

## Chapter 50A.

### Uniform Child-Custody Jurisdiction and Enforcement Act and Uniform Deployed Parents Custody and Visitation Act.

#### Article 1.

##### Uniform Child Custody Jurisdiction Act.

§§ 50A-1 through 50A-25: Repealed by Session Laws 1999-223, s. 1(b), effective October 1, 1999, and applicable to causes of action arising on or after that date.

#### Article 2.

##### Uniform Child-Custody Jurisdiction and Enforcement Act.

###### Part 1. General Provisions.

#### § 50A-101. Short title.

This Article may be cited as the Uniform Child-Custody Jurisdiction and Enforcement Act. (1979, c. 110, s. 1; 1999-223, s. 3.)

#### § 50A-102. Definitions.

In this Article:

- (1) "Abandoned" means left without provision for reasonable and necessary care or supervision.
- (2) "Child" means an individual who has not attained 18 years of age.
- (3) "Child-custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.
- (4) "Child-custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Part 3 of this Article.
- (5) "Commencement" means the filing of the first pleading in a proceeding.
- (6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.
- (7) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

- (8) "Initial determination" means the first child-custody determination concerning a particular child.
- (9) "Issuing court" means the court that makes a child-custody determination for which enforcement is sought under this Article.
- (10) "Issuing state" means the state in which a child-custody determination is made.
- (11) "Modification" means a child-custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.
- (12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.
- (13) "Person acting as a parent" means a person, other than a parent, who:
  - a. Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child-custody proceeding; and
  - b. Has been awarded legal custody by a court or claims a right to legal custody under the law of this State.
- (14) "Physical custody" means the physical care and supervision of a child.
- (15) "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.
- (16) "Tribe" means an Indian tribe or band, or Alaskan Native village, which is recognized by federal law or formally acknowledged by a state.
- (17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child. (1979, c. 110, s. 1; 1999-223, s. 3.)

**§ 50A-103. Proceedings governed by other law.**

This Article does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child. (1999-223, s. 3.)

**§ 50A-104. Application to Indian tribes.**

(a) A child-custody proceeding that pertains to an Indian child, as defined in the Indian Child Welfare Act, 25 U.S.C. § 1901 et seq., is not subject to this Article to the extent that it is governed by the Indian Child Welfare Act.

(b) A court of this State shall treat a tribe as if it were a state of the United States for the purpose of applying Parts 1 and 2.

(c) A child-custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this Article must be recognized and enforced under Part 3. (1999-223, s. 3.)

**§ 50A-105. International application of Article.**

(a) A court of this State shall treat a foreign country as if it were a state of the United States for the purpose of applying Parts 1 and 2.

(b) Except as otherwise provided in subsection (c), a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this Article must be recognized and enforced under Part 3.

(c) A court of this State need not apply this Article if the child-custody law of a foreign country violates fundamental principles of human rights. (1979, c. 110, s. 1; 1999-223, s. 3.)

#### **§ 50A-106. Effect of child-custody determination.**

A child-custody determination made by a court of this State that had jurisdiction under this Article binds all persons who have been served in accordance with the laws of this State or notified in accordance with G.S. 50A-108 or who have submitted to the jurisdiction of the court and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified. (1979, c. 110, s.1; 1999-223, s. 3.)

#### **§ 50A-107. Priority.**

If a question of existence or exercise of jurisdiction under this Article is raised in a child-custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously. (1999-223, s. 3.)

#### **§ 50A-108. Notice to persons outside State.**

(a) Notice required for the exercise of jurisdiction when a person is outside this State may be given in a manner prescribed by the law of this State for service of process or by the law of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by the law of this State or by the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court. (1999-223, s. 3.)

#### **§ 50A-109. Appearance and limited immunity.**

(a) A party to a child-custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child-custody determination, is not subject to personal jurisdiction in this State for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(b) A person who is subject to personal jurisdiction in this State on a basis other than physical presence is not immune from service of process in this State. A party present in this State who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(c) The immunity granted by subsection (a) does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this Article committed by an individual while present in this State. (1999-223, s. 3.)

**§ 50A-110. Communication between courts.**

(a) A court of this State may communicate with a court in another state concerning a proceeding arising under this Article.

(b) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(c) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(d) Except as otherwise provided in subsection (c), a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(e) For the purposes of this section, "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. (1999-223, s. 3.)

**§ 50A-111. Taking testimony in another state.**

(a) In addition to other procedures available to a party, a party to a child-custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(b) A court of this State may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this State shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission. (1979, c. 110, s. 1; 1999-223, s. 3.)

**§ 50A-112. Cooperation between courts; preservation of records.**

(a) A court of this State may request the appropriate court of another state to:

- (1) Hold an evidentiary hearing;
- (2) Order a person to produce or give evidence pursuant to procedures of that state;
- (3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;
- (4) Forward to the court of this State a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and
- (5) Order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(b) Upon request of a court of another state, a court of this State may hold a hearing or enter an order described in subsection (a).

