

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 219

Introduced by Crawford, 45.

Read first time January 13, 2015

Committee: Judiciary

1 A BILL FOR AN ACT relating to child custody and visitation; to amend
2 sections 43-2922 and 43-2929, Revised Statutes Cumulative
3 Supplement, 2014; to adopt the Uniform Deployed Parents Custody and
4 Visitation Act; to change and eliminate provisions relating to
5 military parents; to provide an operative date; to repeal the
6 original sections; and to outright repeal section 43-2929.01,
7 Revised Statutes Cumulative Supplement, 2014.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 30 of this act shall be known and may be
2 cited as the Uniform Deployed Parents Custody and Visitation Act.

3 Sec. 2. In the Uniform Deployed Parents Custody and Visitation Act:

4 (1) Adult means an individual who has attained eighteen years of age
5 or an emancipated minor;

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

9 (3) Child means:

10 (A) an unemancipated individual who has not attained nineteen years
11 of age; or

12 (B) an adult son or daughter by birth or adoption, or under law of
13 this state other than the act, who is the subject of a court order
14 concerning custodial responsibility;

15 (4) Court means a tribunal, including an administrative agency,
16 authorized under law of this state other than the act to make, enforce,
17 or modify a decision regarding custodial responsibility;

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

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

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

29 (A) a parent of a child under law of this state other than the act;
30 or

31 (B) an individual who has custodial responsibility for a child under

1 law of this state other than the act;

2 (8) Deployment means the movement or mobilization of a service
3 member for more than ninety days but less than eighteen months pursuant
4 to uniformed service orders that:

5 (A) are designated as unaccompanied;

6 (B) do not authorize dependent travel; or

7 (C) otherwise do not permit the movement of family members to the
8 location to which the service member is deployed;

9 (9) Family member means a sibling, aunt, uncle, cousin, stepparent,
10 or grandparent of a child or an individual recognized to be in a familial
11 relationship with a child under law of this state other than the act;

12 (10) Limited contact means the authority of a nonparent to visit a
13 child for a limited time. The term includes authority to take the child
14 to a place other than the residence of the child;

15 (11) Nonparent means an individual other than a deploying parent or
16 other parent;

17 (12) Other parent means an individual who, in common with a
18 deploying parent, is:

19 (A) a parent of a child under law of this state other than the act;
20 or

21 (B) an individual who has custodial responsibility for a child under
22 law of this state other than the act;

23 (13) Record means information that is inscribed on a tangible medium
24 or that is stored in an electronic or other medium and is retrievable in
25 perceivable form;

26 (14) Return from deployment means the conclusion of a service
27 member's deployment as specified in uniformed service orders;

28 (15) Service member means a member of a uniformed service;

29 (16) Sign means, with present intent to authenticate or adopt a
30 record:

31 (A) to execute or adopt a tangible symbol; or

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

3 (17) State means a state of the United States, the District of
4 Columbia, Puerto Rico, the United States Virgin Islands, or any territory
5 or insular possession subject to the jurisdiction of the United States;
6 and

7 (18) Uniformed service means:

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

10 (B) the United States Merchant Marine;

11 (C) the commissioned corps of the United States Public Health
12 Service;

13 (D) the commissioned corps of the National Oceanic and Atmospheric
14 Administration of the United States; or

15 (E) the National Guard of a state.

16 Sec. 3. In addition to other remedies under law of this state other
17 than the Uniform Deployed Parents Custody and Visitation Act, if a court
18 finds that a party to a proceeding under the act has acted in bad faith
19 or intentionally failed to comply with the act or a court order issued
20 under the act, the court may assess reasonable attorney's fees and costs
21 against the party and order other appropriate relief.

22 Sec. 4. (a) A court may issue an order regarding custodial
23 responsibility under the Uniform Deployed Parents Custody and Visitation
24 Act only if the court has jurisdiction under the Uniform Child Custody
25 Jurisdiction and Enforcement Act.

26 (b) If a court has issued a temporary order regarding custodial
27 responsibility pursuant to sections 13 to 23 of this act, the residence
28 of the deploying parent is not changed by reason of the deployment for
29 the purposes of the Uniform Child Custody Jurisdiction and Enforcement
30 Act during the deployment.

