



Quick Steps

Information to Help Your Stepfamily Thrive

When a Spouse is Being Deployed: Advice for Stepparents

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Deployment of a spouse often means that the spouse who stays home has to assume a number of new tasks and responsibilities. For stepfamilies, this can be even more challenging because of the ambiguous legal relationship between stepparents and stepchildren. Generally, for example, stepparents have no legal authority to make decisions or even to get information about their stepchildren's medical care or education.

Moreover, if a custodial parent receives orders for deployment, children may be required to live with the other parent, rather than staying with a stepparent. Recently, the Servicemembers Civil Relief Act, which protects soldiers from several civil court actions and administrative proceedings, such as eviction or property seizure, was amended to specifically include a provision protecting deployed parents against default custody judgment while away. The Act also requires the court to grant at least a 90-day stay in a custody dispute to deployed parents upon request. *See* Public Law 110-181; 50. U.S.C. App. §521(a), §522(a).

Pre-Deployment Checklist

Planning and anticipating problems can make the transition easier. A volunteer lawyers group has prepared a Family Member Pre-Deployment Checklist, available online [here](#). This checklist is designed for all families and includes record-keeping questions related to medical care, finances and so forth. Deployed spouses may also want to take advantage of legal services offered by the military for assistance in updating their wills and preparing documents to grant a power of attorney. The will helps ensure that property you own will pass in accordance with your

wishes and can include specific directions about how your property should be used to support children or stepchildren. A will can also indicate a preference for a guardian for children, so that your wishes about the custody of the child will be clear, although they will not be binding on the court. Keep in mind that bequests to "children" may not include stepchildren, so stepchildren should be explicitly included if desired. A power of attorney typically gives someone else, such as a spouse, the authority to manage your property, and can give them the authority to use your money to help support stepchildren.

Assigning Authority

Providing a stepparent spouse information and giving them control over property management may be easier than giving the stepparent authority over stepchildren. An initial question that the stepfamily would want to consider is: how much authority does the parent have in relation to the other biological parent and how much does the stepparent need? A stepparent who is married to a sole parent (the other parent is deceased or parental rights have been terminated) might need extensive authority. To give a stepparent extensive authority over a stepchild, a court-approved guardianship, custody order, or adoption might be appropriate. A stepparent who would be seeing the stepchild only occasionally would need less authority, which usually would not require any court action. To give a stepparent the ability to access school records and to discuss the child's progress with teachers, for example, it might be sufficient if the parent signed a consent form provided by the child's school.

Laws Vary From State to State

Laws regulating families and stepfamilies vary from state to state. In addition, some issues, such as consent to medical care or access to school records, may be determined by local policy rather than state law. Stepfamilies' rights and responsibilities vary as well, depending on existing court orders, where the stepchildren primarily live, who provides support, levels of interaction and relations with the other parent. Because each situation is unique, stepfamilies should plan to

Quick Steps

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When a Spouse is Being Deployed: Advice for Stepparents Page 2

get legal advice in their state if they anticipate problems related to the deployment. General information about legal topics, such as guardianship, adoption, and powers of attorney is available at www.nolo.com.

Free Military Legal Service

In addition, the military provides free legal assistance to military service members and their families. Such assistance includes family and domestic relations advice. To learn more, go to: <http://www.military.com/benefits/legal-matters/legal-assistance>.

Issues to discuss:

- How will the stepparent be able to facilitate contact between the child and the deployed parent?
- If the stepparent is married to a non-custodial parent, will the stepparent be allowed to have regular access to the child?
- If the stepparent is married to a custodial parent, what will happen if the non-custodial parent wants custody during the deployed parent's absence?
- Will the deployment affect child support payments?
- Will the stepparent need to move the child to a different location, enroll the child in school, negotiate with the school about the stepchild's special needs, enroll the child in benefit programs, consent to medical care, enroll the child in daycare, summer camps, sports activities or other special programs, or insure the child's participation in religious training or programs?
- If the stepparent will need to travel abroad with the child, is the child's passport in order and are there any special permissions that will be needed?
- Are there any pending legal actions involving the child?

- Are there financial arrangements that need to be made with regard to the child, involving matters such as tuition payments, health insurance payments, support, or property?

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