(c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) may be assessed against the parties according to the law of this State.

(d) A court of this State shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child-custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records. (1979, c. 110, s. 1; 1999-223, s. 3.)

## Part 2. Jurisdiction.

### **§ 50A-201. Initial child-custody jurisdiction.**

(a) Except as otherwise provided in G.S. 50A-204, a court of this State has jurisdiction to make an initial child-custody determination only if:

- (1) This State is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding, and the child is absent from this State but a parent or person acting as a parent continues to live in this State;
- (2) A court of another state does not have jurisdiction under subdivision (1), or a court of the home state of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate forum under G.S. 50A-207 or G.S. 50A-208, and:
  - a. The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this State other than mere physical presence; and
  - b. Substantial evidence is available in this State concerning the child's care, protection, training, and personal relationships;
- (3) All courts having jurisdiction under subdivision (1) or (2) have declined to exercise jurisdiction on the ground that a court of this State is the more appropriate forum to determine the custody of the child under G.S. 50A-207 or G.S. 50A-208; or
- (4) No court of any other state would have jurisdiction under the criteria specified in subdivision (1), (2), or (3).

(b) Subsection (a) is the exclusive jurisdictional basis for making a child-custody determination by a court of this State.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child-custody determination. (1979, c. 110, s. 1; 1999-223, s. 3.)

### **§ 50A-202. Exclusive, continuing jurisdiction.**

(a) Except as otherwise provided in G.S. 50A-204, a court of this State which has made a child-custody determination consistent with G.S. 50A-201 or G.S. 50A-203 has exclusive, continuing jurisdiction over the determination until:

- (1) A court of this State determines that neither the child, the child's parents, and any person acting as a parent do not have a significant connection with this State and that substantial evidence is no longer available in this State concerning the child's care, protection, training, and personal relationships; or

- (2) A court of this State or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this State.

(b) A court of this State which has made a child-custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under G.S. 50A-201. (1999-223, s. 3.)

**§ 50A-203. Jurisdiction to modify determination.**

Except as otherwise provided in G.S. 50A-204, a court of this State may not modify a child-custody determination made by a court of another state unless a court of this State has jurisdiction to make an initial determination under G.S. 50A-201(a)(1) or G.S. 50A-201(a)(2) and:

- (1) The court of the other state determines it no longer has exclusive, continuing jurisdiction under G.S. 50A-202 or that a court of this State would be a more convenient forum under G.S. 50A-207; or
- (2) A court of this State or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state. (1979, c. 110, s. 1; 1999-223, s. 3.)

**§ 50A-204. Temporary emergency jurisdiction.**

(a) A court of this State has temporary emergency jurisdiction if the child is present in this State and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(b) If there is no previous child-custody determination that is entitled to be enforced under this Article and a child-custody proceeding has not been commenced in a court of a state having jurisdiction under G.S. 50A-201 through G.S. 50A-203, a child-custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under G.S. 50A-201 through G.S. 50A-203. If a child-custody proceeding has not been or is not commenced in a court of a state having jurisdiction under G.S. 50A-201 through G.S. 50A-203, a child-custody determination made under this section becomes a final determination if it so provides, and this State becomes the home state of the child.

(c) If there is a previous child-custody determination that is entitled to be enforced under this Article, or a child-custody proceeding has been commenced in a court of a state having jurisdiction under G.S. 50A-201 through G.S. 50A-203, any order issued by a court of this State under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under G.S. 50A-201 through G.S. 50A-203. The order issued in this State remains in effect until an order is obtained from the other state within the period specified or the period expires.

(d) A court of this State which has been asked to make a child-custody determination under this section, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of a state having jurisdiction under G.S. 50A-201 through G.S. 50A-203 shall immediately communicate with the other court. A court of this State which is exercising jurisdiction pursuant to G.S. 50A-201 through G.S. 50A-203, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of another state under a statute similar to this section shall

immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order. (1979, c. 110, s. 1; 1999-223, s. 3.)

**§ 50A-205. Notice; opportunity to be heard; joinder.**

(a) Before a child-custody determination is made under this Article, notice and an opportunity to be heard in accordance with the standards of G.S. 50A-108 must be given to all persons entitled to notice under the law of this State as in child-custody proceedings between residents of this State, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(b) This Article does not govern the enforceability of a child-custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child-custody proceeding under this Article are governed by the law of this State as in child-custody proceedings between residents of this State. (1979, c. 110, s. 1; 1999-223, s. 3.)

**§ 50A-206. Simultaneous proceedings.**

(a) Except as otherwise provided in G.S. 50A-204, a court of this State may not exercise its jurisdiction under this Part if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this Article, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this State is a more convenient forum under G.S. 50A-207.

(b) Except as otherwise provided in G.S. 50A-204, a court of this State, before hearing a child-custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to G.S. 50A-209. If the court determines that a child-custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this Article, the court of this State shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this Article does not determine that the court of this State is a more appropriate forum, the court of this State shall dismiss the proceeding.

