

1 **324.01 Short title.** This chapter may be cited as the Uniform Deployed
2 Parents Custody and Visitation Act.

3 **324.02 Definitions.** In this chapter:

4 (1) “Adult” means an individual who has attained 18 years of age or who is an
5 emancipated minor.

6 (2) “Child” means any of the following:

7 (a) An individual who has not attained 18 years of age and who is not an
8 emancipated minor.

9 (b) An adult son or daughter by birth or adoption, or under the law of this state
10 other than this chapter, who is the subject of a court order concerning custodial
11 responsibility.

12 (3) “Court” means a tribunal, including an administrative agency, that is
13 authorized under the law of this state other than this chapter to make, enforce, or
14 modify a decision regarding custodial responsibility.

15 (4) “Custodial responsibility” includes physical placement, legal custody, and
16 visitation.

17 (5) “Deployed” means subject to a deployment.

18 (6) “Deploying parent” means a service member who is deployed, or who has
19 been notified of impending deployment, and who is any of the following:

20 (a) A parent of a child under the law of this state other than this chapter.

21 (b) An individual who has custodial responsibility for a child under the law of
22 this state other than this chapter.

23 (7) “Deployment” means the movement or mobilization of a service member for
24 more than 90 days but less than 18 months in accordance with service orders that
25 are designated as unaccompanied, do not authorize dependent travel, or otherwise

1 do not permit the movement of a child to the location to which the service member
2 is deployed.

3 (8) "Emancipated minor" has the meaning given in s. 48.375 (2) (e).

4 (9) "Family member" means a grandparent, great-grandparent, or stepparent.

****NOTE: This is a more restrictive definition of "family member." If you want something more expansive, you could go with: "Family member" means a stepparent, sibling, stepsibling, half sibling, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, any person of a preceding generation as denoted by the prefix grand, great, or great-great whether by blood, marriage, or legal adoption, or spouse of any person named in this subsection, even if the marriage is terminated by death or divorce."

5 (10) "Legal custody" has the meaning given in s. 767.001 (2).

6 (11) "Nonparent" means an individual other than a deploying parent or other
7 parent.

8 (12) "Other parent" means an individual who, in common with a deploying
9 parent, is any of the following:

10 (a) A parent of a child under the law of this state other than this chapter.

11 (b) An individual who has custodial responsibility for a child under the law of
12 this state other than this chapter.

13 (13) "Physical placement" has the meaning given in s. 767.001 (5).

14 (14) "Record" means information that is inscribed on a tangible medium or that
15 is stored in an electronic or other medium and is retrievable in perceivable form.

16 (15) "Return from deployment" means the conclusion of a service member's
17 deployment as specified in service orders.

18 (16) "Service member" means a member of any of the following:

19 (a) The U.S. armed forces, including any reserve component.

20 (b) The merchant marine.

21 (c) The commissioned corps of the U.S. public health service.

1 (d) The commissioned corps of the national oceanic and atmospheric
2 administration.

3 (e) The national guard of any state.

****NOTE: This is a different definition for “service member” than currently exists under s. 767.41 (2) (e) 1., which defines “service member” as a member of the national guard or of a reserve unit of the U.S. armed forces. Would you like to also change the definition under s. 767.41 (2) (e) 1.?

4 (17) “Sign” means to do any of the following with present intent to authenticate
5 or adopt a record:

6 (a) Execute or adopt a tangible symbol.

7 (b) Attach to or logically associate with the record an electronic symbol, sound,
8 or process.

9 (18) “State” means a state of the United States, the District of Columbia, the
10 commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or
11 possession of the United States.

12 (19) “Visitation” means rights conferred to an individual to reasonable
13 visitation with a child in accordance with s. 767.43.

14 **324.03 Remedies for noncompliance.** In addition to other remedies under
15 the law of this state other than this chapter, if a court finds that a party to a
16 proceeding under this chapter has acted in bad faith or intentionally failed to comply
17 with this chapter or a court order issued under this chapter, the court may assess
18 reasonable attorney fees and costs against the party and order other appropriate
19 relief.

20 **324.04 Jurisdiction.** (1) A court may issue an order regarding custodial
21 responsibility under this chapter only if the court has jurisdiction under ch. 822.

1 **(2)** If a court has issued a temporary order regarding custodial responsibility
2 under subch. III, the residence of the deploying parent is not changed by reason of
3 the deployment for purposes of ch. 822 during the deployment.

