

## May 02, 2016: Details of Uniform Deployed Parents Custody and Visitation Act

In the military community, April is celebrated as the Month of the Military Child. All too often, in the rush to support our active-duty service members, the plight of their children is overlooked. Although military life offers kids many advantages, such as travel and adventure, the transient lifestyle also has disadvantages, such as having to say goodbye to old friends, having to make new friends, and having to adjust to new schools.

In an environment of constant change, family stability is the key to keeping military kids secure and well grounded. Achieving and maintaining stability in such an environment is often challenging. Military life can be rough on marriages and rough on internal family relationships. If a divorce, deployment, and a custody battle are added to the mix, a child's emotional well-being can be undermined.

For this reason, among others, I was pleased to learn that Senator Mary Camacho Torres recently introduced Bill No. 291-33, the Uniform Deployed Parents Custody and Visitation Act (the "Act"). The Act's goal is to assist courts throughout the United States to reach quicker, fairer, and more uniform resolutions of cases involving custody rights over a minor when a military parent is facing imminent deployment. I am hopeful that the Act will not only help parents navigate the custodial issues that arise in a deployment situation, but will also work to the advantage of military dependents caught in the cross hairs of a potentially nasty custody battle.

The Act requires a deploying parent to give the other parent written notice of the deployment orders not later than seven days after receiving the deployment notice. Following this notice, both parents are required to provide the other parent with a written plan for fulfilling their respective custodial responsibilities during the deployment.

The primary goal for requiring timely notice and sharing custodial plans is to encourage the parents to voluntarily enter into a temporary custodial agreement that identifies and addresses such matters as:

- Specifying how long the agreement will remain in effect.
- Designating the appropriate caretaker for the children.
- Allocating caretaking authority among the deploying parent, the other parent, and any nonparent.
- Specifying any grant of limited contact of a non-parent.
- In a shared custodial arrangement, providing a process to resolve any potential dispute.
- Describing the contact arrangements to be maintained between the deploying parent and the child/ren.

The Act also provides guidelines for modifying the agreement if changes are needed during deployment.

If the parties can't reach an agreement, either may file a motion with the appropriate court to resolve the matter. The Act helps to identify where such a motion can be filed. If a court has already issued a temporary or permanent order regarding custody before the notice of deployment, the residence of the deploying parent is not changed by reason of deployment. Applying this standard across the country will help parties and courts more easily identify which state or territory has jurisdiction.

Once a motion for custody is filed the court is required to act quickly and can only issue a temporary order. Deployment in and of itself is not grounds for a permanent custody change. Under the Act, if a party or witness can't attend the court hearing, the judge may take testimony by electronic means, such as video conferencing. The judge must enforce any prior court order or written agreement that addresses deployment custodial arrangements, unless it is contrary to the child's best interest.

In a major shift from the tradition of granting custody only to a parent, the Act authorizes a judge to grant caretaking authority to a "nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship." I believe this means that a stepparent (the current spouse of the deploying servicemember) could be awarded temporary custody over a child for the duration of the deployment. This might be appropriate in a situation where the deploying parent had physical custody of the child prior to deployment. Arguably, this affords the child greater stability by allowing the child to continue to live in a familiar home and to attend the same school.

In response to a shift in custodial care, a court may temporarily modify child support.

Hopefully, as the Guam Legislature considers this important Bill, my legal colleagues, and others affected by this legislation, will voice their opinions and offer suggestions for improvement. Next April, let's give military children something to celebrate.