

A Brief Guide to Military Family Support

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Paternity

For each of the military services, paternity is a civil matter to be determined by the courts.

Family Support

INTERIM SUPPORT REGULATIONS: Regulations of the Army, Navy, Marine Corps and Coast Guard specify the level of support required when spouses have separated or when the parents of a child are separated (or not married) and there is no court order or agreement for child support.

- Point of Contact: Unit Commander
- Nonsupport letter

The interim support regulations for family support vary with each branch of the uniformed services. Each of the services has a different standard for the enforcement of support obligations for family members when there's no court order. Here's a quick overview:

Army Rules

- Army Regulation 608-99 [also located at 32 C.F.R. § 584] requires a soldier to provide support for family members. In the absence of a court order or an agreement between the parties, AR 608-99 establishes interim support guidelines.
 - Basic Allowance for Housing, BAH (RC/T).
 - You may obtain the BAH tables from the Defense Travel Management Office's website, <http://www.defensetravel.dod.mil/site/bahCalc.cfm>.
 - The full BAH which a SM receives is shown on the pay statement (also called a Leave and Earnings Statement, or LES) of the SM.
- As a general rule, the soldier must provide support in an amount equal to the full BAH (RC/T) at the *with-dependents* rate.
 - If the soldier is required to provide support to more than one group of dependents, the interim guidelines provide for a *pro rata* distribution.
 - If the family is residing in government furnished quarters, the interim support will be the difference between the BAH (RC/T) at the with-dependent rate and the BAH (RC/T) at the without-dependent rate. This is referred to as BAH-DIFF.

- If both parents are in the military, the interim support for any children will be BAH-DIFF.
- Soldiers are required to provide support regardless of whether or not they receive any BAH.
- These support guidelines are mandatory (unless there is a court order or an agreement between the parties). Failure to pay constitutes a violation of a lawful general regulation and may be punishable by court-martial.
 - Exception: spousal support if spouse's income > SM income

Air Force Rules

- The Air Force will advise its members that they are expected to provide adequate financial support to family members and will encourage them to utilize civilian courts.
- If a member of the Air Force receives the Basic Allowance for Housing (BAH) at the with-dependents rate based on dependents that the SM refuses to support, then the BAH will be terminated and the Air Force will recoup the BAH at the with-dependent rate for periods of non-support.

Marine Corps Rules

The support regulation refers to a table, which is shown below, for support obligations in the absence of an agreement or court order. The regulation states that the Marine involved shall pay the greater of either the fixed amount of support for the requesting family member as found in the middle column, or else the fraction of BAH/OHA¹ (right column) based on the total number of eligible family members that exist, as shown in the left column.

THE MARINE CORPS POLICY INTERIM FINANCIAL SUPPORT STANDARDS

<u>Total # of Family Members Entitled to Support</u>	<u>Minimum Amount of Monthly Support per Requesting Family Member</u>	<u>Share of Monthly BAH/OHA per Requesting Family Member</u>
1	\$350	1/2
2	\$286	1/3
3	\$233	1/4
4	\$200	1/5
5	\$174	1/6
6 or more	\$152	1/7 or etc.

A commanding officer has the discretion to reduce or eliminate the interim financial support

¹ OHA is overseas housing allowance. It is a monthly allowance paid to SMs assigned to a duty station outside the continental United State, except for Hawaii and Alaska, who are authorized to live in private housing. It helps to defray the housing costs and includes components which are equivalent to rent, utility and/or recurring maintenance expenses, and a move-in housing

standards if:

- the gross income of the complaining spouse exceeds the gross military pay of the Marine,
- the interim support has been provided for a continuous and uninterrupted period of 12 months,
- the Marine has been the victim of substantiated instance of abuse by a spouse seeking support, or
- the Marine “is paying regular and recurring obligations such as rent or consumer debts of the family members requesting support of sufficient magnitude and duration as to justify a reduction or elimination of interim support.”²

Navy Rules

The Navy nonsupport policy states that, in the absence of an agreement or order, a unit commander may use the following as a guide for the adequacy of support:

- Spouse only: 1/3 of gross pay
- Spouse and one minor child: 1/2 of gross pay
- Spouse and two or more children: 3/5 of gross pay
- Spouse and four or more children: >3/5 of gross pay
- One minor child (no spousal support): 1/6 of gross pay
- Two minor children (no spousal support): 1/4 of gross pay
- Three minor children (no spousal support): 1/3 of gross pay.

