

## Information Paper

Subj: SERVICE MEMBERS CIVIL RELIEF ACT

Ref: a. U.S. Code 50

1. Purpose. Inform command of the requirements of the Service Members' Civil Relief Act (SCRA), which requires both annual and pre-deployment notification of all Service Members of their rights regarding child custody protections guaranteed by the Service members Civil Relief Act).
2. Action.
  - a. OPNAV (N17) will forward annual request to DFAS (via PERS-2) by 1 Dec of the preceding year to add the following note on all Service members' Leave and Earning statements:  
"FEDERAL LAW PROVIDES SERVICE MEMBERS CERTAIN CHILD CUSTODY PROTECTIONS DURING TIMES OF DEPLOYMENT AS PART OF THE SERVICEMEMBERS CIVIL RELIEF ACT (50 U.S.C. 3901). FOR MORE INFORMATION GO TO <https://www.law.cornell.edu/uscode/text/50/3938>."
  - b. Commands will ensure pre-deployment briefs include this information.
3. Requirements.
  - a. NDA Sec 573 Annual Notice to Members of The Armed Forces Regarding Child Custody Protections Guaranteed by the Service Members Civil Relief Act). The Secretaries of each of the military departments shall ensure that each member of the Armed Forces with dependents receives annually, and prior to each deployment, notice of the child custody protections afforded to members of the Armed Forces under the Service members Civil Relief Act (50 U.S.C. 3901 et seq.).
  - b. U.S. Code, Title 50, War and National Defense, Chapter 50, Service Members Civil Relief (Subchapter I. General Provisions).
  - c. 50 U.S. Code § 3916 - Information for members of the Armed Forces and their dependents on rights and protections of the Service members Civil Relief Act
4. Outreach to members. The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to members and their dependents under the Service members Civil Relief Act [50 U.S.C. 3901 et seq.].
  - a. Time of provision. The information required to be provided under subsection (a) to a member shall be provided at the following times:
  - b. During the initial orientation training of the member.
  - c. In the case of a member of a reserve component, during the initial orientation training of the member and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.
  - d. At such other times as the Secretary concerned considers appropriate.

5. Outreach to dependents The Secretary concerned may provide to the adult dependents of members under the jurisdiction of the Secretary pertinent information on the rights and protections available to members and their dependents under the Service members Civil Relief Act [50 U.S.C. 3901 et seq.].
6. Definitions In this section, the terms "dependent" and "Secretary concerned" have the meanings given such terms in section 101 of the Service members Civil Relief Act.
7. 50 U.S. Code §3938 – Child Custody Protection
  - a. Duration of temporary custody order based on certain deployments
  - b. If a court renders a temporary order for custodial responsibility for a child based solely on a deployment or anticipated deployment of a parent who is a service member, the court shall require that the temporary order shall expire not later than the period justified by the deployment of the Service member.
  - c. Limitation on consideration of member's deployment in determination of child's best interest
  - d. If a motion or a petition is filed seeking a permanent order to modify the custody of the child of a Service member, no court may consider the absence of the Service member by reason of deployment, or the possibility of deployment, as the sole factor in determining the best interest of the child.
  - e. No Federal jurisdiction or right of action or removal
  - f. Nothing in this section shall create a Federal right of action or otherwise give rise to Federal jurisdiction or create a right of removal.
  - g. Preemption
  - h. In any case where State law applicable to a child custody proceeding involving a temporary order as contemplated in this section provides a higher standard of protection to the rights of the parent who is a deploying servicemember than the rights provided under this section with respect to such temporary order, the appropriate court shall apply the higher State standard.
8. Deployment defined. In this section, the term "deployment" means the movement or mobilization of a Service member to a location for a period of longer than 60 days and not longer than 540 days pursuant to temporary or permanent official orders:
  - that are designated as unaccompanied;
  - for which dependent travel is not authorized; or
  - that otherwise do not permit the movement of family members to that location.
9. Command legal offices will provide further details as requested.