(c) In a proceeding to modify a child-custody determination, a court of this State shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child-custody determination has been commenced in another state, the court may:

- (1) Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;
- (2) Enjoin the parties from continuing with the proceeding for enforcement; or
- (3) Proceed with the modification under conditions it considers appropriate. (1979, c. 110, s. 1; 1999-223, s. 3.)

**§ 50A-207. Inconvenient forum.**

(a) A court of this State which has jurisdiction under this Article to make a child-custody determination may decline to exercise its jurisdiction at any time if it determines that it is an

inconvenient forum under the circumstances, and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

(b) Before determining whether it is an inconvenient forum, a court of this State shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

- (1) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;
- (2) The length of time the child has resided outside this State;
- (3) The distance between the court in this State and the court in the state that would assume jurisdiction;
- (4) The relative financial circumstances of the parties;
- (5) Any agreement of the parties as to which state should assume jurisdiction;
- (6) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;
- (7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and
- (8) The familiarity of the court of each state with the facts and issues in the pending litigation.

(c) If a court of this State determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child-custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(d) A court of this State may decline to exercise its jurisdiction under this Article if a child-custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding. (1979, c. 110, s. 1; 1999-223, s. 3.)

#### **§ 50A-208. Jurisdiction declined by reason of conduct.**

(a) Except as otherwise provided in G.S. 50A-204 or by other law of this State, if a court of this State has jurisdiction under this Article because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

- (1) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;
- (2) A court of the state otherwise having jurisdiction under G.S. 50A-201 through G.S. 50A-203 determines that this State is a more appropriate forum under G.S. 50A-207; or
- (3) No court of any other state would have jurisdiction under the criteria specified in G.S. 50A-201 through G.S. 50A-203.

(b) If a court of this State declines to exercise its jurisdiction pursuant to subsection (a), it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child-custody proceeding is commenced in a court having jurisdiction under G.S. 50A-201 through G.S. 50A-203.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (a), it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses,



attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against this State unless authorized by law other than this Article. (1979, c. 110, s. 1; 1999-223, s. 3.)

**§ 50A-209. Information to be submitted to court.**

(a) In a child-custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:

- (1) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, the pleading or affidavit shall identify the court, the case number, and the date of the child-custody determination, if any;
- (2) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, the pleading or affidavit shall identify the court, the case number, and the nature of the proceeding; and
- (3) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

(b) If the information required by subdivisions (a) is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(c) If the declaration as to any of the items described in subdivisions (a)(1) through (3) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(d) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice. (1979, c. 110, s. 1; 1999-223, s. 3.)

**§ 50A-210. Appearance of parties and child.**

(a) In a child-custody proceeding in this State, the court may order a party to the proceeding who is in this State to appear before the court in person with or without the child. The court may order any person who is in this State and who has physical custody or control of the child to appear in person with the child.

(b) If a party to a child-custody proceeding whose presence is desired by the court is outside this State, the court may order that a notice given pursuant to G.S. 50A-108 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

(d) If a party to a child-custody proceeding who is outside this State is directed to appear under subsection (b) or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child. (1979, c. 110, s. 1; 1999-223, s. 3.)

### Part 3. Enforcement.

#### **§ 50A-301. Definitions.**

In this Part:

- (1) "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child-custody determination.
- (2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child-custody determination. (1999-223, s. 3.)

#### **§ 50A-302. Enforcement under Hague Convention.**

Under this Part, a court of this State may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child-custody determination. (1999-223, s. 3.)

#### **§ 50A-303. Duty to enforce.**

(a) A court of this State shall recognize and enforce a child-custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this Article or the determination was made under factual circumstances meeting the jurisdictional standards of this Article, and the determination has not been modified in accordance with this Article.

(b) A court of this State may utilize any remedy available under other law of this State to enforce a child-custody determination made by a court of another state. The remedies provided in this Part are cumulative and do not affect the availability of other remedies to enforce a child-custody determination. (1979, c. 110, s. 1; 1999-223, s. 3.)

#### **§ 50A-304. Temporary visitation.**

(a) A court of this State which does not have jurisdiction to modify a child-custody determination may issue a temporary order enforcing:

- (1) A visitation schedule made by a court of another state; or
- (2) The visitation provisions of a child-custody determination of another state that does not provide for a specific visitation schedule.

(b) If a court of this State makes an order under subdivisions (a)(2) of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Part 2. The order remains in effect until an order is obtained from the other court or the period expires. (1999-223, s. 3.)

**§ 50A-305. Registration of child-custody determination.**

(a) A child-custody determination issued by a court of another state may be registered in this State, with or without a simultaneous request for enforcement, by sending to the appropriate court in this State:

- (1) A letter or other document requesting registration;
- (2) Two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and
- (3) Except as otherwise provided in G.S. 50A-209, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child-custody determination sought to be registered.

(b) On receipt of the documents required by subsection (a), the registering court shall:

- (1) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and
- (2) Direct the petitioner to serve notice upon the persons named pursuant to subdivision (a)(3) of this section, including notice of their opportunity to contest the registration in accordance with this section.

