



OFFICE OF THE JUDGE ADVOCATE GENERAL **LEGAL ASSISTANCE POLICY DIVISION**



Deployment and Child Custody

When a Service-member (SM) with primary physical custody of a child deploys, the SM may face hard questions. Can the SM leave the child in the care of a third party (i.e., someone other than the other parent)? If the SM does place child in the temporary custody of the other parent, will the SM lose permanent custody of the child?

While these questions cannot be answered definitively without the specific facts of the individual case, Federal law and state law offer guidance, accommodations, and protections that are tailored to the needs of deployed Service-members.

Q. What state has jurisdiction over the child custody case?

A. For child custody issues, the SM first needs to determine which state's law applies and where the child custody dispute can be resolved. State law governs most family law issues and multiple states may come into play in child custody disputes involving SMs. Usually, the state where the child has lived continuously for at least six months prior to the case (or since birth for children less than six-months-old) will be the child's home state and will have jurisdiction over the case.

Q. Can the SM place their child in the care of a third-party during deployment?

A. It depends. Probably so if the noncustodial parent agrees to the arrangement. If the noncustodial parent wants to provide care for the child and is fit to do so, then probably not.

A SM's Family Care Plan may specify that a child will stay with a third party, such as a grandparent or a close family friend when the SM is deployed. A Family Care Plan is not a legal document and does not have any bearing on child custody issues. The SM must comply with a court order that specifies a child custody arrangement, and the Family Care Plan must be consistent with any such order.

For more information on this topic please contact your local legal assistance office to schedule an appointment to speak with an attorney.

Updated Sep 24