31 (c) If a court has issued a permanent order regarding custodial

1 responsibility before notice of deployment and the parents modify that
2 order temporarily by agreement pursuant to sections 8 to 12 of this act,
3 the residence of the deploying parent is not changed by reason of the
4 deployment for the purposes of the Uniform Child Custody Jurisdiction and
5 Enforcement Act.

6 (d) If a court in another state has issued a temporary order
7 regarding custodial responsibility as a result of impending or current
8 deployment, the residence of the deploying parent is not changed by
9 reason of the deployment for the purposes of the Uniform Child Custody
10 Jurisdiction and Enforcement Act.

11 (e) This section does not prevent a court from exercising temporary
12 emergency jurisdiction under the Uniform Child Custody Jurisdiction and
13 Enforcement Act.

14 Sec. 5. (a) Except as otherwise provided in subsection (d) of this
15 section and subject to subsection (c) of this section, a deploying parent
16 shall notify in a record the other parent of a pending deployment not
17 later than seven days after receiving notice of deployment unless
18 reasonably prevented from doing so by the circumstances of service. If
19 the circumstances of service prevent giving notification within the seven
20 days, the deploying parent shall give the notification as soon as
21 reasonably possible.

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

28 (c) If a court order currently in effect prohibits disclosure of the
29 address or contact information of the other parent, notification of
30 deployment under subsection (a) of this section, or notification of a
31 plan for custodial responsibility during deployment under subsection (b)

1 of this section, may be made only to the issuing court. If the address of
2 the other parent is available to the issuing court, the court shall
3 forward the notification to the other parent. The court shall keep
4 confidential the address or contact information of the other parent.

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

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

11 Sec. 6. (a) Except as otherwise provided in subsection (b) of this
12 section, an individual to whom custodial responsibility has been granted
13 during deployment pursuant to sections 8 to 12 or 13 to 23 of this act
14 shall notify the deploying parent and any other individual with custodial
15 responsibility of a child of any change of the individual's mailing
16 address or residence until the grant is terminated. The individual shall
17 provide the notice to any court that has issued a custody or child
18 support order concerning the child which is in effect.

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

25 Sec. 7. In a proceeding for custodial responsibility of a child of
26 a service member, a court may not consider a parent's past deployment or
27 possible future deployment in itself in determining the best interest of
28 the child but may consider any significant impact on the best interest of
29 the child of the parent's past or possible future deployment.

30 Sec. 8. (a) The parents of a child may enter into a temporary
31 agreement under sections 8 to 12 of this act granting custodial

1 responsibility during deployment.

2 (b) An agreement under subsection (a) of this section must be:

3 (1) in writing; and

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

6 (c) Subject to subsection (d) of this section, an agreement under
7 subsection (a) of this section, if feasible, must:

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

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

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

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

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

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

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

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

28 (9) provide that the agreement will terminate according to the
29 procedures under section 24 to 27 of this act after the deploying parent
30 returns from deployment; and

31 (10) if the agreement must be filed pursuant to section 12 of this

1 act, specify which parent is required to file the agreement.

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

4 Sec. 9. (a) An agreement under sections 8 to 12 of this act is
5 temporary and terminates pursuant to sections 24 to 27 of this act after
6 the deploying parent returns from deployment, unless the agreement has
7 been terminated before that time by court order or modification under
8 section 10 of this act. The agreement does not create an independent,
9 continuing right to caretaking authority, decision-making authority, or
10 limited contact in an individual to whom custodial responsibility is
11 given.

12 (b) A nonparent who has caretaking authority, decision-making
13 authority, or limited contact by an agreement under sections 8 to 12 of
14 this act has standing to enforce the agreement until it has been
15 terminated by court order, by modification under section 10 of this act,
16 or under sections 24 to 27 of this act.

17 Sec. 10. (a) By mutual consent, the parents of a child may modify
18 an agreement regarding custodial responsibility made pursuant to sections
19 8 to 12 of this act.