4 **(3)** If a court has issued a permanent order regarding custodial responsibility
5 before notice of deployment and the parents modify that order temporarily by
6 agreement under subch. II, the residence of the deploying parent is not changed by
7 reason of the deployment for purposes of ch. 822.

8 **(4)** If a court in another state has issued a temporary order regarding custodial
9 responsibility as a result of impending or current deployment, the residence of the
10 deploying parent is not changed by reason of the deployment for purposes of ch. 822.

11 **(5)** This section does not prevent a court from exercising temporary emergency
12 jurisdiction under s. 822.24.

13 **324.05 Notification required by deploying parent. (1)** Except as provided
14 in sub. (4) and subject to sub. (3), a deploying parent shall, in a record, notify the other
15 parent of a pending deployment not later than 7 days after the deploying parent
16 receives notice of deployment unless reasonably prevented from doing so by the
17 circumstances of deployment. If the circumstances of deployment prevent giving
18 notification within the 7 days, the deploying parent shall give the notification as soon
19 as reasonably possible.

20 **(2)** Except as provided in sub. (4) and subject to sub. (3), the deploying parent
21 and the other parent shall, in a record, provide each other with a plan for fulfilling
22 their respective shares of custodial responsibility during deployment. Each parent
23 shall provide the plan as soon as reasonably possible after the deploying parent gives
24 notification of deployment under sub. (1).

1 (3) If a court order currently in effect prohibits disclosure of the address or
2 contact information of the other parent, notification of deployment under sub. (1) or
3 notification by the deploying parent of a plan for custodial responsibility during
4 deployment under sub. (2) may be made only to the issuing court. If the address of
5 the other parent is available to the issuing court, the court shall forward the
6 notification to the other parent. The court shall keep confidential the address or
7 contact information of the other parent.

8 (4) Notification in a record under sub. (1) or (2) is not required if the parents
9 are living in the same residence and both parents have actual notice of the
10 deployment or plan.

11 (5) In a proceeding regarding custodial responsibility, a court may consider the
12 reasonableness of a parent's efforts to comply with this section.

13 **324.06 Duty to notify of change of address. (1)** Except as provided in sub.
14 (2), an individual to whom custodial responsibility has been granted during
15 deployment under subch. II or III shall, until the grant is terminated, notify all of the
16 following of any change in the individual's mailing address or residence:

17 (a) The deploying parent.

18 (b) Any other individual with custodial responsibility for the child.

19 (c) Any court that has issued a custody or child support order concerning the
20 child that is in effect.

21 (2) If a court order currently in effect prohibits disclosure of the address or
22 contact information of an individual to whom custodial responsibility has been
23 granted, a notification under sub. (1) may be made only to the court that issued the
24 order. The court shall keep confidential the mailing address or residence of the
25 individual to whom custodial responsibility has been granted.

1 SUBCHAPTER II

2 AGREEMENT FOR CUSTODIAL

3 RESPONSIBILITY DURING DEPLOYMENT

4 **324.21 Form of agreement.** (1) The parents of a child may enter into a
5 temporary agreement under this subchapter granting custodial responsibility
6 during deployment.

7 (2) An agreement under sub. (1) shall be in writing and signed by both parents
8 and any nonparent to whom custodial responsibility is granted.

9 (3) Subject to sub. (4), an agreement under sub. (1) shall, if feasible, do all of
10 the following:

11 (a) Identify the destination, duration, and conditions of the deployment that
12 is the basis for the agreement.

13 (b) Specify the allocation of physical placement and legal custody among the
14 deploying parent, the other parent, and any nonparent.

15 (d) Specify any visitation rights of a nonparent.

16 (e) If, under the agreement, custodial responsibility is shared by 2 or more
17 individuals, provide a process to resolve any dispute that may arise.

18 (f) Specify the frequency, duration, and means, including electronic means, by
19 which the deploying parent may have contact with the child, any role to be played
20 by the other parent or by a nonparent in facilitating the contact, and the allocation
21 of any costs of contact.

22 (g) Specify the contact between the deploying parent and child during the time
23 that the deploying parent is on leave or is otherwise available.

1 (h) Acknowledge that any party's child support obligation cannot be modified
2 by the agreement and that changing the terms of the obligation during deployment
3 requires modification in the appropriate court.

