

PARENTS FOREVER™

Understanding the Uniform Deployed Parents Custody and Visitation Act – MN Statute 518E

By Michael P. Boulette, Esq., and Ellie McCann and Sara Croymans, Extension Educators, Center for Family Development

MN STATUTE ADDS SECTION ON DEPLOYED PARENTS' CUSTODY AND VISITATION

Effective August 1, 2015, the Minnesota Legislature added a new chapter to the state's child custody statute titled the Uniform Deployed Parents Custody and Visitation Act. This new chapter, 518E, contains five articles defining custodial responsibility and judicial procedures for granting custody during deployment, as well as return from deployment.

WHO IS AFFECTED?

The Act applies to all "uniformed service" members, including active and reserve components of the armed forces, as well as members of a state National Guard, United States Merchant Marines, and the commissioned corps of the United States Public Health Service or the National Oceanic and Atmospheric Administration.

WHEN CAN RIGHTS UNDER THE ACT BE EXERCISED?

A service member may exercise his or her rights under the Act when on an ordered deployment that does not permit the movement of family members. Deployments must be more than 90 days but less than 18 months.

WHAT NEW RIGHTS AND REMEDIES DOES THE ACT PROVIDE?

The Act allows a deploying parent to *temporarily* transfer certain rights to a non-parent either by court order or agreement with the other parent. The Act describes these rights as caretaking authority, rights of limited contact, and decision-making authority. Here are details:



1. A deploying parent can temporarily grant his or her “caretaking authority,” i.e., parenting time, to a person who has a close relationship with the child. If no parenting time order is in place, the court may look to the amount of time the deploying parent usually cared for the child in awarding caretaking authority.
2. In lieu of granting caretaking authority, rights of temporary “limited contact” may be granted to the deploying parent’s family members or other people who have a substantial relationship with the child.
3. Finally, if the deploying parent is unable to exercise his or her legal custody rights, a non-parent may temporarily be granted part of the deploying parent’s “decision-making authority” to make important decisions about the child’s care during deployment.

Note: A deploying parent can only delegate rights he or she already has, so the Act may be of limited use to fathers whose rights of paternity have not been established.

WHERE CAN RIGHTS BE EXERCISED?

In order to delegate rights under the Act, Minnesota must have authority (jurisdiction) over child custody under statute. This typically means that a Minnesota court will have entered an earlier custody order or, if no custody order has been entered, that the child will have lived in Minnesota for at least six months.

HOW ARE RIGHTS EXERCISED?

The Act provides two processes for reaching temporary custody arrangements during a deployment. Article 2 of the Act outlines procedures for formalizing agreements where parents agree, while Article 3 provides for expedited court involvement where parents cannot agree.

FOR MORE INFORMATION

The text of the Minnesota Act is available at <http://z.umn.edu/11xl>.

A blog post on the Minnesota Act is available at <http://z.umn.edu/11xm>.

An overview of what other states across the nation are doing regarding the Deployed Parents Custody and Visitation Act is available at <http://z.umn.edu/12wp>.

Additional resources for parenting apart — from Extension’s Parents Forever™ program — are available at <http://extension.umn.edu/family/parents-forever/>.

QUESTIONS OR COMMENTS?

Send a message to Ellie McCann, Extension Educator – Family Resiliency, at mcan023@umn.edu.