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

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

28 Sec. 11. A deploying parent, by power of attorney, may delegate all
29 or part of custodial responsibility to an adult nonparent for the period
30 of deployment if no other parent possesses custodial responsibility under
31 law of this state other than the Uniform Deployed Parents Custody and

1 Visitation Act, or if a court order currently in effect prohibits contact
2 between the child and the other parent. The deploying parent may revoke
3 the power of attorney by signing a revocation of the power.

4 Sec. 12. An agreement or power of attorney under sections 8 to 12
5 of this act must be filed within a reasonable time with any court that
6 has entered an order on custodial responsibility or child support that is
7 in effect concerning the child who is the subject of the agreement or
8 power. The case number and heading of the pending case concerning
9 custodial responsibility or child support must be provided to the court
10 with the agreement or power.

11 Sec. 13. In sections 13 to 23 of this act, close and substantial
12 relationship means a relationship in which a significant bond exists
13 between a child and a nonparent.

14 Sec. 14. (a) After a deploying parent receives notice of deployment
15 and until the deployment terminates, a court may issue a temporary order
16 granting custodial responsibility unless prohibited by the Servicemembers
17 Civil Relief Act, 50 U.S.C. appendix sections 521 and 522, as the act
18 exists on the operative date of this act. A court may not issue a
19 permanent order granting custodial responsibility without the consent of
20 the deploying parent.

21 (b) At any time after a deploying parent receives notice of
22 deployment, either parent may file a motion regarding custodial
23 responsibility of a child during deployment. The motion must be filed in
24 a pending proceeding for custodial responsibility in a court with
25 jurisdiction under section 4 of this act or, if there is no pending
26 proceeding in a court with jurisdiction under section 4 of this act, in a
27 new action for granting custodial responsibility during deployment.

28 Sec. 15. If a motion to grant custodial responsibility is filed
29 under subsection (b) of section 14 of this act before a deploying parent
30 deploys, the court shall conduct an expedited hearing.

31 Sec. 16. In a proceeding under sections 13 to 23 of this act, a

1 party or witness who is not reasonably available to appear personally may
2 appear, provide testimony, and present evidence by electronic means
3 unless the court finds good cause to require a personal appearance.

4 Sec. 17. In a proceeding for a grant of custodial responsibility
5 pursuant to sections 13 to 23 of this act, the following rules apply:

6 (1) A prior judicial order designating custodial responsibility in
7 the event of deployment is binding on the court unless the circumstances
8 meet the requirements of law of this state other than the Uniform
9 Deployed Parents Custody and Visitation Act for modifying a judicial
10 order regarding custodial responsibility.

11 (2) The court shall enforce a prior written agreement between the
12 parents for designating custodial responsibility in the event of
13 deployment, including an agreement executed under sections 8 to 12 of
14 this act, unless the court finds that the agreement is contrary to the
15 best interest of the child.

16 Sec. 18. (a) On a motion of a deploying parent and in accordance
17 with the laws of this state, other than the Uniform Deployed Parents
18 Custody and Visitation Act, if it is in the best interests of the child,
19 a court may grant caretaking authority to a nonparent who is an adult
20 family member of the child or an adult with whom the child has a close
21 and substantial relationship. The court shall consider the following
22 factors as related to the best interests of the child:

23 (1) The emotional, physical, and developmental needs of the minor
24 child;

25 (2) The minor child's opinion or preference;

26 (3) The level of involvement and the extent of predeployment
27 parenting responsibility exercised by the nonparent;

28 (4) The quality of the relationship between the minor child and the
29 nonparent;

30 (5) The strength of the minor child's ties to the nonparent;

31 (6) The extent to which the delegation would interfere or support

1 the minor child's existing school, sports, and extra-curricular
2 activities;

3 (7) The age, maturity, and living conditions of the nonparent; and

4 (8) The likelihood that allowing the delegation would increase or
5 decrease the hostilities between the parties involved.

6 (b) Unless a grant of caretaking authority to a nonparent under
7 subsection (a) of this section is agreed to by the other parent, the
8 grant is limited to an amount of time not greater than:

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

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

16 (c) A court may grant part of a deploying parent's decision-making
17 authority, if the deploying parent is unable to exercise that authority,
18 to a nonparent who is an adult family member of the child or an adult
19 with whom the child has a close and substantial relationship. If a court
20 grants the authority to a nonparent, the court shall specify the
21 decision-making powers granted, including decisions regarding the child's
22 education, religious training, health care, extracurricular activities,
23 and travel.

