

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 202

HOUSE BILL 2635

AN ACT

AMENDING SECTION 25-411, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-1013; RELATING TO CUSTODIAL RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 25-411, Arizona Revised Statutes, is amended to
3 read:

4 25-411. Modification of custody decree; affidavit; contents

5 A. A person shall not make a motion to modify a custody decree earlier
6 than one year after its date, unless the court permits it to be made on the
7 basis of affidavits that there is reason to believe the child's present
8 environment may seriously endanger the child's physical, mental, moral or
9 emotional health. At any time after a joint custody order is entered, a
10 parent may petition the court for modification of the order on the basis of
11 evidence that domestic violence pursuant to INVOLVING A VIOLATION OF section
12 13-1201 or 13-1204, spousal abuse or child abuse occurred since the entry of
13 the joint custody order. Six months after a joint custody order is entered,
14 a parent may petition the court for modification of the order based on the
15 failure of the other parent to comply with the provisions of the order. A
16 motion or petition to modify a custody order shall meet the requirements of
17 this section. Except as otherwise provided in subsection B of this section,
18 if a custodial parent is a member of the United States armed forces, the
19 court shall consider the terms of that parent's military family care plan to
20 determine what is in the child's best interest during the custodial parent's
21 military deployment.

22 B. For the purposes of a motion to modify a custody decree, the
23 military deployment of a custodial parent who is a member of the United
24 States armed forces is not a change in circumstances that materially affects
25 the welfare of the child if the custodial parent has filed a military family
26 care plan with the court at a previous custody proceeding and if the military
27 deployment is less than six months.

28 C. A CUSTODY DECREE OR ORDER THAT A COURT ENTERS IN CONTEMPLATION OF
29 OR DURING THE MILITARY DEPLOYMENT OF A CUSTODIAL PARENT OUTSIDE OF THE
30 CONTINENTAL UNITED STATES SHALL SPECIFICALLY REFERENCE THE DEPLOYMENT AND
31 INCLUDE PROVISIONS GOVERNING THE CUSTODY OF THE MINOR CHILD AFTER THE
32 DEPLOYMENT ENDS. EITHER PARENT MAY FILE A PETITION WITH THE COURT AFTER THE
33 DEPLOYMENT ENDS TO MODIFY THE DECREE OR ORDER, IN COMPLIANCE WITH SUBSECTION
34 F OF THIS SECTION. THE COURT SHALL HOLD A HEARING OR CONFERENCE ON THE
35 PETITION WITHIN THIRTY DAYS AFTER THE PETITION IS FILED.

36 ~~C.~~ D. The court may modify an order granting or denying parenting time
37 rights whenever modification would serve the best interest of the child, but
38 the court shall not restrict a parent's parenting time rights unless it finds
39 that the parenting time would endanger seriously the child's physical,
40 mental, moral or emotional health.

41 ~~D.~~ E. If after a custody or parenting time order is in effect one of
42 the parents is charged with a dangerous crime against children as defined in
43 section 13-604.01, child molestation as defined in section 13-1410 or an act
44 of domestic violence as defined PRESCRIBED in section 13-3601 in which the
45 victim is a minor, the other parent may petition the court for an expedited

1 hearing. Pending the expedited hearing, the court may suspend parenting time
2 or change custody ex parte.

3 E. F. To modify any type of custody order a person shall submit an
4 affidavit or verified petition setting forth detailed facts supporting the
5 requested modification and shall give notice, together with a copy of the
6 affidavit or verified petition, to other parties to the proceeding, who may
7 file opposing affidavits. The court shall deny the motion unless it finds
8 that adequate cause for hearing the motion is established by the pleadings,
9 in which case it shall set a date for hearing on why the requested
10 modification should not be granted.

11 F. G. The court shall assess attorney fees and costs against a party
12 seeking modification if the court finds that the modification action is
13 vexatious and constitutes harassment.

14 G. H. Subsection E of this section does not apply if the requested
15 relief is for the modification or clarification of visitation and not for a
16 change of joint custody, joint legal custody, joint physical custody or sole
17 custody.

18 Sec. 2. Title 25, chapter 8, article 1, Arizona Revised Statutes, is
19 amended by adding section 25-1013, to read:

20 25-1013. Military deployment; home state

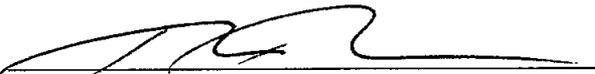
21 NOTWITHSTANDING SECTION 25-1002, IF THIS STATE IS THE HOME STATE OF A
22 CHILD AT THE TIME OF THE MILITARY DEPLOYMENT OF THAT CHILD'S CUSTODIAL PARENT
23 OUTSIDE OF THE UNITED STATES AND THE CHILD IS RELOCATED OUTSIDE OF THE UNITED
24 STATES DURING THE DEPLOYMENT, THIS STATE REMAINS THE HOME STATE OF THE CHILD
25 UNTIL THE DEPLOYMENT ENDS.

APPROVED BY THE GOVERNOR MAY 11, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2007.

Passed the House February 26, 20 07

by the following vote: 59 Ayes,
0 Nays, 1 Not Voting



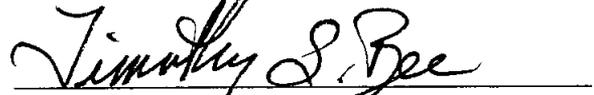
Speaker of the House
Pro Tempore



Herman L. Moore
Chief Clerk of the House

Passed the Senate April 19, 20 07

by the following vote: 27 Ayes,
0 Nays, 3 Not Voting



Timothy S. Bee
President of the Senate



Chaemin Ballington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20 _____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20 _____

at _____ o'clock _____ M.

Secretary of State

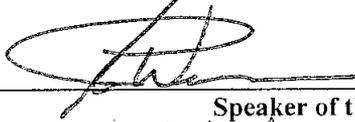
H.B. 2635

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

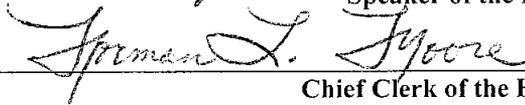
May 7, 2007,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting



Speaker of the House



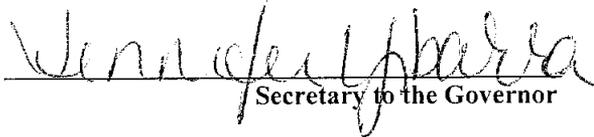
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

7th day of May, 2007,

at 2:35 o'clock P. M.



Secretary to the Governor

Approved this 11 day of

May, 2007,

at 9:05 o'clock A. M.



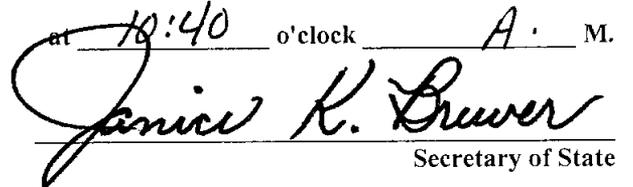
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 11 day of May, 2007,

at 10:40 o'clock A. M.



Secretary of State

H.B. 2635