(c) The notice required by subdivision (b)(2) must state that:

- (1) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this State;
- (2) A hearing to contest the validity of the registered determination must be requested within 20 days after service of notice; and
- (3) Failure to contest the registration will result in confirmation of the child-custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(d) A person seeking to contest the validity of a registered order must request a hearing within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

- (1) The issuing court did not have jurisdiction under Part 2;
- (2) The child-custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Part 2; or
- (3) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of G.S. 50A-108 in the proceedings before the court that issued the order for which registration is sought.

(e) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law, and the person requesting registration and all persons served must be notified of the confirmation.

(f) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration. (1979, c. 110, s. 1; 1997-81, s. 1; 1999-223, s. 3; 2007-484, s. 8.)

**§ 50A-306. Enforcement of registered determination.**

(a) A court of this State may grant any relief normally available under the law of this State to enforce a registered child-custody determination made by a court of another state.

(b) A court of this State shall recognize and enforce, but may not modify, except in accordance with Part 2, a registered child-custody determination of a court of another state. (1999-223, s. 3.)

**§ 50A-307. Simultaneous proceedings.**

If a proceeding for enforcement under this Part is commenced in a court of this State and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under Part 2, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding. (1999-223, s. 3.)

**§ 50A-308. Expedited enforcement of child-custody determination.**

(a) A petition under this Part must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child-custody determination must state:

- (1) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;
- (2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this Article and, if so, identify the court, the case number, and the nature of the proceeding;
- (3) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;
- (4) The present physical address of a child and the respondent, if known;
- (5) Whether relief in addition to the immediate physical custody of the child and attorneys' fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and
- (6) If the child-custody determination has been registered and confirmed under G.S. 50A-305, the date and place of registration.

(c) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on

the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(d) An order issued under subsection (c) must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under G.S. 50A-312, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

- (1) The child-custody determination has not been registered and confirmed under G.S. 50A-305 and that:
  - a. The issuing court did not have jurisdiction under Part 2;
  - b. The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Part 2;
  - c. The respondent was entitled to notice, but notice was not given in accordance with the standards of G.S. 50A-108 in the proceedings before the court that issued the order for which enforcement is sought; or
- (2) The child-custody determination for which enforcement is sought was registered and confirmed under G.S. 50A-304, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2. (1999-223, s. 3.)

#### **§ 50A-309. Service of petition and order.**

Except as otherwise provided in G.S. 50A-311, the petition and order must be served, by any method authorized by the law of this State, upon respondent and any person who has physical custody of the child. (1999-223, s. 3.)

#### **§ 50A-310. Hearing and order.**

(a) Unless the court issues a temporary emergency order pursuant to G.S. 50A-204 upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

- (1) The child-custody determination has not been registered and confirmed under G.S. 50A-305 and that:
  - a. The issuing court did not have jurisdiction under Part 2;
  - b. The child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2; or
  - c. The respondent was entitled to notice, but notice was not given in accordance with the standards of G.S. 50A-108 in the proceedings before the court that issued the order for which enforcement is sought; or
- (2) The child-custody determination for which enforcement is sought was registered and confirmed under G.S. 50A-305 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Part 2.

(b) The court shall award the fees, costs, and expenses authorized under G.S. 50A-312 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(c) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(d) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this Part. (1979, c. 110, s. 1; 1999-223, s. 3.)

### **§ 50A-311. Warrant to take physical custody of child.**

(a) Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this State.

(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this State, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by G.S. 50A-308(b).

(c) A warrant to take physical custody of a child must:

- (1) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;
- (2) Direct law enforcement officers to take physical custody of the child immediately; and
- (3) Provide for the placement of the child pending final relief.

(d) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(e) A warrant to take physical custody of a child is enforceable throughout this State. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not available, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour. An officer executing a warrant to take physical custody of the child, that is complete and regular on its face, is not required to inquire into the regularity and continued validity of the order. An officer executing a warrant pursuant to this section shall not incur criminal or civil liability for its due service.

(f) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian. (1999-223, s. 3; 2017-22, s. 3.)

### **§ 50A-312. Costs, fees, and expenses.**

(a) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses,

attorneys' fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(b) The court may not assess fees, costs, or expenses against a state unless authorized by law other than this Article. (1999-223, s. 3.)

**§ 50A-313. Recognition and enforcement.**

A court of this State shall accord full faith and credit to an order issued by another state and consistent with this Article which enforces a child-custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under Part 2. (1979, c.110, s.1; 1999-223, s. 3.)

**§ 50A-314. Appeals.**

An appeal may be taken from a final order in a proceeding under this Part in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under G.S. 50A-204, the enforcing court may not stay an order enforcing a child-custody determination pending appeal. (1999-223, s. 3.)

