

LFC Requester:	Daly, Marty
-----------------------	--------------------

**AGENCY BILL ANALYSIS
2013 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment**
Correction **Substitute**

Date January 29, 2013
Bill No: H 246--305

Sponsor: Rep. George Dodge, Jr. **Reviewing** Attorney General's Office
Short SERVICE MEMBER CHILD **Person Writing** Mona Valicenti
Title: CUSTODY ACT **Phone:** 827-6994 **Email** mvalicenti@nmag.gov

SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHADED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis:

H 246 enacts the “Service Member Child Custody Act” which takes into account the affect of deployment orders on existing custody, time-sharing or visitation orders on a parent who is a service member in the military. The Bill contains a section on definitions. In Section 3, the bill prohibits a court from entering a final order modifying an existing custody, time-sharing or visitation order until 90 days after a deploying parent’s deployment ends, without limiting the court’s ability to issue temporary orders in the best interest of the child. Section 4 prohibits a court from using deployment or potential deployment as the sole factor to modify an existing custody, time-sharing or visitation order. Section 5 provides for the issuance of temporary court orders modifying existing custody, time-sharing or visitation orders to make reasonable accommodation for the child due to the deploying parent’s deployment. The temporary modification order must provide that custody or visitation take place during the deploying parent’s leave; that the non-deploying parent facilitate telephonic or electronic communication with the child and the other deploying parent. The non-deploying parent without incurring a financial burden must facilitate the transportation of the child within the exterior boundaries of New Mexico to visit the deploying parent. Section 6 provides for the termination of temporary orders issued during deployment no later than 10 days after the deployment ends, unless one of the parents files an emergency or expedited motion alleging danger or irreparable harm to the child if the temporary order is terminated. Section 7 provides for the delegation of visitation rights for the duration of the deployment when in the best interest of the child. Section 8 allows for latitude in taking testimony of witnesses who are out of state or country and provides for telephonic, audiovisual or electronic deposition and testimony of individuals. The Bill provides for expedited hearings when deployment is imminent. Section 10 provides that within ten days of receipt of deployment order or of leave notification, the deploying parent is under a duty to disclose the information to the non-deploying parent. If all or part of the order is classified, then deploying parent shall provide non-classified information only. Section 11 eliminates a military patent’s military duties from the calculation used to determine failure to exercise time-sharing or visitation right. Section 12 reserves exclusive continuing jurisdiction in this state when the child custody order of a military parent has been entered in this state.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL N/A

SIGNIFICANT LEGAL ISSUES N/A

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL N/A

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL N/A

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS
INTRODUCED THIS SESSION N/A**

TECHNICAL ISSUES OR DRAFTING ERROR N/A

OTHER SUBSTANTIVE LEGAL ISSUES N/A

ALTERNATIVES TO ENACTING THIS BILL N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL N/A

AMENDMENTS NEEDED TO IMPROVE THIS BILL N/A