24 Sec. 19. On motion of a deploying parent, and in accordance with
25 law of this state other than the Uniform Deployed Parents Custody and
26 Visitation Act, unless the court finds that the contact would be contrary
27 to the best interest of the child, a court shall grant limited contact to
28 a nonparent who is a family member of the child or an individual with
29 whom the child has a close and substantial relationship.

30 Sec. 20. (a) A grant of authority under sections 13 to 23 of this
31 act is temporary and terminates under sections 24 to 27 of this act after

1 the return from deployment of the deploying parent, unless the grant has
2 been terminated before that time by court order. The grant does not
3 create an independent, continuing right to caretaking authority,
4 decision-making authority, or limited contact in an individual to whom it
5 is granted.

6 (b) A nonparent granted caretaking authority, decision-making
7 authority, or limited contact under sections 13 to 23 of this act has
8 standing to enforce the grant until it is terminated by court order or
9 under sections 24 to 27 of this act.

10 Sec. 21. (a) An order granting custodial responsibility under
11 sections 13 to 23 of this act must:

12 (1) designate the order as temporary; and

13 (2) identify to the extent feasible the destination, duration, and
14 conditions of the deployment.

15 (b) If applicable, an order for custodial responsibility under
16 sections 13 to 23 of this act must:

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

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

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

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

31 (5) provide for reasonable contact between the deploying parent and

1 the child after return from deployment until the temporary order is
2 terminated, even if the time of contact exceeds the time the deploying
3 parent spent with the child before entry of the temporary order; and

4 (6) provide that the order will terminate pursuant to sections 24 to
5 27 of this act after the deploying parent returns from deployment.

6 Sec. 22. If a court has issued an order granting caretaking
7 authority under sections 13 to 23 of this act, or an agreement granting
8 caretaking authority has been executed under sections 8 to 12 of this
9 act, the court may enter a temporary order for child support consistent
10 with law of this state other than the Uniform Deployed Parents Custody
11 and Visitation Act if the court has jurisdiction under the Uniform
12 Interstate Family Support Act.

13 Sec. 23. (a) Except for an order under section 17 of this act,
14 except as otherwise provided in subsection (b) of this section, and
15 consistent with the Servicemembers Civil Relief Act, 50 U.S.C. appendix
16 sections 521 and 522, as the act exists on the operative date of this
17 act, on motion of a deploying or other parent or any nonparent to whom
18 caretaking authority, decision-making authority, or limited contact has
19 been granted, the court may modify or terminate the grant if the
20 modification or termination is consistent with sections 13 to 23 of this
21 act and it is in the best interest of the child. A modification is
22 temporary and terminates pursuant to sections 24 to 27 of this act after
23 the deploying parent returns from deployment, unless the grant has been
24 terminated before that time by court order.

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

27 Sec. 24. (a) At any time after return from deployment, a temporary
28 agreement granting custodial responsibility under sections 8 to 12 of
29 this act may be terminated by an agreement to terminate signed by the
30 deploying parent and the other parent.

31 (b) A temporary agreement under sections 8 to 12 of this act

1 granting custodial responsibility terminates:

2 (1) if an agreement to terminate under subsection (a) of this
3 section specifies a date for termination, on that date; or

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

7 (c) In the absence of an agreement under subsection (a) of this
8 section to terminate, a temporary agreement granting custodial
9 responsibility terminates under sections 8 to 12 of this act sixty days
10 after the deploying parent gives notice to the other parent that the
11 deploying parent has returned from deployment.

12 (d) If a temporary agreement granting custodial responsibility was
13 filed with a court pursuant to section 12 of this act, an agreement to
14 terminate the temporary agreement also must be filed with that court
15 within a reasonable time after the signing of the agreement. The case
16 number and heading of the case concerning custodial responsibility or
17 child support must be provided to the court with the agreement to
18 terminate.