4 (i) Provide that the agreement will terminate immediately after the deploying
5 parent returns from deployment under s. 767.451 (3m) unless otherwise stipulated
6 by all parties to the agreement.

7 (j) If the agreement is required to be filed under s. 324.25, specify which parent
8 is required to file the agreement.

9 (4) The omission of any of the items specified in sub. (3) does not invalidate an
10 agreement under this section.

11 **324.22 Nature of authority created by agreement.** (1) An agreement
12 under this subchapter is temporary and terminates immediately after the deploying
13 parent returns from deployment, unless the agreement has been terminated before
14 that time by court order, by modification under s. 324.23, or by stipulation under s.
15 324.21 (3) (i). The agreement does not create an independent, continuing right to
16 physical placement, legal custody, or visitation for an individual to whom custodial
17 responsibility is given.

18 (2) A nonparent who has physical placement, legal custody, or visitation by an
19 agreement under this subchapter has standing to enforce the agreement until it has
20 been terminated by court order, by modification under s. 324.23, by return of the
21 deployed parent under s. 767.451 (3m), or by stipulation under s. 324.21 (3) (i).

22 **324.23 Modification of agreement.** (1) By mutual consent, the parents of
23 a child may modify an agreement regarding custodial responsibility made under this
24 subchapter subject to any visitation rights granted by court order under s. 767.43.

1 522. A court may not issue a permanent order granting custodial responsibility
2 without the consent of the deploying parent.

3 (2) At any time after a deploying parent receives notice of deployment, the
4 deploying parent or other parent may file a motion regarding custodial responsibility
5 for a child during deployment. The motion shall be filed in an underlying action
6 affecting the family under ch. 767 for custodial responsibility in a court with
7 jurisdiction under s. 324.04 or, if there is no underlying action affecting the family
8 under ch. 767 in a court with jurisdiction under s. 324.04, in a new action for granting
9 custodial responsibility during deployment.

10 **324.32 Expedited hearing.** If a motion to grant custodial responsibility is
11 filed under s. 324.31 (2) before a deploying parent deploys, the court shall conduct
12 an expedited hearing.

13 **324.33 Testimony by electronic means.** In a proceeding under this
14 subchapter, a party or witness who is not reasonably available to appear personally
15 may appear, provide testimony, and present evidence by electronic means unless the
16 court finds good cause to require a personal appearance.

17 **324.34 Effect of prior judicial order or agreement.** In a proceeding for a
18 grant of custodial responsibility under this subchapter, all of the following apply:

19 (1) A prior judicial order designating custodial responsibility in the event of
20 deployment is binding on the court unless the circumstances meet the requirements
21 of the law of this state other than this chapter for modifying a judicial order regarding
22 custodial responsibility.

23 (2) The court shall enforce a prior written agreement between the parents for
24 designating custodial responsibility in the event of deployment, including an

1 agreement executed under subch. II, unless the court finds that the agreement is
2 contrary to the best interest of the child.

3 **324.345 Best interest of the child.** In determining the best interest of the
4 child under this chapter, the court shall consider the factors in custody and physical
5 placement determinations under s. 767.41 (5). The court may not grant legal custody,
6 physical placement, or visitation to an individual in a temporary legal custody or
7 physical placement order under this chapter if that individual has previously been
8 denied legal custody, physical placement, visitation, guardianship, or any other
9 custodial rights for the child under ch. 48, 54, 55, or 767.

10 **324.35 Grant of physical placement to nonparent.** (1) On the motion of
11 a deploying parent and in accordance with the law of this state other than this
12 chapter, if it is in the best interest of the child, a court may grant physical placement
13 to a nonparent who is an adult family member of the child or an adult who has
14 maintained a relationship similar to a parent-child relationship with the child.

15 (2) Unless a grant of physical placement to a nonparent under sub. (1) is agreed
16 to by the other parent, the grant is limited to an amount of time not greater than
17 either of the following:

18 (a) The amount of time granted to the deploying parent under a permanent
19 legal custody or physical placement order, but the court may add unusual travel time
20 necessary to transport the child.

21 (b) In the absence of a permanent legal custody or physical placement order
22 that is currently in effect, the amount of time that the deploying parent habitually
23 cared for the child before being notified of deployment, but the court may add
24 unusual travel time necessary to transport the child.

