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MILITARY CUSTODY PRESENTATION – NC LAMP Conf. 2013

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1. Avoidance of overly vague visitation provisions (e.g. "reasonable" visitation") – Silent Partner on child custody, Co-Counsel Bulletin re same
2. Effect of the extent of visitation on NC child support obligations
3. Cost of long-distance visitation – Silent Partner on visitation costs
4. Addressing visitation during TDY or deployment – Co-Counsel Bulletins, UDPCVA and "Good to Go"
5. Enforcement of custody/visitation provisions in separation agreements and court orders
6. What constitutes "changed circumstances" – Remarriage? Move to another county? Transfer to the West Coast? To Japan?
7. Mechanisms in North Carolina to expedite child custody matters, receive electronic testimony – Co-Counsel Bulletin, UDPCVA [N.C. Gen. Stat. 50A-371, -372]
8. Jurisdiction 101 – basics as to what state has jurisdiction over child custody and visitation
9. Custody/visitation as it relates to Basic Allowance for Housing (BAH). How much time do you need to have with the child to rate BAH? [see below]

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From BAH – Frequently Asked Questions, Defense Travel Management Office

28. What is BAH-Diff?

BAH-DIFF is the housing allowance amount for a member who is assigned to single-type quarters and who is authorized a BAH solely by reason of the member's payment of child support. A member is not authorized BAH-DIFF if the monthly rate of that child support is less than the BAH-DIFF amount. The BAH-DIFF amounts, originally calculated in 1997, are updated annually based on changes in the Basic Pay tables. For more information contact your servicing finance office or consult JFTR, par. U10008.

29. I am divorced with children, what is my BAH allowance?

It depends on whether or not you have legal and physical custody of your children, pay child support, and/or live in single-type government quarters. If you have legal and physical custody of your children, then you are authorized BAH at the with-dependent rate if not assigned adequate family-type government quarters. If your former spouse has custody and you are paying adequate child support (at least in an amount of your BAH-DIFF rate) you are authorized BAH at the with-dependent rate if not in government quarters or BAH-DIFF if assigned single-type government quarters.

30. I am a Service member who is divorced from another Service member and shares legal custody of the child/children with the former spouse. May both members receive BAH with dependents?

No, both members may not receive a housing allowance based on the same dependent. When the former spouses share legal and physical custody of the child, each parent is authorized BAH at the with-dependent rate during the period the child is actually in the parent's physical custody. Both parents may not receive a housing allowance for the child during the same period. The rules governing member to member BAH are found in the JFTR, Chapter 10 - Part C.

31. May I receive BAH if I am a Service member divorced from another Service member and do not have legal or physical custody of the child/children, but I am required to pay the former spouse child support?

No, A member is not authorized BAH or OHA solely on the basis of the member's child support payment when the child/children is/are in another active duty member's custody (including a former spouse), who is assigned to government owned/leased family-type quarters (does not include privatized quarters) or is in receipt of a with-dependent housing allowance on behalf of the child/children. For more information, see JFTR, pars. U10120, U10122, U10124, U10126 and U10206.

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- 10. Enrollment of children in school – Co-Counsel Bulletin, “Schools and Custody”
- 11. Difference between legal custody and physical custody, the meaning of “joint custody”
- 12. The contents and effects of the Uniform Deployed Parents Custody and Visitation Act (UDPCVA), eff. 10/1/13 in NC, already enacted in ND, CO, NV and OK – Co-Counsel Bulletin, UDPCVA

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