

Military Service and Petition to Change Parenting Plan Cases: Your Rights in Washington State

Who is this publication for?

Read this if you are

- a parent of minor children AND
- serving in the armed forces AND
- in a court case over parenting plan issues

You should be aware of some laws passed for your benefit in 2009.

Will being deployed automatically hurt my court case?

No.

Normally, under the law a parent has grounds to change a parenting plan if s/he can prove the other parent has “voluntarily failed to exercise residential time for an extended period.” Before the 2009 laws passed, this meant that if you were deployed, the other parent had grounds to file a Petition to Change Parenting Plan against you and say that your deployment was keeping you from exercising your time with the child.

The law now says that a court cannot hold against you in a Petition to Change Parenting Plan case any periods that you were deployed.

I temporarily gave the child to my ex because I am being deployed. Can I get the child back right away when I return from duty?

Usually, yes. If you are the custodial parent and your deployment forces you to give the child to the other parent temporarily, under the law you can now get the child back within ten days of your return from duty without a hearing.

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- ❖ If the other parent files a motion saying returning the child would cause “immediate danger of irreparable harm,” s/he can delay returning the child to you until the court holds an expedited hearing on the matter.
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I am being deployed soon. Can the court accommodate my schedule before I leave?

In a divorce or petition to change parenting plan case, you have the right to an expedited or specially scheduled hearing if your deployment is going to otherwise affect your ability to show up for court.

You also have the right to testify and submit evidence in your petition to change parenting plan case by phone, video conference, or internet if your deployment otherwise affects your ability to show up in person for court.

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- ❖ If you want to postpone any proceedings due to your military duty, this link may help: <http://www.military.com/benefits/military-legal-matters>.
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Can I delegate my time with my child to someone else while I am deployed?

Under the current law, if you are deployed, you can delegate your residential time with your child to a relative of your choice for the duration of your absence, if it is in the child's best interests.

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- ❖ **Choose your “delegate” wisely.** The other party in your Petition to Change Parenting Plan case could argue that your delegate's time needs to be restricted for a variety of legal reasons.¹
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I need more help. Are there other resources?

You will find **the forms you need** at www.courts.wa.gov/forms. The forms are listed by number:

- Motion for Immediate Order (Ex Parte) about a Hearing on Parenting Issues (Military Parent): FL All Family 171
- Order on Motion for Temporary Change to Parenting/Custody Order (Military Parent): FL All Family 174

For **individual** legal help, this website will help you find a family law attorney who specializes in military issues: <http://legalassistance.law.af.mil/content/locator.php>.

Our website www.washingtonlawhelp.org has other publications and packets that can help you, organized by topic.

This publication provides general information concerning your rights and responsibilities. It is intended as a substitute for specific legal advice.
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¹ See Revised Code of Washington (RCW) 26.09.191 for the full list of grounds for restrictions on residential time with your child.