

brower1-Traci

From: Tom Marzec [adamtm@lava.net]
Sent: Monday, February 01, 2010 7:22 AM
To: HUS testimony
Subject: Testimony in STRONG SUPPORT of HB2061 Custody and military deployment, with Amendments, 1Feb09

Categories: Green Category

**LATE
Testimony**

February 1, 2010

To: Rep. John M. Mizuno, Chair
Rep. Tom Brower, Vice Chair
Committee on Human Services

From: Tom Marzec

Subj: Testimony in **STRONG SUPPORT** of **HB2061** Custody and military deployment, with Amendments

Hearing: Monday, February 1, 2010; 8:30 a.m.; Room 329, State Capitol

As a family court activist for reform and retired naval officer, I am well-aware of the special issues of our military service members and families, particularly with respect to family court actions. Other states have passed similar legislation protecting deployed military members. In particular, Michigan passed a law in 2005 with this relevant section:

"If a motion for change of custody is filed during the time a parent is in active military duty, the court shall not enter an order modifying or amending a previous judgment or order, or issue a new order, that changes the child's placement that existed on the date the parent was called to active military duty, except the court may enter a temporary custody order if there is clear and convincing evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the custody order in effect immediately preceding that period of active military duty. If a motion for change of custody is filed after a parent returns from active military duty, the court shall not consider a parent's absence due to that military duty in a best interest of the child determination."

I recommend that subsection (c) in this bill incorporate the above principles and be amended to read as follows:

(c) (1) In awarding custody or visitation pursuant to this section, the court shall not consider absences due to a parent's service in the United States armed forces or duties as a public official that require the parent to be a substantial distance away from the child for an extended period of time.

(2) If a motion for change of custody is filed during the time a parent is in active military duty and a substantial distance away from the child for an extended period of time, the court shall not enter an order modifying or amending a previous judgment or order, or

issue a new order, that changes the child's custody or visitation that existed on the date the parent was called to active military duty, deployed or a substantial distance away from the child in preparation for deployment or active military duty, except the court may enter a temporary custody order if there is clear and convincing evidence that it is in the best interest of the child. Upon a parent's return from active military duty or deployment, the court shall reinstate the custody order in effect immediately preceding that period of active military duty or deployment. If a motion for change of custody is filed after a parent returns from active military duty or deployment, the court shall not consider a parent's absence due to that military duty or deployment in a custody or visitation best interest of the child determination.

This language will ensure that the deployed men and women that serve our country in the military, or as public officials, will not have the added burdens of addressing custody issues while they put their lives at risk defending our country. At the same time, the courts can modify custody orders temporarily with clear and convincing evidence that a change in custody is in the best interests of the children.

Your consideration of these issues, and in addressing serious issues faced by military parents, is very appreciated.