For these purposes “gross pay” includes base pay and the BAH but doesn’t include the basic allowance for subsistence (BAS), hazardous duty pay, sea or foreign duty pay, or incentive pay.³

A sailor may request a waiver of spousal support based on desertion without cause, physical abuse, or for infidelity on the part of the spouse.

Coast Guard Rules

When there is no order or agreement, the following support scale is used:

- Spouse only: BAH difference plus 20% of base pay
- Spouse and one minor child: BAH difference plus 25% of base pay
- Spouse and two or more minor children: BAH difference plus 30% of base pay
- One minor child: 16.7% (1/6) of base pay
- Two minor children: 25% (1/4) of base pay
- Three or more minor children: 33% (1/3) of base pay.⁴

allowance.

² *Id.* at § 15005.

³ U.S. DEP’T OF NAVY, NAVAL MILITARY PERSONNEL MANUAL art. 1754-030 (Support of Family Members) (22 Aug. 2002), para. 4.

⁴ *Id.* “BAH difference” means the monetary difference between Base Allowance for Housing at the WITH-DEPENDENTS rate

Defenses to non-support of a spouse include infidelity or desertion. Defenses to non-support of a child are inability of the SM to ascertain the whereabouts and welfare of the child, or the facts that the person seeking support does not have physical custody of the child.⁵

Military Pay

- Military compensation: basic pay + other entitlements (BAH, BAS, Special Skill Pay, Bonuses)

Guard and Reserve Pay

When calculating income for support purposes, do not overlook the members of the National Guard and Reserve. Unlike active duty SMs, these Reserve Component (RC) SMs usually hold civilian jobs. Most of them are assigned to a unit that drills one weekend a month and for two weeks during Annual Training, usually during the summer. RC SMs receive pay for these drills. They receive pay statements each month and a W-2 form each January. Note that some RC SMs are designated Individual Mobilization Augmentees (IMA) and only drill once a year during Annual Training. Others are assigned to the Individual Ready Reserve (IRR) and might only drill annually as well.

Resources for Understanding the LES

The best websites to use in understanding and explaining military pay are:

- <http://www.dfas.mil> - click on the Search window and type in “Understanding Your Pay” – which will lead to a web page explaining the various elements of pay and allowances found on the Leave and Earnings Statement.
- <http://militarypay.defense.gov> - contains information on military pay, allowances, retired pay and the BAS and BAH.

A summary of how to read an LES is found at the end of this manuscript. Rules regarding the taxation military pay and benefits can be found in IRS Publication 3, *Armed Forces Tax Guide*.⁶ A SM may also be subject to income tax from his or her state of legal residence, or domicile.

Setting Child Support

The general rules on child support guidelines indicate that all income goes into the calculation. This means that the court should usually consider *all* pay and allowances in setting the support obligation.

- For cases upholding this approach, see *Hautala v. Hautala*, 417 N.W.2d 879 (S.D. 1988), citing *Rose*

and the WITHOUT-DEPENDENTS rate.

