

National Association for Uniformed Services

Military Divorce Rate Continues to Climb

The divorce rate in the armed forces continues to grow, despite efforts by the military to help struggling couples.

The Pentagon recently reported there were an estimated 27,312 divorces among roughly 765,000 married members of the active-duty Army, Air Force, Navy and Marine Corps in fiscal year 2009.

That's a divorce rate of about 3.6 percent, compared with 3.4 percent a year earlier, according to figures from the Defense Manpower Data Center. Marriages among reservists failed at a rate of 2.8 percent compared to 2.7 the previous year.

The reported 3.6 percent rate is a full percentage point above the 2.6 percent reported in late 2001, when the U.S. began sending troops to Afghanistan in response to the Sept 11 terrorist attacks.

As in previous years, women in uniform suffered much higher divorce rates than their male counterparts: 7.7 percent compared to 3 percent for men in 2009.

The only comparable measure for civilian divorce rates is what the Centers for Disease Control said in 2005 that 43 percent of all first marriages end in divorce within 10 years.

Critics believe that the divorce rate reported by the Pentagon comes nowhere close to depicting the damage done to marriages and families by the two ongoing wars.

The Pentagon number doesn't count veterans, who divorce after leaving the services, let alone reflect other possible wartime consequences on families, such as increases in alcoholism or the toll on orphaned or emotionally stressed children of troops.

In an Army battlefield survey taken in Iraq in the spring, nearly 22 percent of young combat soldiers questioned said they planned to get a divorce or separation, compared to 12.4 percent in a survey conducted in 2003.

For deployed Vermont military, help with child custody

By **Peter Hirschfeld** Vermont Press Bureau - Published: January 20, 2010

MONTPELIER – For military parents deployed to war zones overseas, the toughest battle can often be the child-custody dispute awaiting them back home.

The call to duty, family-law experts told Vermont lawmakers on Tuesday, can be used in court against military parents who split custody of their children with a former spouse or partner. And the impacts, they said, can exacerbate the intense emotional trauma that long deployments inflict on troops and their children.

"We don't have a lot of horror stories here, but boy are they out there in the rest of the country," said Patricia Benelli, a family-law attorney from Chester. "And we're trying to avoid them here."

Lt. Col. Ellen Abbott, a judge-advocate general in the Vermont National Guard, said she had to assist a Vermont soldier who returned from a long deployment to Iraq only to find that his ex-partner had been granted full custody of their child in his absence. It took months of court proceedings and \$23,000 in legal fees, Abbott said, for the man to regain custody of his child.

"It was a very difficult thing for this soldier to go through," Abbott said. "Had we had something in place to provide protections to him, it might have made things easier."

Lawmakers this session will consider a bill that supporters say would provide those protections by addressing the legal pitfalls into which at least some military parents fall. Without such reforms, Benelli said, the state risks "penalizing people in the military for serving their country."

Rep. Maxine Grad, a Waitsfield Democrat and vice-chairwoman of the House Judiciary Committee, introduced the legislation, which now has 88 co-sponsors. With more than 5,000 Vermonters serving as active members of the military, including 1,500 headed for Afghanistan next month, she said it's incumbent upon the state to protect the parental rights of servicemen and women.

When deployment orders come through, Abbott said, many military parents "are afraid to go to court because they're going to take their children away."

Indeed, legal experts said Tuesday, a military deployment can be construed by family-court judges as the "real, substantial and unanticipated change" required by Vermont statutes to amend child-custody arrangements.

Proposed legislation would prevent judges from using deployment-related separation as the sole reason for changing custody or visitation orders.

"I think this bill provides the framework to give assurances to military parents that they won't lose contact with their children either before, during or after their deployment," Abbott said.

The bill would also ensure that parents forced to cede custody or visitation during a deployment could appoint a friend or family member to assume those rights on their behalf. The measure is needed, lawyers said Tuesday, to ensure a continued bond with members of the deployed parent's family.

The legislation additionally ensures contact rights for deployed parents wishing to correspond with their children via telephone, e-mail or Web cameras. Abbott, who herself has been deployed to Iraq, said contact with children is important to sustaining soldiers' morale.

