

Delegation of Military Visitation Rights in Virginia

The 2011 Virginia General Assembly passed an amendment to the "Virginia Military Parents Equal Protection Act" (Virginia Code Section 20-124.7, et seq.) which now permits the delegation of visitation rights by a military parent who is deployed.

A deployment is defined by statute as compliance with military orders for which the deploying parent is required to report unaccompanied by a family member.

The amendment provides:

B. The court, on motion of the deploying parent or guardian to delegate visitation to a family member, including a stepparent, with whom the child has a close and substantial relationship and upon finding that such delegation is in the best interests of the child, may enter an order delegating visitation that:

1. Delegates all or a portion of the deploying parent's or guardian's visitation rights to such family member, if the deploying parent or guardian had visitation rights with the child prior to the deployment; or

2. Provides visitation rights to such family member, if the deploying parent or guardian had physical custody of the child prior to the deployment and the nondeploying parent or guardian, or a family member of the nondeploying parent or guardian, is awarded physical custody during the deployment.

An order delegating or providing visitation rights to a family member pursuant to this subsection does not create a separate right to visitation in the family member to whom visitation rights are delegated or provided. The deploying parent or guardian may at any time, and the nondeploying parent or guardian may upon a showing of a material change in circumstances, file a motion to rescind the order delegating or providing visitation rights to a family member and such order shall terminate by operation of law upon the return of the deploying parent or guardian from deployment. Written notice of the return of the deployed parent or guardian and the termination of the delegated visitation shall be provided by the previously deployed parent or guardian to any family member whose visitation is thereby terminated.

The Act applies to members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard or any of their reserve components.

The Act does not apply to parents whose parental rights have been terminated by court order.

Additional Resources

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