19 Sec. 25. At any time after a deploying parent returns from
20 deployment, the deploying parent and the other parent may file with the
21 court an agreement to terminate a temporary order for custodial
22 responsibility issued under sections 13 to 23 of this act. After an
23 agreement has been filed, the court shall issue an order terminating the
24 temporary order effective on the date specified in the agreement. If a
25 date is not specified, the order is effective immediately.

26 Sec. 26. After a deploying parent returns from deployment until a
27 temporary agreement or order for custodial responsibility established
28 under sections 8 to 12 or 13 to 23 of this act is terminated, the court
29 shall issue a temporary order granting the deploying parent reasonable
30 contact with the child unless it is contrary to the best interest of the
31 child, even if the time of contact exceeds the time the deploying parent

1 spent with the child before deployment.

2 Sec. 27. (a) If an agreement between the parties to terminate a
3 temporary order for custodial responsibility under sections 13 to 23 of
4 this act has not been filed, the order terminates sixty days after the
5 deploying parent gives notice to the other parent and any nonparent
6 granted custodial responsibility that the deploying parent has returned
7 from deployment.

8 (b) A proceeding seeking to prevent termination of a temporary order
9 for custodial responsibility is governed by law of this state other than
10 the Uniform Deployed Parents Custody and Visitation Act.

11 Sec. 28. In applying and construing this uniform act, consideration
12 must be given to the need to promote uniformity of the law with respect
13 to its subject matter among states that enact it.

14 Sec. 29. The Uniform Deployed Parents Custody and Visitation Act
15 modifies, limits, or supersedes the Electronic Signatures in Global and
16 National Commerce Act, 15 U.S.C. section 7001 et seq., but does not
17 modify, limit, or supersede section 101(c) of that act, 15 U.S.C. section
18 7001(c), or authorize electronic delivery of any of the notices described
19 in section 103(b) of that act, 15 U.S.C. section 7003(b).

20 Sec. 30. The Uniform Deployed Parents Custody and Visitation Act
21 does not affect the validity of a temporary court order concerning
22 custodial responsibility during deployment which was entered before the
23 operative date of this act.

24 Sec. 31. Section 43-2922, Revised Statutes Cumulative Supplement,
25 2014, is amended to read:

26 43-2922 For purposes of the Parenting Act:

27 (1) Appropriate means reflective of the developmental abilities of
28 the child taking into account any cultural traditions that are within the
29 boundaries of state and federal law;

30 (2) Approved mediation center means a mediation center approved by
31 the Office of Dispute Resolution;

1 (3) Best interests of the child means the determination made taking
2 into account the requirements stated in the Uniform Deployed Parents
3 Custody and Visitation Act and section sections 43-2923 and 43-2929.01;

4 (4) Child means a minor under nineteen years of age;

5 (5) Child abuse or neglect has the same meaning as in section
6 28-710;

7 (6) Court conciliation program means a court-based conciliation
8 program under the Conciliation Court Law;

9 (7) Custody includes legal custody and physical custody;

10 (8) Domestic intimate partner abuse means an act of abuse as defined
11 in section 42-903 and a pattern or history of abuse evidenced by one or
12 more of the following acts: Physical or sexual assault, threats of
13 physical assault or sexual assault, stalking, harassment, mental cruelty,
14 emotional abuse, intimidation, isolation, economic abuse, or coercion
15 against any current or past intimate partner, or an abuser using a child
16 to establish or maintain power and control over any current or past
17 intimate partner, and, when they contribute to the coercion or
18 intimidation of an intimate partner, acts of child abuse or neglect or
19 threats of such acts, cruel mistreatment or cruel neglect of an animal as
20 defined in section 28-1008, or threats of such acts, and other acts of
21 abuse, assault, or harassment, or threats of such acts against other
22 family or household members. A finding by a child protection agency shall
23 not be considered res judicata or collateral estoppel regarding an act of
24 child abuse or neglect or a threat of such act, and shall not be
25 considered by the court unless each parent is afforded the opportunity to
26 challenge any such determination;

27 (9) Economic abuse means causing or attempting to cause an
28 individual to be financially dependent by maintaining total control over
29 the individual's financial resources, including, but not limited to,
30 withholding access to money or credit cards, forbidding attendance at
31 school or employment, stealing from or defrauding of money or assets,