"Being over there I can tell you soldiers live for contact with their children," Abbott said. "We also have soldiers who are devastated when they get no response from their children – none whatsoever. It degrades their ability to focus on the mission and that's what we need – the ability to focus on the mission so they can come back."

The bill would also force family courts to make deployment-related custody hearings priority cases, and allow deployed soldiers to participate in those hearings via phone.

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Deployed Troops Battle for Custody

Associated Press | May 07, 2007



She had raised her daughter for six years following the divorce, handled the shuttling to soccer practice and cheerleading, made sure schoolwork was done. Hardly a day went by when the two weren't together. Then Lt. Eva Crouch was mobilized with the Kentucky National Guard, and Sara went to stay with Dad.

A year and a half later, her assignment up, Crouch pulled into her driveway with one thing in mind - bringing home the little girl who shared her smile and blue eyes. She dialed her ex and said she'd be there the next day to pick Sara up, but his response sent her reeling.

"Not without a court order you won't."

Within a month, a judge would decide that Sara should stay with her dad. It was, he said, in "the best interests of the child."

What happened? Crouch was the legal residential caretaker; this was only supposed to be temporary. What had changed? She wasn't a drug addict, or an alcoholic, or an abusive mother.

Her only misstep, it seems, was answering the call to serve her country.

Crouch and an unknown number of others among the 140,000-plus single parents in uniform fight a war on two fronts: For the nation they are sworn to defend, and for the children they are losing because of that duty.

Alert: Tell your public officials how you feel about this issue.

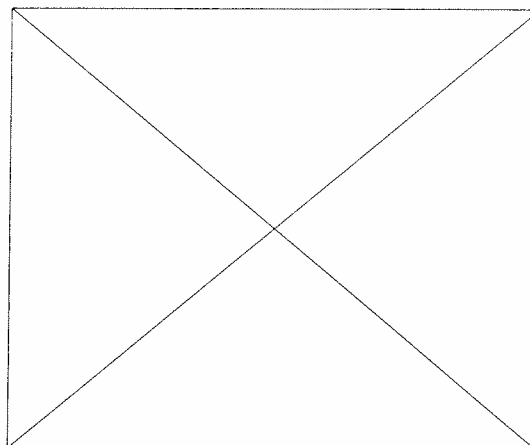
A federal law called the Servicemembers Civil Relief Act is meant to protect them by staying civil court actions and administrative proceedings during military activation. They can't be evicted. Creditors can't seize their property. Civilian health benefits, if suspended during deployment, must be reinstated.

Understanding Military Legal Matters

And yet servicemembers' children can be - and are being - taken from them after they are deployed.

Some family court judges say that determining what's best for a child in a custody case is simply not comparable to deciding civil property disputes and the like; they have ruled that family law trumps the federal law protecting servicemembers. And so, in many cases when a soldier deploys, the ex-spouse seeks custody, and temporary changes become

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lasting.

Even some supporters of the federal law say it should be changed - that soldiers should be assured that they can regain custody of children after they return.

"Now, they've got a great argument when Johnny comes marching home that the child should remain where they are, even though it was a temporary order," says Lt. Col. Steve Elliott, a judge advocate with the Oklahoma National Guard, referring to non-deployed parents.

Military mothers and fathers, meanwhile, speak of birthdays missed. Bonds, once strong, weakened. Returning from duty not to joyful reunions but to endless hearings.

They are people like Marine Cpl. Levi Bradley, helping to fight the insurgency in Fallujah, Iraq, at the same time he battles for custody of his son in a Kansas family court.

Like Sgt. Mike Grantham of the Iowa National Guard, whose two kids lived with him until he was mobilized to train troops after 9/11.

Like Army Reserve Capt. Brad Carlson, fighting for custody of his American-born children in a foreign land after his marriage crumbled while he was deployed to the Middle East and his European wife refused to return to the States.

And like Eva Crouch, who spent two years and some \$25,000 pushing her case through the Kentucky courts.

"I'd have spent a million," she says. "My child was my life ... I go serve my country, and I come back and have to go through hell and high water."

In the midst of World War II, back in 1943, the U.S. Supreme Court held that the soldiers' relief law should be "liberally construed to protect those who have been obliged to drop their own affairs to take up the burdens of the nation."

