

2013 HOUSE HUMAN SERVICES

HB 1109

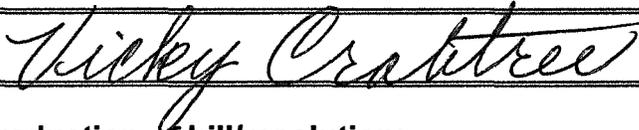
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1109
January 14, 2013
Job #17153

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relates to transfer of visitation rights of service members and relates to definitions.

Minutes:

Testimony #1 attached

Chairman Weisz: Opened the hearing on HB 1109.

Major Michelle Hagel: ND National Guard Joint Force Headquarters Staff Judge Advocate. Testified in support of the bill. (See Testimony #1)

4:07 Chairman Weisz: I support what you are trying to do here. In the case of the active duty member who has custody and is being deployed; it isn't clear in 3 a and b and isn't the priority first be to the biological parent that probably has visitation rights.

Major Hagel: That would be correct and we advise our clients unless the biological parent has agreed to another plan or the court has deemed them unfit.

Chairman Weisz: Regarding the language, it just says the family member receiving the delegation has an existing close relationship to the child. Shouldn't it go with the biological parent first and then to some other family member having an existing close relationship?

Major Hagel: The custody would go with biological parent and we are dealing with visitation. It wouldn't be full physical custody. Deploying member could request that the court grant visitation rights to the child's grandparents. Then they could take up that visitation.

Chairman Weisz: Without changing the court order if the active duty person has physical custody and the other parent has visitation rights; just the fact that the active duty person will be overseas for a period of time, custody wouldn't automatically go to the other biological parent would it?

Major Hagel: The custody would default back to other parent. If the service member doesn't want the other parent to have custody, then it has to be in a court order or agreed upon by the parents.

Rep. Mooney: When the active service member returns does it automatically fall back to the pre-existing visitation rights or does it have to go through a formal proceeding?

Major Hagel: Needs to be in a court order because this is a process and is not automatic. State law says that if the activated parent has custody before they leave; temporary custody then goes to the other biological parent. Upon return, custody is reverted back to the military parent. No permanent custody can change, but visitation would have to be provided for in the court order.

Rep. Mooney: All of that is taken care of then through the same process.

Major Hagel: That is correct. It has to be done before they are deployed.

Chairman Weisz: Is legislation is to ensure that the active member has to do with visitation and not custody?

Major Hagel: Exactly what we are trying to do.

Rep. Muscha: How was this visitation worked out before?

Major Hagel: There wasn't a process solidified where we could transfer the visitation rights of the service member to a family member so we operated on the good grace and hopes the families can get along.

Rep. Fehr: Does this include state active duty?

Major Hagel: I suppose it could. I'll look at the bill itself. If you look at definitions in Section 2, 14-09-00.1 of the bill. Line 29-31 on page 2 and line 1-6 on page 3.) State active duty would not fit into that.

Rep. Fehr: You said that Section 2 allows the transfer of visitation rights, but where does it say in here that they can transfer visitation?

Major Hagel: In the recruiter request to delegate activated parents to a family member. That last bit of Section 2.

Chairman Weisz: It is Number 1 of subsection 2, lines 18 and 19 is what she is referring to.

Rep. Mooney: Does this bill have the support of your troops?

Major Hagel: It does, but there is SB 2122 that came out of the Uniform Law Commission and is more comprehensive than this bill. It does exactly the same thing. It deals with custody and powers of attorney for deployed members with their children. These two bills were submitted simultaneously. That bill has garnered more support than this one. We are watching it closely. If both bills were to pass we would prefer SB 2122 because it offers more protection for the service member.

House Human Services Committee

HB 1109

January 14, 2013

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Chairman Weisz: Asked for support and opposition to the bill. No response, so he closed the hearing.

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1109
January 14, 2013
Job #17173

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relates to transfer of visitation rights of service members and to definitions.

Minutes:

You may make reference to "attached testimony."

Chairman Weisz: Called the meeting to order on HB 1109. Asked if anyone needed more time or information. There is a like bill in the Senate, but it is advisable to pass them out of both and then decide which one goes in the wastebasket. If no objections I'll entertain a motion.

Rep. Damschen: I move a Do Pass on 1109.

Rep. Laning: Second:

Chairman Weisz: I had a constituent that had this issue where the custodial parent will be going into the National Guard and she is trying to prohibit the other parent from having temporary custody while she is deployed overseas. The situation can work on both sides and this does address that.

Rep. Mooney: In her case, I am presuming that she will have the ability to work through the proper process to make sure her concerns are made known?

Chairman Weisz: The non-custodial parent has to go to court before she is deployed to ensure who has temporary custody. This bill insures that even though he has temporary custody she has access to the child for visitation. In this case she wanted her child to go to her boyfriend's parents rather than the biological father. We will have a roll call vote for a Do Pass on HB 1109.

