

ASSEMBLY BILL

No. 265

Introduced by Assembly Member Haynes

February 8, 2005

An act to add Section 3047 to the Family Code, relating to child custody.

LEGISLATIVE COUNSEL'S DIGEST

AB 265, as introduced, Haynes. Child custody: parents on active military duty.

Existing law governs matters to be considered in granting the custody of a child. Existing law requires that custody be granted according to the best interest of the child, as specified.

This bill would prohibit a court from modifying an order granting custody of a child if the party who was granted custody of the child is a member of the California National Guard and he or she has been called to active duty, unless the court determines that modifying the order is in the best interest of the child and the party has either died while on active duty or is no longer able to provide adequate care for the child.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3047 is added to the Family Code, to
- 2 read:
- 3 3047. (a) Except as otherwise provided in subdivision (b), if
- 4 a party has been granted custody of a child, the court shall not

- 1 modify the order granting custody of the child, if the party meets
2 all of the following criteria:
- 3 (1) He or she is a member of the California National Guard.
 - 4 (2) He or she is a resident of California.
 - 5 (3) He or she has been called to active duty.
- 6 (b) A court may modify an order granting custody of a child to
7 a party who has met the criteria described in subdivision (b) if
8 the court determines that modifying the order is in the best
9 interest of the child and either of the following applies:
- 10 (1) The party has died while on active duty with the Armed
11 Forces of the United States.
 - 12 (2) The party is no longer able to provide adequate care for the
13 child consistent with the court's determination of the best interest
14 of the child.