Shielding soldiers, after all, would allow them "to devote their entire energy" to the nation's defense, as the law itself states.

But in child custody cases, the opposite often happens.

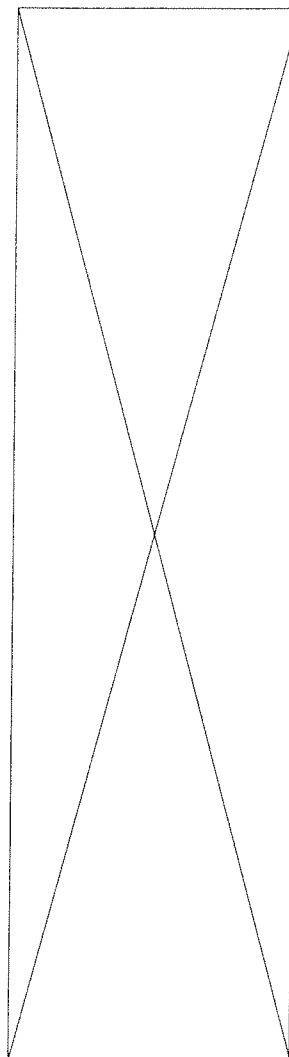
"The minute these guys are getting deployed, the other parent is going, 'I can do whatever I want now,'" says Jean Ann Uvodich, an attorney who represented Bradley. "If you have an ex who wants to take advantage, they can and will. The obstacle is that the judge needs to respect the law."

Bradley had already joined the Marines, and his young wife, Amber, was a junior in high school when their son Tyler came along in September 2003. With Bradley in training, Amber and the baby lived with Bradley's mother, Starleen, in Ottawa, Kan.

When the marriage fell apart two years later, Bradley filed for divorce and Amber signed a parenting plan granting him sole custody of Tyler and agreeing that the boy would live with Starleen while Bradley was on duty.

In August 2005, Bradley deployed to Iraq. A month later, Amber sought to void the agreement and obtain residential custody of Tyler. She didn't fully understand what she had signed, she said later.

Bradley learned of the petition in Fallujah, after calling his mom's house one night to say hello to his son. He was infuriated.



He worked during the day as a mechanic with the 8th Communications Battalion, then headed back to the barracks and, because of the time difference, waited until midnight to call his mother to hear the latest from court.

"My mind wasn't where it was supposed to be," he says. And the distraction cost him. One day he rolled a Humvee he was test-driving. Though he wasn't injured, Bradley was reprimanded.

Uvodich sought a stay under the Servicemembers Civil Relief Act, which provides for a minimum 90-day delay in proceedings upon application by an active duty service member. She argued that Bradley had a right to be present to testify.

But the judge refused to postpone the case, saying he didn't believe it was subject to the federal law because "this Court has a continuing obligation to consider what's in the best interest of the child," court records show.

After a November 2005 hearing, the judge awarded temporary physical custody to Amber. Last summer, that order was made permanent.

Bradley, now 22, is stationed at Camp Lejeune, N.C., awaiting his second deployment to Iraq later this year. He gets to Kansas on leave for about two weeks every six months, and sees Tyler for four days at a time.

"I fought the best I could," he says. "The act states: Everything will be put on hold until I'm able to get back. It doesn't happen. I found out the hard way."

Deployment News and Resources

Oregon Circuit Court Judge Dale Koch, president of the National Council of Juvenile and Family Court Judges, said that as state court judges, those deciding custody cases are obligated to follow their family codes - and "in most states there is language that says the primary interest is the best interest of the child."

"We recognize the competing interests," he says. "You don't want to penalize a parent because they've served their country. On the other hand ... you don't want to penalize the child."

But what does "best interest" really mean? Koch mentions factors such as stability and considering who has been the child's main emotional provider, parameters that conflict directly with military service. So how do you balance those things against upholding a deployed parent's civil rights? When, too, should a temporary change mean just that?

Iowa Guardsman Mike Grantham thought he was serving the best interests of his children when he arranged for his son and daughter to stay with his mother before reporting for duty in August 2002. She lived a few blocks from the kids' school in Clarksville, Iowa, and he figured, "There wouldn't be much disruption."

