



## CUSTODY IN NORTH CAROLINA

COL MARK SULLIVAN  
919-832-8507, Raleigh, NC  
LAW8507@AOL.COM  
www.ncfamilylaw.com

## VISITATION STRATEGIES

■ WHAT IS  
“REASONABLE  
VISITATION”?

## VISITATION STRATEGIES

- VISITATION BY MUTUAL CONSENT... BUT IF PARTIES CAN'T AGREE --?
- “BACKUP” OR DEFAULT SCHEDULE OF VISITATION

## A TYPICAL LOCAL SCHEDULE

- ☞ ALTERNATING WEEKENDS
- ☞ ONE WEEK EACH CHRISTMAS
- ☞ ONE MONTH EACH SUMMER
- ☞ ALTERNATING HOLIDAYS

## FORECASTING LONG-DISTANCE VISITATION

- SUMMERTIME
- CHRISTMAS
- LOGISTICS



**SFC** = Sergeant First Class??



or...

“SITTER OF FIRST  
CHOICE”?!!

## WHAT CAN DAD DO?

- DOCUMENT THOSE REFUSALS
- GO TO COURT FOR VISITATION RIGHTS
- SELF-HELP??



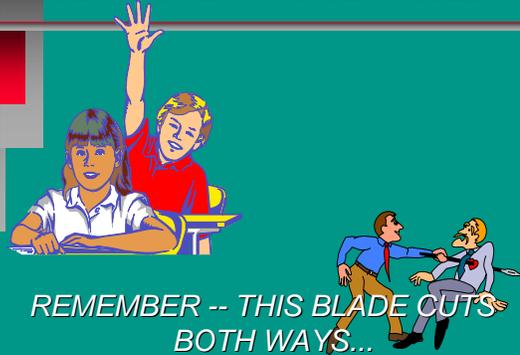
## MILITARY FACTORS



## FACTORS

- IRREGULAR CH. CARE SCHEDULES, "FULL-TIME DUTY," PCS MOVES, ALERTS, DEPLOYMENTS -vs.-
- QUALITY OF SCHOOLS ON BASE
- RECREATIONAL FACILITIES
- DEPENDENT YOUTH ACTIVITIES
- DAY CARE FACILITIES
- TRAVEL TO OTHER STATES & COUNTRIES -- "ENRICHMENT"

## THE VOICE OF THE CHILD



REMEMBER -- THIS BLADE CUTS BOTH WAYS...

## CHANGING CUSTODY

*Factors and Scenarios*

## Factors for Custody Modification

- *Since the last custody order...*
- *Change of circumstances*
- *Substantial*
- *Having an impact on child's welfare*
- *So as to require change of custody*
- *Unforeseeable?*
- *Impact is adverse, harmful?*

## Factors for Custody Modification

The "Usual Suspects" --  
OBJECTIVE and VERIFIABLE

- **HEALTH**
- **EDUCATION**
- **BEHAVIOR**

## SCENARIOS

- "Johnnie's mom was just thrown in jail for child abuse."
- "She's started living with her boyfriend."
- "I've remarried and I'm able to take care of Johnnie now."
- "I just gave up custody to join the Army."
- "She won't let me visit Johnnie."

## SCENARIOS

- "Johnnie's mom was just thrown in jail for child abuse."
- **CHANGE OF CUSTODY WILL BE GRANTED!**

## SCENARIOS

- "She's started living with her boyfriend."
- **Marital fault vs. parental misconduct**
- **Effect on child?**
- **Jarrett case, ILL. '79**
- **Almond case, N.C. App. '79; but see Pulliam v. Smith, N.C. '98**

## SCENARIOS

- "I've remarried and I'm able to take care of Johnnie now."
- **NO SHOWING OF HARM, ADVERSITY**

## SCENARIOS

- "I just gave up custody to join the Army."
- **NOTHING UNFORESEEABLE!**

## SCENARIOS

- "She won't let me visit Johnnie."
- **IS A CHANGE OF CUSTODY REQUIRED?**
- **WHY NOT JUST REQUEST AND ENFORCE VISITATION RIGHTS?**

## 2 MORE SCENARIOS...

- "Johnnie says he wants to live with me now."
- "She's mentally abusing Johnnie."

## SCENARIOS

- "Johnnie says he wants to live with me now."
- **POTENTIALLY DYNAMITE IF CHILD IS OF SUITABLE AGE & MATURITY**
- **NEED OTHER FACTS TO MAKE IT WORK; OTHERWISE...**
- **LIKE A GREAT BOMB WITH NO DELIVERY SYSTEM!**

## SCENARIOS

- "He mentally abusing Johnnie."
- **Please help me...  
HOW DO WE  
PROVE THIS?**

## CUSTODY TRIALS

- **"DON'T LET HIM GET AWAY WITH THAT...  
DEMAND YOUR SETTLEMENT!"**



The Ann Landers Theory of Lawsuits

## LET'S GO TO COURT!



- Becoming involved in a lawsuit is like "being ground to bits in a slow mill; it's being drowned by drops; it's going mad by grains. Hundreds of thousands of people are exposed to such torture each year, some of them actually choosing to initiate the process. They invariably find the experience painful, protracted and expensive. When it has run its course, they often realize that it was futile. Yet there remains a queue of victims impatient for their turn...." --Charles Dickens

*CUSTODY TRIALS*

- *Pro's: enforcement [ct. order]; clearing the air; no need to wrestle with compromises, give-&-take*
- *Con's: Bad blood, hard feelings; time and MONEY*



*CUSTODY TRIALS*

WHAT IS THE COST? -- hiring your own lawyer... or assessment of atty fees for other side's atty?



*CUSTODY TRIALS*

PRIMARY CARETAKER ISSUES: "WHO'S THE MOTHER?"



*WOMEN & CHILDREN FIRST!*



90% of all single-parent families are headed by women.

*CUSTODY TRIALS*

A ROLE FOR MEDIATION??




*WHAT TH' &\*%#\$\$@ %!!?? IS JOINT CUSTODY?*



## JOINT CUSTODY

- LABELS
- REALITY
- TRUE JOINT CUSTODY?



## *JOINT PHYSICAL CUSTODY*

*A TIME-SHARE PROBLEM?*



## *JOINT LEGAL CUSTODY*



**SHARED DECISION-MAKING?**

## *THE "ROADBLOCK PROBLEM"*



*THE OVERSEAS CLIENT...*

*(OR ONE THAT'S JUST FAR  
FROM THE COURTROOM!)*



***PEREMPTORY  
SETTING!!***



**DEPLOYMENT  
AND CHANGE OF  
CUSTODY**



## *Deployment and Change of Custody*

### QUESTIONS FOR THE CLIENT:

- HOW LONG WILL DEPLOYMENT LAST?
- WHO TAKES CARE OF JOHNNIE?
- WHAT EFFECT ON JOHNNIE?
- WHAT EFFECT ON OTHER PARENT?

## *Deployment and Change of Custody*

### OPTIONS FOR THE CLIENT:

- SCRA = FALSE SOLUTION?
- GET CONSENT TO TEMPORARY CUSTODY ARRANGEMENT
- SPECIFY PRESENT CIRCUMSTANCES ON THE CONSENT ORDER, AND TRANSFER CUSTODY TO OTHER PARENT



# THE END

*COL MARK SULLIVAN*