**§ 50A-315. Role of prosecutor or public official.**

(a) In a case arising under this Article or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor or other appropriate public official may take any lawful action, including resort to a proceeding under this Part or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child-custody determination if there is:

- (1) An existing child-custody determination;
- (2) A request to do so from a court in a pending child-custody proceeding;
- (3) A reasonable belief that a criminal statute has been violated; or
- (4) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) A prosecutor or appropriate public official acting under this section acts on behalf of the court and may not represent any party. (1999-223, s. 3.)

**§ 50A-316. Role of law enforcement.**

At the request of a prosecutor or other appropriate public official acting under G.S. 50A-315, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor or appropriate public official with responsibilities under G.S. 50A-315. (1979, c. 110, s. 1; 1999-223, s. 3.)

**§ 50A-317. Costs and expenses.**

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or other appropriate public official and law enforcement officers under G.S. 50A-315 or G.S. 50A-316. (1999-223, s. 3.)

§ 50A-318: Reserved for future codification purposes.

§ 50A-319: Reserved for future codification purposes.

§ 50A-320: Reserved for future codification purposes.

§ 50A-321: Reserved for future codification purposes.

§ 50A-322: Reserved for future codification purposes.

§ 50A-323: Reserved for future codification purposes.

§ 50A-324: Reserved for future codification purposes.

§ 50A-325: Reserved for future codification purposes.

§ 50A-326: Reserved for future codification purposes.

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§ 50A-329: Reserved for future codification purposes.

§ 50A-330: Reserved for future codification purposes.

§ 50A-331: Reserved for future codification purposes.

§ 50A-332: Reserved for future codification purposes.

§ 50A-333: Reserved for future codification purposes.

§ 50A-334: Reserved for future codification purposes.



§ 50A-335: Reserved for future codification purposes.

§ 50A-336: Reserved for future codification purposes.

§ 50A-337: Reserved for future codification purposes.

§ 50A-338: Reserved for future codification purposes.

§ 50A-339: Reserved for future codification purposes.

§ 50A-340: Reserved for future codification purposes.

§ 50A-341: Reserved for future codification purposes.

§ 50A-342: Reserved for future codification purposes.

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§ 50A-345: Reserved for future codification purposes.

§ 50A-346: Reserved for future codification purposes.

§ 50A-347: Reserved for future codification purposes.

§ 50A-348: Reserved for future codification purposes.

§ 50A-349: Reserved for future codification purposes.

### Article 3.

#### Uniform Deployed Parents Custody and Visitation Act.

#### Part 1. General Provisions.

**§ 50A-350. Short title.**

This Article may be cited as the "Uniform Deployed Parents Custody and Visitation Act." (2013-27, s. 3.)

**§ 50A-351. Definitions.**

The following definitions apply in this Article:

- (1) Adult. – An individual who is at least 18 years of age or an emancipated minor.
- (2) Caretaking authority. – The right to live with and care for a child on a day-to-day basis, including physical custody, parenting time, right to access, and visitation.
- (3) Child. – An (i) unemancipated individual who has not attained 18 years of age or (ii) adult son or daughter by birth or adoption who is the subject of an existing court order concerning custodial responsibility.
- (4) Close and substantial relationship. – A relationship in which a significant bond exists between a child and a nonparent.
- (5) Court. – An entity authorized under the laws of this State to establish, enforce, or modify a decision regarding custodial responsibility.
- (6) Custodial responsibility. – A comprehensive term that includes any and all powers and duties relating to caretaking authority and decision-making authority for a child. The term includes custody, physical custody, legal custody, parenting time, right to access, visitation, and the authority to designate limited contact with a child.
- (7) Decision-making authority. – 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 day-to-day decisions that necessarily accompany a grant of caretaking authority.
- (8) Deploying parent. – A service member, who is deployed or has been notified of impending deployment, and is (i) a parent of a child or (ii) an individual other than a parent who has custodial responsibility of a child.
- (9) Deployment. – The movement or mobilization of a service member to a location for more than 90 days, but less than 18 months, pursuant to an official order that (i) is designated as unaccompanied; (ii) does not authorize dependent travel; or (iii) otherwise does not permit the movement of family members to that location.
- (10) Family member. – A sibling, aunt, uncle, cousin, stepparent, or grandparent of a child, and an individual recognized to be in a familial relationship with a child.
- (11) Limited contact. – The opportunity for a nonparent to visit with a child for a limited period of time. The term includes authority to take the child to a place other than the residence of the child.
- (12) Nonparent. – An individual other than a deploying parent or other parent.

- (13) Other parent. – An individual who, in common with a deploying parent, is (i) the parent of a child or (ii) an individual other than a parent with custodial responsibility of a child.
- (14) Record. – Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (15) Return from deployment. – The conclusion of a service member's deployment as specified in uniformed service orders.
- (16) Service member. – A member of a uniformed service.
- (17) State. – A state of the United States, the District of Columbia, Puerto Rico, and the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (18) Uniformed service. – Service which includes (i) the active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States; (ii) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or (iii) the National Guard. (2013-27, s. 3.)

