

Military Service and Parenting Plan Modifications: New Rights in Washington State

Parents serving in the armed forces who are involved in parenting plan modification cases should be aware of new laws passed for your protection effective July 26, 2009.

Being deployed won't automatically hurt your court case:

Normally, the law says that a parent has grounds to modify a parenting plan if s/he can prove that the other parent has “voluntarily failed to exercise residential time for an extended period.” This meant that if you were deployed, the other parent had grounds to file a modification action against you and argue 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 modification case** any time periods that you were deployed.

Also, if you're the custodial parent and you're forced to give custody of the child to the other parent temporarily because of deployment, you can now get the child back within ten days of your return from duty without a hearing.

◆ Note: if the other parent files a motion saying returning the child would cause “immediate danger of irreparable harm,” s/he can delay the return of the child to you until the court holds an expedited hearing on the matter.

New special Court procedures to accommodate your military duty:

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

Delegating your time with your child:

Under the new law, if you're deployed, you can delegate your residential time with your child to a family member of your choice for the duration of your absence, if it's in the child's best interests for you to do so.

◆ Note: choose your “delegate” wisely. The other party in your modification case could argue that your delegate's time needs to be restricted for a variety of reasons under the law.¹

¹ See Revised Code of Washington (RCW) 26.09.191 for the full list of grounds for restrictions on residential time with your child.