

NCCUSL Committee on Scope and Program

Project Proposal Form

Submitted by:

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Description of Project

North Carolina Life Commissioner Robinson Everett is a Senior Judge with the US Court of Military Appeals and serves on a committee of the NC State Bar dealing with legal assistance for members of the military. He brought to my attention an issue that has arisen with respect to military personnel with children who are in effect penalized because of their military status when courts are deciding child custody issues. The NC Bar Committee considered seeking possible federal legislation on this issue, but determined it was more appropriately an issue for state law and may be appropriate for a uniform law. I offered to relay this proposal on behalf of Judge Everett to the Scope and Program Committee.

Attached are background materials that more fully explain the issue. These include an article prepared by Mark Sullivan, a family law practitioner in NC, and spreadsheets and summaries prepared by JAG offices in DC and Charlottesville on state statutes on this issue.

1. Need for and benefits of uniformity in this subject matter area:

Since military personnel are reassigned from state-to-state, there is benefit in resolving this child custody issue in a manner that is uniform across state lines.

2. Summary/analysis of existing state law and trends concerning this subject:

See attached spreadsheets and summaries.

3. Impact of federal laws and regulations on this proposed subject:

It apparently is the view of military lawyers or those representing military personnel that this issue is not appropriate for federal legislation and is not currently adequately addressed by federal legislation.

4. Identity of organizations or persons interested in this subject area, and assessment of support/opposition:

At my request Mark Sullivan has contacted the Chair of the Military Committee, ABA Family Law Section. Her name is Patricia Apy, and she practices in Red Bank, NJ. He has not yet received a response of that committee's support for a Uniform Law drafting effort on this issue. I will let you know as soon as I receive that feedback.

5. Availability of existing research and/or financial support?

Fairly significant existing research is attached. I have not explored the possibility of financial support from a military-affiliated organization, but if there is ULC interest in this project Judge Everett and Mark Sullivan may be able to suggest possible resources to explore.