

## March 20, 2017; Military Deployment Agreement Specifics

For a Guam soldier and parent, a deployment notice often raises grave concerns for the welfare of the soldier's children during the term of the deployment. This is especially true if the soldier is a divorced or single parent. Even with a custody order in place, this can lead to a tense situation because few custody orders anticipate a deployment. With little time to spare, the soldier must scramble to ensure the children's safety and wellbeing, and protect his or her custodial and visitation rights with the children during the deployment.

Fortunately, with the Guam Legislature's recent passage of the Uniform Deployed Parent Custody and Visitation Act, a solution is at hand. The Act establishes guidelines for the two possible paths parents or legal custodians can pursue to establish an enforceable deployment custody/visitation plan. The parties can either settle the matter themselves, or file a motion requesting that a judge make the final decisions. Obviously, the preferred path is for the parties to reach an amicable agreement. This will save them time and money, and spare them, and their children, much emotional distress.

This week, I'll focus on the mechanics of reaching an amicable agreement.

Under the act, the parents or legal custodians can enter into a temporary custody and visitation agreement to guide them during the deployment. The agreement must be in writing and signed by both parents, or by any nonparent who has court-ordered custodial responsibility for the child. Where feasible, the agreement must:

- Identify the destination, duration, and condition of the deployment.
- Specify how caretaking authority will be coordinated between the parents and any nonparent.
- Specify any decision-making authority each caretaker will have.
- Specify any grant of limited contact to a nonparent.
- Provide a process to resolve any dispute that may arise between a parent and a nonparent who has custodial authority.
- Specify the frequency, duration, and means, including electronic means, by which the deployed parent will maintain contact with the child. And, when necessary, specify the role that the other parent, or legal custodian, will have to facilitate the contact.
- Specify the contact between the deploying parent and the child when the deploying parent is on leave or otherwise available.
- Acknowledge that a party's child-support obligation during deployment can only be changed by a court order and not simply by agreement between the parents.
- When possible, make a specific provision for the agreement's automatic termination.

- If there is an existing custody case, specify which parent is obligated to file the agreement with the court.

Although the agreement should include all these provisions, the failure to include one or more of them will not automatically invalidate the agreement.

The parties to the custodial agreement can modify the terms through a written stipulation, signed by both parties, if executed before the deployment. If the agreement is modified during deployment, the terms must be agreed upon through some form of retrievable record, such as an email, to clearly indicate that both parties agree to the changes. Often times, the legal office on base can assist soldiers with drafting a deployment custodial/visitation agreement.

Next week, I'll discuss the legal issues and process facing parents who can't reach their own agreement.