



3ID Legal Assistance Office Newsletter

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"SOLDIER FIRST, LAWYER ALWAYS"



- Welcome back to the latest edition of the 3ID Legal Assistance Newsletter. This edition of the Legal Assistance Newsletter will take a deep dive into determining the proper place to file suit for legal cases that involve issues of child custody.

Jurisdiction Over Matters That Involve Child Custody

By Lindsey A. West, Esquire

- With PCS Season in full swing, many Soldiers are on the move. Frequent moving can cause confusion when attempting to determine the proper location to file a divorce or other legal matter where the custody of minor children is at issue. The United States follows the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) for determining which state within the United States has jurisdiction to decide the outcome of legal matters involving minor children. The purpose of the UCCJEA is to prevent parental kidnapping and forum shopping for court cases.
- **Where is the Child's Home State?** When determining where to file a lawsuit that involves child custody issues, one must first determine what state is the child's home state according to the UCCJEA. This is because the Court considers the child's home state to be the state that has the authority to decide the outcome of a child custody case or a divorce involving minor children. The UCCJEA defines a child's home state as the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the start of a child custody proceeding. Home state jurisdiction also exists in a state that was the child's home state within six months before the filing of the custody case, even when the child has been removed from that state, provided a parent continues to live in that previous home state. For example, if a Soldier and their family have been residing on Ft. Stewart for the past year, and the Soldier's spouse takes the children and moves back home to Tennessee intending to separate and divorce, the Soldier will have six months from the day that the spouse moved with the children to file the divorce and custody case in the State of Georgia, as long as the Soldier's residence continues to be in the State of Georgia. If the spouse filed in Tennessee before living there for six months with the children, it is likely that the case would be turned over to Georgia.
- **Exceptions to the Home State Rule.** There are a couple of exceptions to the home state rule. One exception is that any state where the child is physically located, even if it is not the child's home state, can take temporary jurisdiction of any emergency matter that involves mistreatment or abuse. Note that this exception only gives the state where the child is physically located temporary authority if it is not the child's home state, and the case will eventually be turned over to the home state to issue a final order. Another exception is if there has already been a custody order issued, the state that issued the order will continue to have jurisdiction unless both parents and their children no longer reside in the issuing state or there is no longer a significant connection between the parties and the issuing state. Using the above example, if Georgia had already issued a custody order, Georgia would be the preferred state to hear new matters involving the children. Despite the amount of time that passed since the children moved to Tennessee, Georgia would still be preferred state as long as the Soldier still has a connection to Georgia.

If you have questions or want to learn more, stop by Legal Assistance!

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