

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH60298-LU-89 (3/16)

Short Title: Amend UCCJEA to Define De Facto Custodian.

(Public)

Sponsors: Representative Culp.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT TO DEFINE DE FACTO CUSTODIAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50A-102 is amended by adding the following new subdivision to read:

"In this Article:

...

(18) 'De facto custodian' means an individual who has been shown by clear and convincing evidence to have been the primary caregiver for, and financial supporter of, a child who has resided with the individual for a period of six months or more if the child is under three years of age or for a period of one year or more if the child is three years of age or older."

SECTION 2. Part 1 of Article 2 of Chapter 50A of the General Statutes is amended by adding the following new section to read:

"§ 50A-113. De facto custodian.

(a) A person shall not be declared to be a de facto custodian, as defined in G.S. 50A-102(18), of a child if the child's parent was actively serving in the United States armed forces and all of the following apply:

(1) The parent left the child with a custodial caretaker with the understanding that the custody was temporary while the parent discharged his or her duties of military services.

(2) The parent regularly contributes to the financial support of the child, even if not in an amount sufficient to fully financially support the child.

1 (3) The parent has maintained contact with the child during the time of
2 military service, as much as possible and appropriate.

3 (4) The parent seeks to regain custody of the child and establish a
4 parent-child relationship as soon as possible after assigned to duties
5 that permit a child being cared for in the parent's home.

6 (b) In any case involving custody of a child pursuant to this section, an individual
7 may petition the court to be declared a de facto custodian of the child. In the event that
8 the court determines by clear and convincing evidence that the individual meets the
9 requirements of this section, then the individual shall have the same standing in custody
10 matters that is given to each parent under this Article.

11 (c) The court shall determine child custody in accordance with the best interests
12 of the child and shall give equal consideration to each parent and to any de facto
13 custodian. The court shall consider all the relevant factors, including all other factors
14 listed in this Article, as relevant to the best interests of the child, as well as:

15 (1) The wishes of the parents, child, or de facto custodian as to custody.

16 (2) The extent to which the child has been cared for, nurtured, or
17 supported by any de facto custodian.

18 (3) The intent of the parent in placing the child with the de facto
19 custodian.

20 (4) The circumstances under which the child was placed or allowed to
21 remain in the custody of the de facto custodian, including whether the
22 parent now seeking custody was previously prevented from doing so
23 as a result of domestic violence or whether the child was placed with a
24 de facto custodian to allow the parent now seeking custody to seek
25 employment, work, or attend school.

26 (5) The relationship the child has cultivated with any persons, including
27 family members or children of the de facto custodian.

28 (6) The child's adjustment to home, school, and community and the length
29 of time the child has spent in that home, school, or community;

30 (7) The permanence, as a family unit, of the existing or the proposed
31 custodial home.

32 (8) The mental and physical health of all persons involved, to the extent
33 applicable to the best interests of the child.

34 (9) The capacity and disposition of the parties to give love, affection, and
35 guidance and to continue educating and raising the child in the cultural
36 background and religion in which the child has been primarily raised.

37 (10) The effect on the child of the actions of any abuser.

38 (11) If applicable, any reports of abuse or neglect found to be substantiated
39 whether by conviction or by investigation by a county department of
40 social services.

41 (d) After considering all the relevant factors, the court may award custody to a
42 parent, both parents, a de facto custodian, or other interested third parties or may award
43 joint custody to any combination of these persons. If custody or joint custody is granted

1 to a de facto custodian, the de facto custodian shall have legal custody for all purposes
2 under the laws of this State."

3 **SECTION 3.** This act is effective when it becomes law.