



INTERNATIONAL CUSTODY AND VISITATION ISSUES



The information provided in this document is meant for the sole use of Active Duty service members, retirees, their families, and those individuals eligible for legal assistance. The information is general in nature and meant only to provide a brief overview of various legal matters. Rights and responsibilities vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws are changed from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

1. MY EX-HUSBAND HAS LEGAL CUSTODY OF OUR DAUGHTER. HE SAYS HE'S GOING TO TAKE HER OVERSEAS WITH HIM TO HIS NEXT ASSIGNMENT. CAN HE DO THAT?

A. Yes - Unless a judge orders him not to take her. A parent with legal custody can take a child with him wherever he goes to live in the absence of a court order prohibiting this.

2. CAN HE GET A PASSPORT FOR HER? SHE'S ONLY 11.

A. The U.S. Department of State issues almost 1 million passports annually to children under 18. These passports are valid for 5 years (as compared to an adult passport which is good for 10 years). He can get a passport for her as well as a military dependent ID card (you have to be 10 years old or above to get one of these).

3. HOW DO I GET A PASSPORT FOR A CHILD?

The law requires the signature of both parents prior to issuance of a U.S. passport to children under the age of 16. Both parents, or the child's legal guardians, must execute the child's passport application and provide documentary evidence demonstrating that they are the parents or guardians, or the person executing the application must provide documentary evidence that such person: 1) has sole custody of the child; 2) has the consent of the other parent to the issuance of the passport; 3) is acting in place of the parents and has the consent of both parents, of a parent with sole custody over the child, or of the child's legal guardian, to the issuance of the passport. The law does provide two exceptions to this requirement: 1) for exigent circumstances, such as those involving the health or welfare of the child, or 2) when the Secretary of State determines that issuance of a passport is warranted by special family circumstances. For additional information, see the Bureau of Consular Affairs home page on the Internet at <http://travel.state.gov>.

4. I AM AFRAID MY WIFE WILL KIDNAP OUR SON. ISN'T THERE ANY WAY I CAN FIND OUT IF SHE'S GOTTEN A PASSPORT FOR HIM?

A. Every year the U.S. Department of State receives nearly 3,000 reports of actual or expected abductions. About 1,000 of these involve children of dual nationality. The State Department has set up a "Children's Passport Issuance Alert Program" as a lookout system for the denial of U.S. passports. While it's not a passport use tracking system, it does provide information to a parent about when a passport application is submitted on behalf of a child.



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5. HOW DOES THE CHILDREN'S PASSPORT ISSUANCE ALERT PROGRAM WORK?

A. If the State Department has on file a written request for information for a parent, guardian or court, then the Department will notify that parent, guardian or court if a passport application has been submitted for a child. The alert remains effective until the child turns 18 or a written request is made to end it. Changes in address, phone number or name should be made in writing.

HELPFUL WEBSITES:

North Carolina Legal Aid
<http://www.legalaidnc.org/>

US State Department
http://travel.state.gov/abduction/abduction_580.html

Armed Forces Legal Assistance Website
<http://legalassistance.law.af.mil/>