**§ 50A-352. Remedies for noncompliance.**

In addition to other relief provided under the laws of this State, if a court finds that a party to a proceeding under this Article has acted in bad faith or intentionally failed to comply with the requirements of this Article or a court order issued under this Article, the court may assess reasonable attorneys' fees and costs against the opposing party and order other appropriate relief. (2013-27, s. 3.)

**§ 50A-353. Jurisdiction.**

(a) A court may issue an order regarding custodial responsibility under this Article only if the court has jurisdiction pursuant to Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA) under Article 2 of this Chapter. If the court has issued a temporary order regarding custodial responsibility pursuant to Part 3 of this Article, for purposes of the UCCJEA, the residence of the deploying parent is not changed by reason of the deployment during the deployment.

(b) 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 Part 2 of this Article, for purposes of the UCCJEA, the residence of the deploying parent is not changed by reason of the deployment.

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

(d) This section does not prohibit the exercise of temporary emergency jurisdiction by a court under the UCCJEA. (2013-27, s. 3.)

**§ 50A-354. Notice required of deploying parent.**

(a) Except as provided in subsections (c) and (d) of this section, a deploying parent shall, in a record, notify the other parent of a pending deployment not later than seven days after receiving notice of deployment unless the deploying parent is reasonably prevented from notifying the other parent by the circumstances of service. If the circumstances of service prevent notification within seven days, the notification shall be made as soon as reasonably possible thereafter.

(b) Except as provided in subsections (c) and (d) of this section, each parent shall, in a record, provide the other parent with a plan for fulfilling that parent's share of custodial responsibility during deployment as soon as reasonably possible after receiving notice of deployment under subsection (a) of this section.

(c) If an existing court order prohibits disclosure of the address or contact information of the other parent, a notification of deployment under subsection (a) of this section, or notification of a plan for custodial responsibility during deployment under subsection (b) of 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.

(d) Notice in a record is not required if the parents are living in the same residence and there is actual notice of the deployment or plan.

(e) In a proceeding regarding custodial responsibility between parents, a court may consider the reasonableness of a parent's efforts to comply with this section. (2013-27, s. 3.)

**§ 50A-355. Notification required for change of address.**

(a) Except as otherwise provided in subsection (b) of this section, an individual to whom custodial responsibility has been assigned or granted during deployment under Part 2 or Part 3 of this Article shall notify the deploying parent and any other individual with custodial responsibility of any change of mailing address or residence until the assignment or grant is terminated. The individual shall provide the notice to any court that has issued an existing custody or child support order concerning the child.

(b) If an existing court order prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been assigned or granted, a notification of change of mailing address or residence under subsection (a) of this section 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 assigned or granted. (2013-27, s. 3.)

**§ 50A-356:** Reserved for future codification purposes.

§ 50A-357: Reserved for future codification purposes.

§ 50A-358: Reserved for future codification purposes.

§ 50A-359: Reserved for future codification purposes.

## Part 2. Agreement Addressing Custodial Responsibility During Deployment.

### § 50A-360. Form of agreement.

(a) The parents of a child may enter into a temporary agreement granting custodial responsibility during deployment.

(b) An agreement under subsection (a) of this section shall be (i) in writing and (ii) signed by both parents or any nonparent to whom custodial responsibility is granted.

(c) An agreement under subsection (a) of this section may include the following:

- (1) To the extent feasible, 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, if applicable.
- (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 the agreement shares custodial responsibility between the other parent and a nonparent, or between two nonparents, provide a process to resolve any dispute that may arise.
- (6) Specify (i) the frequency, duration, and means, including electronic means, by which the deploying parent will have contact with the child; (ii) any role to be played by the other parent in facilitating the contact; and (iii) the allocation of any costs of communications.
- (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 existing 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 terminates following the deploying parent's return from deployment according to the procedures under Part 4 of this Article.
- (10) If the agreement must be filed pursuant to G.S. 50A-364, specify which parent shall file the agreement. (2013-27, s. 3.)

### § 50A-361. Nature of authority created by agreement.

(a) An agreement under this Part is temporary and terminates pursuant to Part 4 of this Article following the return from deployment of the deployed parent, unless the

agreement has been terminated before that time by court order or modification of the agreement under G.S. 50A-362. The agreement derives from the parents' custodial responsibility and 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 given caretaking authority, decision-making authority, or limited contact by an agreement under this Part has standing to enforce the agreement until it has been modified pursuant to an agreement of the parents under G.S. 50A-362 or terminated under Part 4 of this Article or by court order. (2013-27, s. 3.)

**§ 50A-362. Modification of agreement.**

The parents may by mutual consent modify an agreement regarding custodial responsibility made pursuant to this Part. If an agreement made under this subsection is modified before deployment of a deploying parent, the modification shall be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement. If an agreement made under this section is modified during deployment of a deploying parent, the modification shall be agreed to, in a record, by both parents and any nonparent who will exercise custodial responsibility under the modified agreement. (2013-27, s. 3.)

