility during deployment which was entered before August 1, 2015.

History: *2015 c 30 art 6 s 3*