

Preparing for a Deployment

Deploying Soldiers usually leave a baby behind. For some it's a bouncing baby girl or boy, for others it's a Mustang or a motorcycle. Either way, if you knew your baby was in trouble while you were gone, you'd have a hard time keeping your head in the fight. Don't let yourself, your family, your unit, and your baby down by failing to prepare your legal documents before deploying. Here are some of the basics you should consider:

Powers of Attorney (POA)

A POA gives someone you designate the power to act in your name. It allows you to choose someone you trust to do what you can do, like take your child for medical care or register your car. It does not require that person to act. There are many kinds of Powers of Attorney. The most common are General Powers of Attorney and Special Powers of Attorney.

A General POA gives the person you designate the power to take almost any legal action for you, including borrowing money and opening and closing accounts. This extensive power has been abused by some and is not accepted at some military offices and banks, so the Legal Assistance Office encourages Soldiers to get a POA that meets their specific needs, a Special Power of Attorney.

A Special Power of Attorney gives the person you choose the power to do one or more specific tasks. Special Powers of Attorney can be drafted for a variety of actions, including shipping or receiving household goods and cars, preparing state taxes, or using and registering a vehicle. Keep in mind, not everyone needs a POA. You usually don't need a POA simply to have someone pay your bills or for your spouse to access an account currently held in both of your names.

Although no one is obligated to accept a POA, if they are properly executed, they are usually accepted. If you know where you want your agent to use a POA, check with that institution before you deploy to ensure it will accept the form.

Wills

Everyone knows what a will is, but not everyone knows if they need one. A will is beneficial if you want to designate a guardian for your children, name a person you trust to handle your will and carry out your wishes—called an executor or personal representative, or if you want your property to go to someone who wouldn't normally receive it under state law. Wills can also be used to set up trusts at your death for minors or spouses or to minimize the tax consequences for large estates.

Certain property may transfer without any reference to your will. Life insurance, like your SGLI, is paid directly to the beneficiaries you name in your SGLV 8286 or in your policy. Your death gratuity of \$100,000, payable within 72 hours of your death, as well as any unpaid pay and allowances are controlled by your designation on the DD Form 93, Record of Emergency Data. You can also designate beneficiaries to receive money in a TSP account or IRA without using a will. Real estate and bank accounts held jointly with a right of survivorship also transfer to the survivor without going through your will.

Know that if you don't do a will, your property will transfer according to the laws of your state of legal residence . If you don't know what the law in your state is, you can make an appointment at the Legal Assistance Office for help.

Living Wills & Healthcare Powers of Attorney

These documents deal with life and death decision-making. Many actively avoid thinking about these difficult issues, but a little preparation now can prevent additional stress and conflict for your family if you become incapacitated.

Your living will speaks for you if you become incapacitated and can no longer express your wishes. It tells your family and your doctors that you don't want to be kept alive under certain circumstances, usually a terminal condition. Living wills also allow you to include other specific instructions about your medical care.

Not everyone chooses to have a living will. Some prefer to have someone else make important, sometimes life or death, medical decisions for them through a Healthcare Power of Attorney. Also, since a living will doesn't cover all possibilities, including temporary incapacitation, a Health Care Power of Attorney is usually recommended in addition to a living will. Although you will probably designate your Health Care Power of Attorney while you are in good health, generally the HPOA becomes effective only if you become incapacitated.

Custody Issues & Family Care Plan

One of the most important things you can do before you deploy is make sure your children will be cared for. AR 600-20 requires single Soldiers with children and dual military couples to have a Family Care Plan. Your Family Care Plan assists you in planning ahead and naming a temporary guardian for your child, but it does not supersede any existing court orders or the possible custodial rights of another parent.

If you leave your child with someone other than the child's parent or legal custodian, that parent or custodian may go to court to seek custody of the child. Although the Servicemember's Civil Relief Act (SCRA) allows you to request a stay of civil court proceedings while deployed, some courts still order custody changes, especially if the order is temporary until you return from deployment. If you are in this situation, you may want to get a court order regarding temporary custody of your child before you deploy. You should speak to a Judge Advocate about your options as soon as possible.

SCRA

When it comes to deployment, the SCRA can be helpful in several areas. First, the Act allows Soldiers to terminate certain leases for things like an apartment or a vehicle. For residential leases, a deployment for 90 days or more permits a Servicemember to terminate the lease. You are required to provide a letter of notice and a copy of your orders to your landlord. Timing is important. Once you provide notice and your orders, make note of the next date the rent is due. The lease will terminate 30 days after that date. For vehicle leases, a Servicemember must receive orders to deploy for 180 days or more in order to terminate the lease. You must give written notice and a copy of your orders to the lessor and return the vehicle

within 15 days of that notice. The lease will terminate when the lessor has received the notice, orders and vehicle.

Second, the SCRA allows Soldiers to request a delay for a civil, not criminal, court proceeding. If you get notice of a civil court proceeding, for instance a divorce or lawsuit, and your military duties prevent you from appearing and presenting a proper defense, you can request that the court delay the case until you are able to appear, usually until after your deployment. Your request will need to include an explanation of why your military duties interfere with your ability to appear and a date when you will be available. Your commander will also need to provide a letter stating that leave is not available. If you receive any type of legal notice while deployed, see a Judge Advocate.

Taxes

Most Soldiers are aware that, depending on your rank, all or some of the military pay earned while in a Combat Zone (CZ) or Qualified Hazardous Duty Area (QHDA) is not subject to federal income tax. For enlisted members and warrant officers, all military pay earned in a CZ or QHDA is exempt from federal tax. Officers can exclude from gross income up to the highest rate of enlisted Basic Pay plus any Imminent Danger or Hostile Fire Pay. Some states also allow exclusions for state income tax, but you'll need to investigate the rule for your state of residence.

Another benefit of deployment is the automatic extension for filing your federal income tax returns. The IRS grants an automatic extension for any tax year in which a Servicemember served in a CZ or QHDA. If you know you are getting a tax refund, you may want to file your taxes on time without using the extension, but if you think you'll be sending a check to the IRS, the extension allows you to pay later and without any added interest. The extension generally starts the day after you leave the Combat Zone and lasts for 180 days plus the number of days you were in the Combat Zone during the tax filing period. Spouses of Servicemembers also get the benefit of an extension. Again, state income tax law varies so you'll need to look at your state's laws regarding extensions.

For more information on the exclusions and extensions see IRS Publication 3: Armed Forces' Tax Guide or your Judge Advocate.

Passports

This one is simple. If you are considering taking R&R in a foreign country while you are deployed, you should get your passport before you leave. Although it is possible to get a passport while deployed, it can be more difficult and time consuming.

This list of pre-deployment legal issues may seem long, but it is not all inclusive. Legal problems don't usually get ripe over time. They get rotten. If you have a legal issue of any kind hanging over your head, it is best not to ignore it and assume you can deal with it later. See a Judge Advocate to learn about your legal options before you deploy. Don't let yourself or your baby down.