**§ 50A-363. Power of attorney.**

If no other parent possesses custodial responsibility or if an existing court order prohibits contact between the child and the other parent, a deploying parent, by power of attorney, may delegate all or part of custodial responsibility to an adult nonparent for the period of deployment. The power of attorney is revocable by the deploying parent through a revocation of the power of attorney signed by the deploying parent. (2013-27, s. 3.)

**§ 50A-364. Filing agreement or power of attorney with court.**

An agreement or power of attorney created pursuant to this Part shall be filed within a reasonable period of time with any court that has entered an existing order on custodial responsibility or child support concerning the child. The case number and heading of the existing case concerning custodial responsibility or child support shall be provided to the court with the agreement or power of attorney. (2013-27, s. 3.)

**§ 50A-365:** Reserved for future codification purposes.

**§ 50A-366:** Reserved for future codification purposes.

**§ 50A-367:** Reserved for future codification purposes.

§ 50A-368: Reserved for future codification purposes.

§ 50A-369: Reserved for future codification purposes.

### Part 3. Judicial Procedure for Granting Custodial Responsibility During Deployment.

#### § 50A-370. Proceeding for temporary custody order.

(a) After a deploying parent receives notice of deployment and during the deployment, a court may issue a temporary order granting custodial responsibility unless prohibited by the Servicemembers Civil Relief Act, 50 U.S.C. app. §§ 521-522. A court may not issue a permanent order granting custodial responsibility in the absence of the deploying parent 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 shall be filed in an existing proceeding for custodial responsibility of the child with jurisdiction under Part 1 of this Article or, if there is no existing proceeding in a court with jurisdiction under Part 1 of this Article, in a new action for granting custodial responsibility during deployment. (2013-27, s. 3; 2014-115, s. 38(a).)

#### § 50A-371. Expedited hearing.

The court shall conduct an expedited hearing if a motion to grant custodial responsibility is filed before a deploying parent deploys. (2013-27, s. 3.)

#### § 50A-372. Testimony by electronic means.

In a proceeding brought under this Part, a party or witness who is not reasonably available to appear personally may appear and provide testimony and present evidence by electronic means unless the court finds good cause to require a personal appearance. (2013-27, s. 3.)

#### § 50A-373. Effect of prior judicial decree or agreement.

In a proceeding for a grant of custodial responsibility pursuant to this Part, the following shall apply:

- (1) A prior judicial order designating custodial responsibility of a child in the event of deployment is binding on the court unless the circumstances require modifying a judicial order regarding custodial responsibility.
- (2) The court shall enforce a prior written agreement between the parents for designating custodial responsibility of a child in the event of deployment, including a prior written agreement executed under Part 2 of this Article, unless the court finds the agreement contrary to the best interest of the child. (2013-27, s. 3.)

**§ 50A-374. Grant of caretaking or decision-making authority to nonparent.**

(a) In accordance with the laws of this State and on the motion of a deploying parent, a court may grant caretaking authority of a child to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship if it is in the best interest of the child.

(b) Unless the grant of caretaking authority to a nonparent under subsection (a) of this section is agreed to by the other parent, the grant is limited to an amount of time not greater than (i) the time granted to the deploying parent in an existing permanent custody order, except that the court may add unusual travel time necessary to transport the child or (ii) in the absence of an existing permanent custody order, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, except that the court may add unusual travel time necessary to transport the child.

(c) A court may grant part of the deploying parent's decision-making authority for a child to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship if the deploying parent is unable to exercise that authority. When a court grants the authority to a nonparent, the court shall specify the decision-making powers that will and will not be granted, including applicable health, educational, and religious decisions.

(d) Any nonparent to whom caretaking authority or decision-making authority is granted shall be made a party to the action until the grant of caretaking authority or decision-making authority is terminated. (2013-27, s. 3.)

**§ 50A-375. Grant of limited contact.**

(a) In accordance with laws of this State and on motion of a deploying parent, a court shall grant limited contact with a child to a nonparent who is either a family member of the child or an individual with whom the child has a close and substantial relationship, unless the court finds that the contact would be contrary to the best interest of the child.

(b) Any nonparent who is granted limited contact shall be made a party to the action until the grant of limited contact is terminated. (2013-27, s. 3.)

**§ 50A-376. Nature of authority created by order.**

(a) A grant made pursuant to this Part is temporary and terminates pursuant to Part 4 of this Article following the return from deployment of the deployed 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 this Part has standing to enforce the grant until it is terminated under Part 4 of this Article or by court order.

(c) Any nonparent made a party because of a grant of caretaking authority, decision-making authority, or limited contact shall have no continuing right to party status



after the grant of caretaking authority, decision-making authority, or limited contact is terminated pursuant to Part 4 of this Article or by court order. (2013-27, s. 3.)

**§ 50A-377. Content of temporary custody order.**

(a) An order granting custodial responsibility under this Part shall (i) designate the order as temporary and (ii) identify to the extent feasible the destination, duration, and conditions of the deployment.

