

## AN ACT

ENTITLED, An Act to revise certain provisions regarding child custody during a soldier's deployment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 33-6-10 be amended to read as follows:

33-6-10. A servicemember ordered to deployment, who is the physical custodian or guardian of a minor or incapacitated person, may delegate by a properly executed power of attorney to another person for a period of one year or less any of the powers regarding care and custody of the minor child or ward, except the power to consent to marriage or adoption of a minor ward. If the power of attorney lapses prior to the servicemember's release from active duty, the power of attorney shall be automatically extended for an additional year unless the servicemember is sooner released from active duty. Neither the execution of such a power of attorney pursuant to this section, nor the deployment itself, may be considered a factor in considering a substantial and material change of circumstances, nor a factor in a best interest of the child determination for purposes of permanent child custody modification proceedings. There is hereby imposed an automatic stay of all proceedings seeking a permanent change in custody of a minor child where the parent with physical custody is a servicemember called to active duty for deployment. Such stay shall continue for the period of service due to deployment, unless waived in writing by the service member. Nothing in this section precludes a petition by the noncustodial parent to temporarily change physical custody, the best interests of the child remains determinative for such temporary custody determinations. Any temporary order modifying physical custody of the child automatically terminates upon return of the servicemember from deployment and reverts back to the custody status or order in effect prior to the deployment. However, if upon return from the deployment either the servicemember or child exhibits a substantial and material change in circumstances which adversely affects the servicemember's

ability to adequately care for the child, the best interests of the child shall be determinative. The temporary custody provisions of § 25-4A-11 do not apply to the temporary custody provisions of this section.

An Act to revise certain provisions regarding child custody during a soldier's deployment.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1046

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President Pro Tempore of the  
Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1046  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State