1 exploiting the victim's resources for personal gain of the abuser, or
2 withholding physical resources such as food, clothing, necessary
3 medications, or shelter;

4 (10) Emotional abuse means a pattern of acts, threats of acts, or
5 coercive tactics, including, but not limited to, threatening or
6 intimidating to gain compliance, destruction of the victim's personal
7 property or threats to do so, violence to an animal or object in the
8 presence of the victim as a way to instill fear, yelling, screaming,
9 name-calling, shaming, mocking, or criticizing the victim,
10 possessiveness, or isolation from friends and family. Emotional abuse can
11 be verbal or nonverbal;

12 (11) Joint legal custody means mutual authority and responsibility
13 of the parents for making mutual fundamental decisions regarding the
14 child's welfare, including choices regarding education and health;

15 (12) Joint physical custody means mutual authority and
16 responsibility of the parents regarding the child's place of residence
17 and the exertion of continuous blocks of parenting time by both parents
18 over the child for significant periods of time;

19 (13) Legal custody means the authority and responsibility for making
20 fundamental decisions regarding the child's welfare, including choices
21 regarding education and health;

22 (14) Mediation means a method of nonjudicial intervention in which a
23 trained, neutral third-party mediator, who has no decisionmaking
24 authority, provides a structured process in which individuals and
25 families in conflict work through parenting and other related family
26 issues with the goal of achieving a voluntary, mutually agreeable
27 parenting plan or related resolution;

28 (15) Mediator means a mediator meeting the qualifications of section
29 43-2938 and acting in accordance with the Parenting Act;

30 (16) Military parent means a parent who is a member of the Army,
31 Navy, Air Force, Marine Corps, Coast Guard, or Reserves of the United

1 States or the National Guard;

2 (17) Office of Dispute Resolution means the office established under
3 section 25-2904;

4 (18) Parenting functions means those aspects of the relationship in
5 which a parent or person in the parenting role makes fundamental
6 decisions and performs fundamental functions necessary for the care and
7 development of a child. Parenting functions include, but are not limited
8 to:

9 (a) Maintaining a safe, stable, consistent, and nurturing
10 relationship with the child;

11 (b) Attending to the ongoing developmental needs of the child,
12 including feeding, clothing, physical care and grooming, health and
13 medical needs, emotional stability, supervision, and appropriate conflict
14 resolution skills and engaging in other activities appropriate to the
15 healthy development of the child within the social and economic
16 circumstances of the family;

17 (c) Attending to adequate education for the child, including
18 remedial or other special education essential to the best interests of
19 the child;

20 (d) Assisting the child in maintaining a safe, positive, and
21 appropriate relationship with each parent and other family members,
22 including establishing and maintaining the authority and responsibilities
23 of each party with respect to the child and honoring the parenting plan
24 duties and responsibilities;

25 (e) Minimizing the child's exposure to harmful parental conflict;

26 (f) Assisting the child in developing skills to maintain safe,
27 positive, and appropriate interpersonal relationships; and

28 (g) Exercising appropriate support for social, academic, athletic,
29 or other special interests and abilities of the child within the social
30 and economic circumstances of the family;

31 (19) Parenting plan means a plan for parenting the child that takes

1 into account parenting functions;

2 (20) Parenting time, visitation, or other access means communication
3 or time spent between the child and parent or stepparent, the child and a
4 court-appointed guardian, or the child and another family member or
5 members including stepbrothers or stepsisters;

6 (21) Physical custody means authority and responsibility regarding
7 the child's place of residence and the exertion of continuous parenting
8 time for significant periods of time;

9 (22) Provisions for safety means a plan developed to reduce risks of
10 harm to children and adults who are victims of child abuse or neglect,
11 domestic intimate partner abuse, or unresolved parental conflict;

12 (23) Remediation process means the method established in the
13 parenting plan which maintains the best interests of the child and
14 provides a means to identify, discuss, and attempt to resolve future
15 circumstantial changes or conflicts regarding the parenting functions and
16 which minimizes repeated litigation and utilizes judicial intervention as
17 a last resort;

18 (24) Specialized alternative dispute resolution means a method of
19 nonjudicial intervention in high conflict or domestic intimate partner
20 abuse cases in which an approved specialized mediator facilitates
21 voluntary mutual development of and agreement to a structured parenting
22 plan, provisions for safety, a transition plan, or other related
23 resolution between the parties;

24 (25) Transition plan means a plan developed to reduce exposure of
25 the child and the adult to ongoing unresolved parental conflict during
26 parenting time, visitation, or other access for the exercise of parental
27 functions; and

28 (26) Unresolved parental conflict means persistent conflict in which
29 parents are unable to resolve disputes about parenting functions which
30 has a potentially harmful impact on a child.