1 **324.37 Nature of authority created by temporary custodial**
2 **responsibility order. (1)** A grant of authority under this subchapter is temporary
3 and terminates immediately upon the return from deployment by the deploying
4 parent, unless the grant has been terminated before that time by court order. The
5 grant does not create an independent, continuing right to physical placement, legal
6 custody, or visitation in an individual to whom it is granted.

7 **(2)** A nonparent granted physical placement, legal custody, or visitation under
8 this subchapter has standing to enforce the grant until it is terminated by court order
9 or upon return of the deployed parent.

10 **324.38 Content of temporary custodial responsibility order. (1)** An
11 order granting custodial responsibility under this subchapter shall do all of the
12 following:

13 (a) Designate the order as temporary.

14 (b) Identify to the extent feasible the destination, duration, and conditions of
15 the deployment.

16 **(2)** If applicable, an order for custodial responsibility under this subchapter
17 shall do all of the following:

18 (a) Specify the allocation of physical placement, legal custody, and visitation
19 among the deploying parent, the other parent, and any nonparent.

20 (b) If custodial responsibility is shared by 2 or more individuals under the order,
21 or the order grants physical placement to one or more individuals and visitation to
22 other individuals, provide a process to resolve any dispute that may arise.

23 (c) Provide for liberal communication between the deploying parent and the
24 child during deployment, including through electronic means, unless contrary to the
25 best interest of the child, and allocate any costs of communications.

1 (d) Provide for liberal contact between the deploying parent and the child
2 during the time the deploying parent is on leave or otherwise available, unless
3 contrary to the best interest of the child.

4 (f) Provide that the order will terminate immediately after the deploying
5 parent returns from deployment under s. 767.451 (3m) unless otherwise stipulated
6 by all parties to the agreement.

7 **324.39 Order for child support.** If the court issues an order granting
8 physical placement under this subchapter, or an agreement granting physical
9 placement has been executed under subch. II, the court may enter a temporary order
10 for child support consistent with the law of this state other than this chapter if the
11 court has jurisdiction under ch. 769.

12 **324.395 Modifying or terminating grant of custodial responsibility to**
13 **nonparent.** Except for an order described in s. 324.34 (1), and consistent with the
14 Servicemembers Civil Relief Act, 50 USC Appendix 521 and 522, on the motion of a
15 deploying parent or other parent or any nonparent to whom physical placement,
16 legal custody, or visitation has been granted, the court may modify or terminate the
17 grant if the modification or termination is consistent with this subchapter and it is
18 in the best interest of the child. A modification is temporary and terminates
19 immediately after the deploying parent returns from deployment, unless the grant
20 has been terminated before that time by court order or otherwise stipulated by all
21 parties to the agreement.

22 SUBCHAPTER IV

23 MISCELLANEOUS PROVISIONS

24 **324.42 Uniformity of application and construction.** In applying and
25 construing this chapter, consideration shall be given to the need to promote

1 uniformity of the law with respect to its subject matter among states that enact the
2 Uniform Deployed Parents Custody and Visitation Act.

3 **324.43 Relation to Electronic Signatures in Global and National**
4 **Commerce Act.** This chapter modifies, limits, or supersedes the federal Electronic
5 Signatures in Global and National Commerce Act, 15 USC 7001 to 7031, except that
6 the chapter does not modify, limit, or supersede 15 USC 7001 (c) or authorize
7 electronic delivery of any of the notices described in 15 USC 7003 (b).

8 **324.44 Savings clause.** This chapter does not affect the validity of a
9 temporary court order concerning custodial responsibility during deployment that
10 was entered before the effective date of this section [LRB inserts date].

11 **SECTION 2.** 767.41 (2) (e) 2. of the statutes is amended to read:

12 767.41 (2) (e) 2. If Except as provided under ch. 324, if a party is a service
13 member, the court may not consider as a factor in determining the legal custody of
14 a child whether the service member has been or may be called to active duty in the
15 U.S. armed forces and consequently is, or in the future will be or may be, absent from
16 the service member's home.

17 **SECTION 3.** 767.41 (5) (c) of the statutes is amended to read:

18 767.41 (5) (c) If Except as provided under ch. 324, if a parent is a service
19 member, as defined in sub. (2) (e) 1., the court may not consider as a factor in
20 determining the legal custody of a child whether the service member has been or may
21 be called to active duty in the U.S. armed forces and consequently is, or in the future
22 will be or may be, absent from the service member's home.

23 **SECTION 4. Initial applicability.**