ROLL CALL VOTE: 12 y 0 n 1 absent

MOTION CARRIED ON DO PASS

BILL CARRIER: Rep. Looyen

Date: 1-14-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1109

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Damschen Seconded By Rep. Laning

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	/		REP. MOONEY	/	
VICE-CHAIRMAN HOFSTAD	/		REP. MUSCHA	/	
REP. ANDERSON	/		REP. OVERSEN	/	
REP. DAMSCHEN	/				
REP. FEHR	/				
REP. KIEFERT	/				
REP. LANING	/				
REP. LOOYSEN	/				
REP. PORTER	/				
REP. SILBERNAGEL	/				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Looyzen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1109: Human Services Committee (Rep. Weisz, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1109 was placed on the
Eleventh order on the calendar.

2013 SENATE HUMAN SERVICES

HB 1109

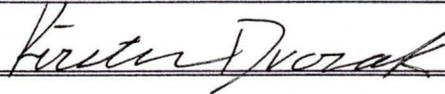
2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee Red River Room, State Capitol

HB 1109
02/20/2013
19244

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to transfer of visitation rights of service members

Minutes:

See attachments

Chairwoman J. Lee opens testimony for HB 1109

Major Michelle Hagel: North Dakota National Guard Joint Force Headquarters Staff Judge Advocate is testifying in support of HB 1109. See attachment #1 They would prefer that SB 2122 pass instead of HB 1109, however they would not like HB 1109 not passed as they don't want to end up without either bill being passed. The request of the committee at this time is to not take any action at this time. (Ends 0:04:27)

(0:04:28) Senator Anderson: has a question about courts and who would represent the service member.

(0:05:21) Chairwoman J. Lee discusses that the committee will hold the bill.

(0:06:00) Bruce Murry is in favor of HB 1109.

(0:06:26) There is discussion about SB 2122 and HB 1109 and visitation issues.

(0:07:00) Senator Anderson: Asks for clarification about holding the bill from **Chairwoman J. Lee**.

Senator Larsen: questioned if this is just for those that are divorced or separated families?

(0:08:45) Maj. Hagel: clarified that this is for those that may feel that they may not have contact with child during deployment.

(0:10:13) Senator Larsen: would like to know if there are statistics on rising and who is pushing this idea.

(0:12:12) Chairwoman J. Lee discussed a case of deployment effecting permanent request of custody change.

Senate Human Services Committee

HB 1109

02/20/2013

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Chairwoman J. Lee closes the hearing for HB 1109

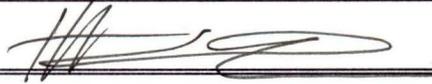
2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee Red River Room, State Capitol

1109
3-18-13
20100

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to transfer of visitation rights of service members.

Minutes:

You may make reference to "attached testimony."

Chairwoman J. Lee: opens the committee discussion on HB 1109

Chairwoman J. Lee: discusses HB 1109 about transfer of visitation rights. It was asked that we hang on to it; until we knew about SB 2122 was passed. SB 2122 was passed on the House floor, HB 1109 is not necessary.

There is discussion about differences of the bills.

There is a discussion about the bill and why for a Do not pass.

Senator Larsen : Motions for a Do Not Pass

Senator Dever: Seconds

Do Not Pass 5-0-0

Senator Larsen will carry.

Date: 3-18-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1109

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By SEN LARSEN Seconded By SEN DEVER

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent _____

Floor Assignment SEN LARSEN

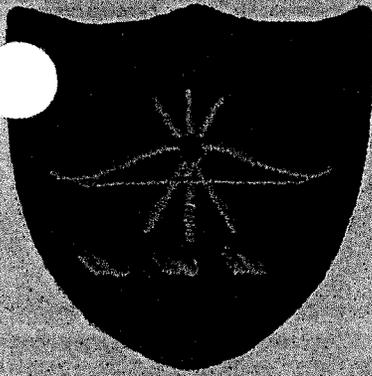
If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1109: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1109 was placed on the Fourteenth order on the calendar.

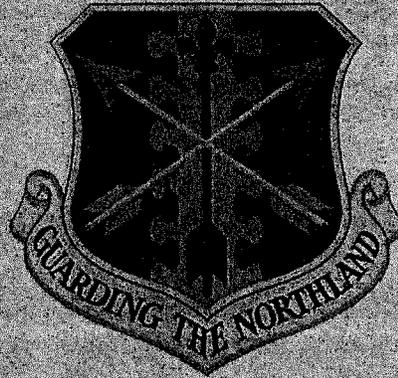
2013 TESTIMONY

HB 1109



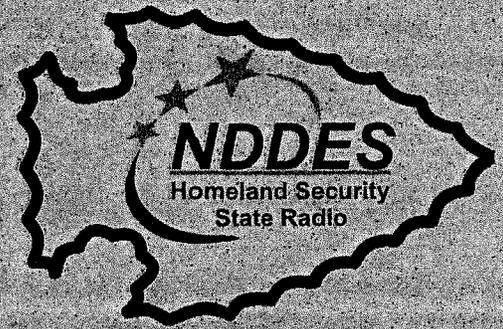
Army National Guard

"The Straight Arrows"



