



OFFICE OF THE STAFF JUDGE ADVOCATE
101ST AIRBORNE DIVISION (AIR ASSAULT) AND FORT CAMPBELL
CLIENT SERVICES OFFICE
2765 TENNESSEE AVENUE
FORT CAMPBELL, KENTUCKY

Child Custody and Visitation

Factors in Granting Custody. Courts generally look at what custody arrangement would be in the best interest of the child/children. Some factors may include who has primarily taken care of the child during the child's life; who has the best approach to discipline; what work schedules parents have; and how each parent can provide for the physical, emotional, educational, religious and social needs of the child. The courts do not establish an automatic preference for either mother or father, but rather, look closely at which parent will best promote the welfare and interests of the children.

Separation Agreements on Custody. Unless a separation agreement has been incorporated into a court order or divorce decree, it is *only a contract* between you and the other parent, not a court order, and thus is not enforceable by the court.

Visitation Rights. Ordinarily the noncustodial parent is entitled to reasonable visitation rights with a minor child except in extraordinary situations, such as when the noncustodial parent has a history of abusing the child. Visitation can be flexible and unstructured, assuming the parties can get along and agree on the terms of visitation, or it can be highly structured, with certain days and times set out with great specificity.

Where to File for Custody. The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), adopted by all states, provides that a person must file an action involving custody of a minor child in the child's "home state," defined as the state where the child has lived for at least six consecutive months prior to the commencement of the proceedings. If the child is younger than 6 months, his/her home state will be the one in which the child has lived from birth. If there is not a "home state," the state to assume jurisdiction will be the one with which the child/children have a significant connection and not only physical presence. *Client Services attorneys cannot help you obtain a court order for child custody. You will need to retain a civilian attorney.*

Court Expenses. Under many states' laws, the court may award necessary and reasonable expenses to the prevailing party such as attorney's fees, communication and travel expenses, witness expenses, and even childcare during the course of the proceeding.

Enforcement of Out of State Court Orders. According to the UCCJEA, a custody order issued by a court of one state shall be recognized and enforced by a court of another state. You may additionally want to register/domesticate the decree in the state where you reside or in the state where the other parent lives.

Changing the Terms of Custody Orders. Custody orders can be modified, however, once a parenting plan/custody is established in a court order, the judge can only change the order if there is a material change of circumstances affecting the best interest and welfare of the child, or upon agreement of both parties. Under the UCCJEA, the state who awarded the initial custody agreement retains the authority to modify an order, however, that state can transfer jurisdiction where there is a new "home state" for the child, and the original court willingly relinquishes jurisdiction for the new court to assume it.

More Information. If you have any questions concerning these matters, please come to the Client Services Office (Building 2765) 2765 Tennessee Avenue, Fort Campbell, KY 42223. Office hours are Monday, Tuesday, Wednesday from 0900 to 1600 hours, on Thursday from 1300-1600, or on Friday 0900 to 1500 (we close for lunch every day from 1145-1300).