



The Uniform Deployed Parents Custody and Visitation Act: Protecting Military Families During Deployment

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In the aftermath of increased military deployments following the events of September 11, 2001, military families have faced unprecedented challenges in maintaining custody and visitation arrangements. The Uniform Deployed Parents Custody and Visitation Act (UDPCVA) was established as a crucial legislative framework to address these challenges and protect service members' parental rights.

Historical Context and Development

The UDPCVA was created in 2012 by the Uniform Law Commission in response to the widespread deployment of military personnel and the resulting family disruptions. Following the terrorist attacks of 9/11, American forces undertook numerous deployments to the Middle East, creating a ripple effect on custody and visitation arrangements for military parents. This situation necessitated a uniform approach to handling custody issues when a parent is deployed for military service.

Before the establishment of the UDPCVA, the only existing federal statutory protection for single-parent service members was the Servicemembers Civil Relief Act (SCRA), which governed the general legal rights of deploying service members but did not provide specific procedures for temporary custody arrangements. This legal gap prompted the American Bar Association to form a working group in July 2003 to study and address these issues.

Purpose and Structure of the Act

The UDPCVA provides a framework for temporarily allocating deploying parents' custodial responsibilities during deployment. Its objective is to protect the relationships between military parents and their children, even during periods of absence due to service obligations.

The Act is divided into five articles, each addressing specific aspects of custody and visitation during deployment:

Article 1: Preliminary Matters

This article covers definitions, enforcement mechanisms, notice requirements, and attorneys' fees. It specifically states that a parent's residence does not change because of deployment and that deployment cannot be considered when determining the child's best interest.

Article 2: Matters Arising During Deployment (Resolved by Agreement)

One of the primary goals of the UDPCVA is to encourage parents to settle custody and visitation issues amicably rather than through litigation. Article 2 establishes substantive terms and procedural protections for custody agreements made between parents.^[1]

Article 3: Contested Cases

When parents cannot reach an agreement, Article 3 outlines the terms and procedures for adjudicated cases, including provisions for electronic testimony and expedited processes. It empowers courts to grant substitute visitation to nonparents who have close relationships with the child when it serves the child's best interests.

Article 4: Return from Deployment

This article addresses the termination of temporary custody arrangements following the servicemember's return and outlines the duties, rights, and procedures for transitioning back to pre-deployment arrangements.

Article 5: Miscellaneous Provisions

The final article includes adequate date provisions, transition provisions, and boilerplate terms that are standard in uniform acts sponsored by the Uniform Law Commission.

Key Provisions and Protections

When a servicemember receives deployment orders, they must notify the other parent within seven days of receiving the orders, unless military duties prevent them from doing so. After notification, both parents must exchange proposed parenting plans as soon as possible.

Custodial Responsibility Agreements

Parents may enter into a temporary agreement to allocate custodial responsibility during deployment without a court order. Such agreements must:

- Be in writing and signed by each parent and any nonparent granted custodial responsibility.
- Identify the location, duration, and conditions of deployment.
- Specify the allocation of caretaking authority and decision-making authority.
- Provide a process to resolve disputes.
- Specify the frequency, duration, and means of contact between the deployed parent and the child.
- Acknowledgement that the agreement does not modify existing child support obligations.

- Provide for termination after the parent's return from deployment.

Protection Against Permanent Orders

The Act prohibits courts from issuing permanent custody orders before or during deployment without the servicemember's consent. This safeguard ensures that deployment alone cannot permanently alter custody arrangements.

Substitute Visitation

The Uniform Deployed Parents Custody and Visitation Act (UDPCVA) allows a deployed parent to designate a person—typically a family member, stepparent, or relative by marriage—to exercise visitation time with the child on the parent's behalf. The Act also permits granting caretaking authority to a nonparent with whom the child has a "close and substantial relationship," defined as a positive relationship of substantial duration and depth.

Electronic Participation in Proceedings

Courts must allow servicemembers who cannot appear in person to participate in proceedings via telephone, video, webcam, affidavit, or other means.

Reinstatement of Prior Arrangements

Most importantly, the Act mandates reinstating the pre-deployment time-sharing order upon the servicemember's return. This ensures that deployment cannot be used as grounds for permanently modifying custody arrangements.

State Adoption and Implementation

As of 2018, thirteen states had enacted the UDPCVA. Florida adopted the Act effective July 1, 2018, replacing previous legislation addressing temporary time-sharing modifications due to military service. Colorado adopted the Act in 2013. However, as of early 2024, Mississippi had not adopted the UDPCVA, leaving military parents without these specific protections.

Practical Applications

For military parents facing deployment, the UDPCVA offers critical protection. The Act addresses common scenarios such as:

- A deployed parent concerned about maintaining a relationship with their child during their absence.
- Parents who need to establish temporary custody arrangements quickly before deployment.
- Service members worried about the permanent loss of custody rights due to deployment.

- Non-deployed parents who are seeking clarity about temporary arrangements.
- Returning servicemembers wanting to reestablish their pre-deployment parental role.^[7]

Conclusion

The Uniform Deployed Parents Custody and Visitation Act represents a significant step forward in safeguarding the parental rights of military personnel while ensuring the best interests of their children. By establishing clear procedures and protections for temporary custody arrangements during deployment, the UDPCVA helps alleviate one source of stress for servicemembers, allowing them to focus on their mission while knowing their parental rights are protected. As more states adopt this legislation, more military families will benefit from its provisions.

References

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