Air National Guard

"The Happy Hooligans"



*Department of
Emergency Services
Homeland Security &
State Radio*

*The
Office of the
Adjutant General*

*Testimony of
Major Michelle Hagel*

before the

*House Human Service
Committee*

January 14, 2013

HOUSE BILL 1109

**TESTIMONY OF
MAJOR MICHELLE HAGEL
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
HUMAN SERVICES COMMITTEE
JANUARY 14, 2013
HOUSE BILL 1109**

Mr. Chairman and Members of the Committee:

I am Major Michelle Hagel, North Dakota National Guard Joint Force Headquarters Staff Judge Advocate. I am testifying in support of HB 1109.

The purpose of HB 1109 is to ensure that our deployed service members have the opportunity to remain in contact with their children while they are away from home. Our members face the possibility of not having contact with their children when they deploy because, in most cases, care and custody of their children goes to the other biological parent or a guardian. In these situations, there is a risk that the service member may not get the opportunity to have continued contact with the child. That is cause of stress and worry for the service member at a time when it is critical that they focus on the mission at hand.

HB 1109 creates a process in which the service member may petition the court to have visitation rights transferred to a close family member. In subsection one, the court would have to take care to ensure that the child has the maximum opportunity to spend time with the deploying parent. The deployment, or the potential to deploy, may not be a factor in granting visitation.

Section two provides an opportunity for the deploying service member to petition the court for visitation and may include a request to delegate that visitation right to a family member. In section three, the family member receiving the visitation right must have an existing close relationship to the child and that delegation must be determined by the court to be in the child's best interest.

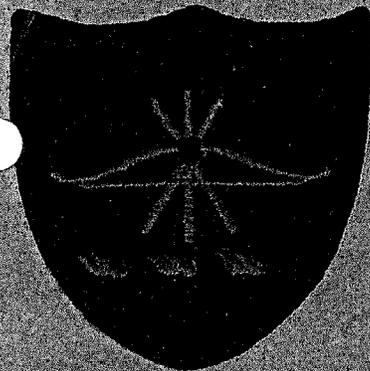
Section four provides for an expedited hearing and section five specifically preserves the deploying member's rights.

Section six requires that court orders provided that the non-activated parent makes the child reasonably available for visitation when the deploying member is on leave. Each parent facilitates contact between the other parent and the child if contact is in the child's best interests. The deploying parent must provide timely information to the non-activated parent regarding the deploying parent's leave schedule. Each parent must provide change of address or contact information.

The seventh section states that there is a rebuttable presumption that visitation rights may not be transferred to a family member who has a history of domestic violence.

The second section of the bill provides for definitions for the terms in section one.

Having a process in place where a service member may transfer their visitation rights to a family member is very important to our services members. One of the most difficult things about deployments is being away from our family. Not having contact with our children during the course of a deployment has a significant impact on morale. This bill provides a process in which our members may ensure continued communication with their children and at the same time the court may continue to ensure the best interests of the children are met.



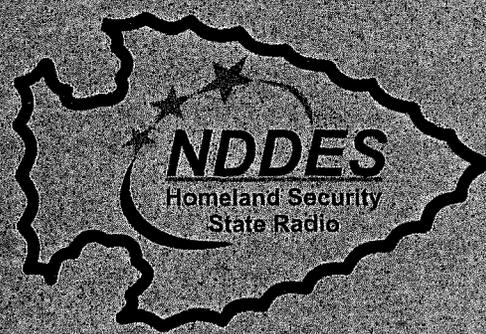
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"The Straight Arrows"



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*Testimony of
Major Michelle Hagel*

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Committee*

February 20, 2013

HOUSE BILL 1109

**TESTIMONY OF
MAJOR MICHELLE HAGEL
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
HUMAN SERVICES COMMITTEE
JANUARY 14, 2013
HOUSE BILL 1109**

Madam Chairman and Members of the Committee:

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The purpose of HB 1109 is to ensure that our deployed service members have the opportunity to remain in contact with their children while they are away from home. Our members face the possibility of not having contact with their children when they deploy because, in most cases, care and custody of their children goes to the other biological parent or a guardian. In these situations, there is a risk that the service member may not get the opportunity to have continual contact with their child. This issue is a cause of stress and worry for the service member at a time when it is critical that they focus on the mission at hand.

HB 1109 creates a process in which the service member may petition the court to have visitation rights transferred to a close family member. In subsection one, the court would have to take care to ensure that the child has the maximum opportunity to spend time with the deploying parent. The deployment, or the potential to deploy, may not be a factor in granting visitation.

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