SENATE JUDICIARY
EXHIBIT NO. 3
DATE 1/13/09
BILL NO. SB108

MONTANA DEPARTMENT OF MILITARY AFFAIRS
INFORMATION SHEET
SB 108 (Revise Child Custody Statutes Regarding Military Service)

MONTANA MILITARY PARENT PROTECTION ACT
(MMPPA)

INTENT:

SB 108 revises child custody law sections 40-4-212 (Best interest of child), 40-4-216 (Hearings), 40-4-219 (Amendment of parenting plan – mediation), 40-4-228 (Parenting and visitation matters between natural parent and third party), and 40-4-234 (Final parenting plan criteria), MCA. The revisions provide protections to military members, who are subject to military service orders, and will:

(1) Preclude a court, except under certain circumstances, from considering a parent's military service as a detriment to the best interest of the child in child custody determinations;

(2) Establish an expedited custody hearing procedure when a parent receives military service orders;

(3) Provide that a court-ordered modification of a Parenting Plan, which is based upon military service orders of a parent, is temporary;

(4) Allow visitation rights to certain family members when a parent receives military service orders; and

(5) Preclude a court, except under certain circumstances, from considering military service against or to the detriment of a parent performing military service, when approving a final Parenting Plan.

CONCLUSION:

SB 108 will prevent a court, under most circumstances, from considering military service as a detriment to the best interest of a child in a child custody determination. The bill will provide additional protection to military members by providing for expedited hearings to determine temporary custody and visitation issues when a parent receives military service orders. SB 108 will prevent a temporary change of child custody, due to military service, from becoming a permanent order simply due to military service. The bill will allow a court to transfer visitation rights of a military parent, which would normally belong to a military parent under a Parenting Plan, to a family member of the military parent, if that family member had a close relationship to the minor child. Finally, SB 108 will preclude a court, under most circumstances, from considering military service against or to the detriment of a military parent, when approving final Parenting Plan under most circumstances.

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