He had raised Brianna and Jeremy since his 2000 divorce, when ex-wife Tammara turned physical custody over to him.

After mobilizing, Grantham was served with a custody petition from Tammara, delivered to his unit's armory. His lawyer tried twice to request a stay under the federal law. His commanding officer even wrote a letter stating that Grantham's battalion was charged with protecting U.S. facilities deemed national security interests and that his case would cause the entire command structure "to refocus away from the military mission."

The trial judge nevertheless held hearings without Grantham and

temporarily placed the children with Tammara. A year later, though Grantham had returned from duty, the judge made Tammara the primary physical custodian.

An appeals court later sided with Grantham, saying: "A soldier, who answered our Nation's call to defend, lost physical care of his children ... offending our intrinsic sense of right and wrong."

But the Iowa Supreme Court disagreed, saying Tammara was "presently the most effective parent."

Now, Grantham says, his visitation rights mirror those that his ex-wife once had: every other weekend, Wednesdays, and certain holidays - Father's Day, for example.

"There ain't nothing you can do," he says. "Being deployed, you lose your armor."

Military and family law experts don't know how big the problem is, but 5.4 percent of active duty members - more than 74,000 - are single parents, the Department of Defense reports. More than 68,000 Guard and reserve members are also single parents.

Divorce among military men and women also has risen some in recent years, with more than 23,000 enlisted members and officers divorcing in 2005.

Army reservist Brad Carlson lived in Phoenix with his wife, Bianca, and three kids when he volunteered to deploy to Kuwait in 2003. His wife and children were spending that summer with her parents in Luxembourg and expected to remain there until he returned from duty.

A year later, after his wife indicated she wanted to end the marriage and remain in Luxembourg, Carlson filed for divorce in an Arizona court, seeking custody of Dirk, Sven and Phoebe, all American citizens.

The Arizona court dismissed the custody case after Bianca's lawyer argued that jurisdiction belonged in Luxembourg because the children had resided there for at least six months.

Again citing the Servicemembers Act, Carlson's attorney argued that the time the kids spent in Luxembourg shouldn't count toward residency because it came during Carlson's deployment.

A Luxembourg court awarded custody to Bianca, and the kids remain there to this day.

They call him "Bradley" now, he says, instead of "Daddy." They converse in German in stilted long-distance phone calls that provide few precious minutes for a father to absorb missed moments - soccer games, kindergarten, birthdays. On Dirk's 9th, Carlson stood beneath a rainbow-colored birthday banner and had a friend take a digital photo of him holding a sign: "Happy 9th Birthday Dirk!"

Tears fill his eyes when it hits him: "That's how I celebrate."

"I feel really betrayed," Carlson says. "To be able to send me into harm's way ... and my own country can't protect my child custody rights. Why aren't they looking out for me, when I'm looking out for the country?"

The solution, some say, lies in amending the federal law to specify that it does apply in custody cases, and to spell out that jurisdiction should rest with the state where the child resided before a soldier deployed.

Some states aren't waiting for congressional action.

In 2005, California enacted a law saying a parent's absence due to military activation cannot be used to justify permanent changes in custody or visitation. Michigan and Kentucky followed suit, requiring that temporary changes made because of deployment revert back to the original agreement once deployment ends.

Similar legislation has been proposed in Arizona, Florida, Oklahoma, Texas and North Carolina.

"These men and women need to know that when we deploy them, they don't have to worry about being ambushed in our family law court system," says Michael Robinson, a lobbyist who helped write the California and Michigan laws. "The insurgents are doing enough ambushing over there. The only difference between what's occurring there and here is ... it's an emotional bomb."

Crouch knows that all too well.

When she was mobilized back in 2003, Crouch considered having her mother come live in her Frankfort, Ky., home to care for 9-year-old Sara. But her ex-husband, Charles, wanted Sara with him, and Crouch agreed.

"You have to promise me you won't try anything funny," Crouch told him.

He promised.

They drew up a temporary order, moved Sara's belongings 2 1/2 hours east to her dad's place near Ashland, and Crouch headed out - to Iraq, she thought, although she wound up stateside at Fort Knox, providing personnel support to units shipping out.