31 Sec. 32. Section 43-2929, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 43-2929 (1) In any proceeding in which parenting functions for a
3 child are at issue under Chapter 42, a parenting plan shall be developed
4 and shall be approved by the court. Court rule may provide for the
5 parenting plan to be developed by the parties or their counsel, a court
6 conciliation program, an approved mediation center, or a private
7 mediator. When a parenting plan has not been developed and submitted to
8 the court, the court shall create the parenting plan in accordance with
9 the Parenting Act. A parenting plan shall serve the best interests of the
10 child pursuant to the Uniform Deployed Parents Custody and Visitation Act
11 and sections 42-364 and 43-2923, and ~~43-2929.01~~ and shall:

12 (a) Assist in developing a restructured family that serves the best
13 interests of the child by accomplishing the parenting functions; and

14 (b) Include, but not be limited to, determinations of the following:

15 (i) Legal custody and physical custody of each child;

16 (ii) Apportionment of parenting time, visitation, or other access
17 for each child, including, but not limited to, specified religious and
18 secular holidays, birthdays, Mother's Day, Father's Day, school and
19 family vacations, and other special occasions, specifying dates and times
20 for the same, or a formula or method for determining such a schedule in
21 sufficient detail that, if necessary, the schedule can be enforced in
22 subsequent proceedings by the court, and set out appropriate times and
23 numbers for telephone access;

24 (iii) Location of the child during the week, weekend, and given days
25 during the year;

26 (iv) A transition plan, including the time and places for transfer
27 of the child, method of communication or amount and type of contact
28 between the parties during transfers, and duties related to
29 transportation of the child during transfers;

30 (v) Procedures for making decisions regarding the day-to-day care
31 and control of the child consistent with the major decisions made by the

1 person or persons who have legal custody and responsibility for parenting
2 functions;

3 (vi) Provisions for a remediation process regarding future
4 modifications to such plan;

5 (vii) Arrangements to maximize the safety of all parties and the
6 child;

7 (viii) Provisions to ensure regular and continuous school attendance
8 and progress for school-age children of the parties; and

9 (ix) Provisions for safety when a preponderance of the evidence
10 establishes child abuse or neglect, domestic intimate partner abuse,
11 unresolved parental conflict, or criminal activity which is directly
12 harmful to a child.

13 (2) A parenting plan shall require that the parties notify each
14 other of a change of address, except that the address or return address
15 shall only include the county and state for a party who is living or
16 moving to an undisclosed location because of safety concerns.

17 (3) When safe and appropriate for the best interests of the child,
18 the parenting plan may encourage mutual discussion of major decisions
19 regarding parenting functions including the child's education, health
20 care, and spiritual or religious upbringing. However, when a prior
21 factual determination of child abuse or neglect, domestic intimate
22 partner abuse, or unresolved parental conflict has been made, then
23 consideration shall be given to inclusion of provisions for safety and a
24 transition plan that restrict communication or the amount and type of
25 contact between the parties during transfers.

26 (4) Regardless of the custody determinations in the parenting plan,
27 unless parental rights are terminated, both parents shall continue to
28 have the rights stated in section 42-381.

29 (5) In the development of a parenting plan, consideration shall be
30 given to the child's age, the child's developmental needs, and the
31 child's perspective, as well as consideration of enhancing healthy

1 relationships between the child and each party.

2 Sec. 33. This act becomes operative on January 1, 2016.

3 Sec. 34. Original sections 43-2922 and 43-2929, Revised Statutes
4 Cumulative Supplement, 2014, are repealed.

5 Sec. 35. The following section is outright repealed: Section
6 43-2929.01, Revised Statutes Cumulative Supplement, 2014.