(b) If applicable, a temporary order for custodial responsibility shall comply with each of the following:

- (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 significant 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 is otherwise available, unless contrary to the best interest of the child.
- (5) Provide for reasonable contact between the deploying parent and the child following return from deployment until the temporary order is terminated, which may include more time than the deploying parent spent with the child before entry of the temporary order.
- (6) Provide that the order will terminate following return from deployment according to the procedures under Part 4 of this Article. (2013-27, s. 3.)

**§ 50A-378. Order for child support.**

If a court has issued an order providing for grant of caretaking authority under this Part, or an agreement granting caretaking authority has been executed under Part 2 of this Article, the court may enter a temporary order for child support consistent with the laws of this State regarding child support if the court has jurisdiction under the Uniform Interstate Family Support Act under Chapter 52C of the General Statutes. (2013-27, s. 3.)

**§ 50A-379. Modifying or terminating assignment or grant of custodial responsibility to nonparent.**

(a) Except for an order in accordance with G.S. 50A-373 or as otherwise provided in subsection (b) of this section, and consistent with the Servicemembers Civil Relief Act, 50 U.S.C. app. §§ 521-522, 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 a grant of caretaking authority, decision-making authority, or limited contact made pursuant to this Article if the modification or termination is consistent with this Part and the court finds it is in the best interest of the child. Any modification shall be temporary and terminates following the conclusion of deployment of the deployed parent according to the procedures under Part 4 of this Article, 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. (2013-27, s. 3; 2014-115, s. 38(b).)

§ 50A-380: Reserved for future codification purposes.

§ 50A-381: Reserved for future codification purposes.

§ 50A-382: Reserved for future codification purposes.

§ 50A-383: Reserved for future codification purposes.

§ 50A-384: Reserved for future codification purposes.

#### Part 4. Return From Deployment.

**§ 50A-385. Procedure for terminating temporary grant of custodial responsibility established by agreement.**

(a) At any time following return from deployment, a temporary agreement granting custodial responsibility under Part 2 of this Article may be terminated by an agreement to terminate signed by the deploying parent and the other parent.

(b) The temporary agreement granting custodial responsibility terminates if (i) the agreement to terminate specifies a date for termination or (ii) the agreement to terminate does not specify a date, on the date the agreement to terminate is signed by both parents.

(c) In the absence of an agreement to terminate, the temporary agreement granting custodial responsibility terminates 60 days from the date the deploying parent gives notice to the other parent that the deploying parent has returned from deployment, unless earlier terminated upon the date stated in an order terminating the temporary grant of custodial responsibility or the death of the deploying parent.

(d) If the temporary agreement granting custodial responsibility was filed with a court pursuant to G.S. 50A-364, an agreement to terminate the temporary agreement shall also be filed with that court within a reasonable period of time after the signing of the agreement. The case number and heading of the existing custodial responsibility or child support case shall be provided to the court with the agreement to terminate. (2013-27, s. 3; 2014-115, s. 38(c).)

**§ 50A-386. Consent procedure for terminating temporary grant of custodial responsibility established by court order.**

At any time following return from deployment, the deploying parent and the other parent may file with the court an agreement to terminate a temporary order for custodial responsibility issued under Part 3 of this Article. After an agreement has been filed, the court shall issue an order terminating the temporary order on the date specified in the agreement. If no date is specified, the court shall issue the order immediately. (2013-27, s. 3.)

**§ 50A-387. Visitation before termination of temporary grant of custodial responsibility.**

After a deploying parent returns from deployment and until a temporary agreement or order for custodial responsibility established under Part 2 or Part 3 of this Article is terminated, the court shall enter a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interest of the child. The court shall enter a temporary order granting contact under this section even if the time exceeds the time the deploying parent spent with the child before deployment. (2013-27, s. 3.)

**§ 50A-388. Termination by operation of law of temporary grant of custodial responsibility established by court order.**

(a) A temporary order for custodial responsibility issued under Part 3 of this Article shall terminate, if no agreement between the parties to terminate a temporary order for custodial responsibility has been filed, 60 days from the date the deploying parent gives notice of having returned from deployment to the other parent and any nonparent granted custodial responsibility, when applicable, or upon the death of the deploying parent, whichever occurs first.

(b) Any proceedings seeking to terminate or prevent termination of a temporary order for custodial responsibility are governed by laws of this State. (2013-27, s. 3; 2014-115, s. 38(d).)

**§ 50A-389:** Reserved for future codification purposes.

**§ 50A-390:** Reserved for future codification purposes.

**§ 50A-391:** Reserved for future codification purposes.

**§ 50A-392:** Reserved for future codification purposes.

**§ 50A-393:** Reserved for future codification purposes.

§ 50A-394: Reserved for future codification purposes.

#### Part 5. Miscellaneous Provisions.

**§ 50A-395. Uniformity of application and construction.**

In applying and construing this Article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. (2013-27, s. 3.)

**§ 50A-396. Relation to Electronic Signatures in Global and National Commerce Act.**

This Article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b). (2013-27, s. 3.)