



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 585

H.P. 443

House of Representatives, February 15, 2011

### An Act To Amend the Child Custody Laws

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative FOSSEL of Alna.  
Cosponsored by Representatives: DOW of Waldoboro, GRAHAM of North Yarmouth,  
MALABY of Hancock, PRESCOTT of Topsham.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 19-A MRSA §1657, sub-§4** is enacted to read:

3 **4. Custodial parent; military service.** An order for parental rights and  
4 responsibilities may not be modified or terminated if the custodial parent is a member of  
5 the National Guard or the Reserves of the United States Armed Forces under an order to  
6 active duty for a period of more than 30 days and whose absence from the State is due to  
7 compliance with military orders unless the change is in the best interest of the child.  
8 Burden of proof is on the nonabsent parent that a modification or termination of parental  
9 rights is in the best interest of the child.

10 **Sec. 2. 37-B MRSA §343, sub-§1**, as enacted by PL 2005, c. 353, §4, is amended  
11 to read:

12 **1. Departure under military orders.** A court may not consider departure from the  
13 family residence or absence from the child or children as ~~an adverse~~ the sole factor in  
14 determining parental rights and responsibilities with respect to a minor child when the  
15 departing parent is a member of the National Guard or the Reserves of the United States  
16 Armed Forces under an order to active duty for a period of more than 30 days and whose  
17 absence is due to compliance with military orders.

18 **SUMMARY**

19 This bill prohibits an order for parental rights and responsibilities from being  
20 modified or terminated if the custodial parent is absent from the State because the parent  
21 is in the National Guard or the Reserves of the United States Armed Forces under an  
22 order to active duty for more than 30 days. The bill also prohibits a court from  
23 considering absence due to active duty service with the National Guard or the Reserves of  
24 the United States Armed Forces the sole factor in determining parental rights and  
25 responsibilities with respect to a minor.