The fortunate assignment allowed her to visit Sara most weekends, but no one ever brought up the idea of making the temporary situation permanent until Crouch returned.

"Right up until the day I came home there was every indication that I was picking her up," she says.

Charles Crouch says that's true, and acknowledges their agreement was supposed to be temporary. But when the time came for Sara to return to her mom, Charles says his daughter expressed a desire to stay with him. She liked her school, had made new friends.

"I had no intention of trying to talk her into staying or anything," he says. "All I wanted was what was best for my daughter."

Eva Crouch helped fight for the new Kentucky law. Last year, the state Supreme Court cited it in overturning the trial judge's decision granting custody to Charles.

Last September, she got Sara back.

Crouch knows she's one of the lucky few whose cases have happy endings. She's remarried now, and expecting another baby this August. But with 18 years in the military, she knows she could be mobilized again after she gives birth. One thing is clear to her now: Serving her country isn't worth losing her daughter.

"I can't leave my child again - regardless of whether or not I know when I come home, she comes home.

"Still," she says, "I can't."

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The Honorable Sean Parnell
Governor of Alaska
State Capitol
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Parnell:

I am writing to you about a matter that is of critical concern to me - the support of our Service members and their families in child custody disputes. I am deeply committed to preventing any inequitable treatment our deployed soldiers, sailors, airmen, and Marines may face in child custody disputes as a result of their service to the Nation.

I ask that you consider how your state can address the special difficulties facing military parents who must balance the demands of military service with the equally compelling demands of parenthood. These demands are often felt most acutely when military members must deploy and either lose visitation time or face challenges to existing custody orders by a parent to whom the military member is not married.

To date, thirty states have passed laws that address some aspect of the difficulties facing parents who must temporarily give up custody of their children or who must forgo visitation when called to take up the burdens of the nation. One possible legislative response could include the presumption that the prior custody agreement be restored upon the military member's return from deployment. Another legislative response could be to allow a parent with visitation rights the ability to delegate those rights to a third party during the deployment. I note that Alaska has not passed legislation to address military and visitation issues.

The Department recognizes the complexities of such cases and the difficulties in balancing the interests of the Service member against the best interests of the child. The Department also believes that the States are in the best position to balance the needs of both within the context of existing domestic relations laws.

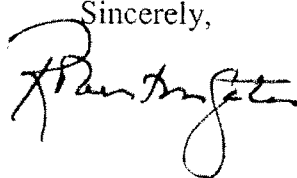
Because of the potential impact this could have on the full spectrum of our



military families, I am writing you directly to let you know that we stand ready to assist you with any additional information that you may need to address this issue. Mr. Ed Kringer, my staff contact, can provide a more detailed description about how other states have approached this issue. Your staff can contact him at 703-602-4949, ext. 114, or at ed.kringer@osd.mil.

Thank you for all you do for our Service members and their families. Helping them with this extremely important family concern would provide a great service to our men and women in uniform, as well as to your State and the nation as a whole.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Kringer". The signature is written in a cursive style with a large initial "E" and "K".

Sean Parnell, GOVERNOR

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
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February 26, 2010

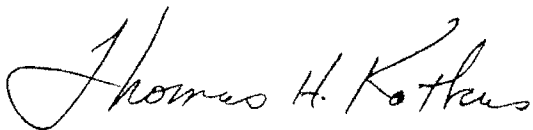
Rep. Bill Thomas:

Members of the United States Armed Forces train very hard to meet the high standards we set as a nation for excellence. These standards are important to protect the lives of each individual member, but also to protect the fellow Soldiers, Airmen, Marines, and Seamen who go into battle together.

The members of the Armed Forces need to be focused on the mission they are about to execute and not have any distracters that could jeopardize the safety of the team or success of the mission. The number one distraction for deployed military members is family concerns. There is a loop-hole in Alaska Statute that allows child custody hearings to take place while a military member is deployed. This must be stopped.

I fully support the efforts of the Rep. Bill Thomas and the Veterans Caucus to correct this problem by sponsoring House Bill 334. Please protect the troops by allowing them to focus on the mission while deployed. Passing this bill will improve morale and allow families to deal with issues in person between deployments.

Sincerely,



Brigadier General Thomas H. Katkus
Commissioner