⁵ *Id.*

⁶ The current version can be found at <http://www.irs.gov>.

v. Rose, 481 U.S. 619, 107 S. Ct. 2029, 95 L. Ed. 599 (1987); *Massey v. Evans*, 886 N.Y.S.2d 280, 68 A.D.3d 79 (N.Y. Sup. Ct., App. Div. 2009); *State of Neb. on Behalf of Hopkins v. Batt*, 253 852, 573 N.W.2d 425; *Alexander v. Armstrong*, 415 Pa. Super. 263, 609 A.2d 183 (1992); *Tamayo v. Arroyo*, 15 A.3d 1031 (R.I. 2011); *In re Marriage of Stanton*, 190 Cal. App. 4th 547, 118 Cal. Rptr. 3d 249 (Ct. App. 2010); *Norman v. Norman*, 50 So. 3d 1107 (Ala. Civ. App. 2010); *Merkel v. Merkel*, 51 Ohio App. 3d 110, 554 N.E.2d 1346 (1988); *Jackson v. Jackson*, 403 N.W.2d 248 (Minn. Ct. App. 1987); and *Peterson v. Peterson*, 98 N.M. 744, 652 P.2d 1195 (1982).

- A court may determine, however, that an item is not “income” under the applicable state guidelines. *See, e.g., Kelly v. Kelly*, 2003 Conn. Super. LEXIS 3573 (Conn. Super. Ct. Dec. 18, 2003) (unpublished) (holding that the BAS was not an employment “perk” nor a “fringe benefit” and thus not includable in the SM-father’s income for purposes of calculating his child support obligation; also holding that the mother had not proven that the Family Separation Allowance [currently \$250 per month] was received on a regular or recurrent basis by the SM-father and thus was not income for child support purposes).
- For a discussion of how to argue against the inclusion, see **Excerpt from November 2012 “Best of the FamLawEsq List” – ABA Family Law Section** at the end of this manuscript.

As an example of how to recalculate the taxable equivalent of the BAH and BAS, assume a SM earns \$24,000 a year from his base pay, that he receives \$500 a month in nontaxable BAH and BAS, and he pays \$4,800 in federal income tax. This means that his actual tax rate is 20%. To convert the nontaxable entitlements into their taxable equivalent for federal income tax purposes, follow the steps below:

- A. Find his actual tax rate. [This is 20%, as shown above]
- B. Convert this to a decimal and subtract it from 1.00. [This would be 1.00 - .20, or **.80**]
- C. Take this figure and divide it into the sum of BAS and BAH above. [$\$500 \div .80 = \underline{\$625}$]
- D. The result will be the federal taxable equivalent of these nontaxable allowances. Thus, \$625 is the taxable equivalent of BAH and BAS of \$500 for federal tax purposes at the 20% tax rate.

Obtaining Documents from the Other Side, from the Government

- Privacy Act of 1974.⁷
- When trying to obtain pay and personnel records, there are only four options:
 - ASK YOUR CLIENT.
 - DISCOVERY.
 - CONSENT. A consent for which is acceptable to DFAS is found at the end of this manuscript.
 - DIRECTLY FROM THE GOVERNMENT (COURT ORDER, SUBPOENA, DISCOVERY)

Requests for Payroll Information of Servicemembers

DFAS will respond to a written request in the form of a subpoena for information regarding the pay of military personnel. The request letter and subpoena should be sent to:

<p>Air Force DFAS Denver Center ATTN: DFAS-DCC/DE 6760 E. Irvington Place Denver, CO 80279-8000</p>	<p>Marine Corps DFAS Kansas City Center ATTN: DFAS-DCC/KC 1500 East Bannister Road Kansas City, MO 64197-0001</p>
<p>Army DFAS Indianapolis Center ATTN: DFAS-DCC/IN, Column 302G 8899 East 56th Street Indianapolis, IN 46249-0865</p>	<p>Navy DFAS Cleveland Center ATTN: DFAS-DCC/CL, Room 1429 1240 East 9th Street Cleveland, OH 44199-8006</p>
<p>Coast Guard US Coast Guard Pay and Personnel Center ATTN: Commanding Officer (CCB) 444 S.E. Quincy St. Topeka, KS 66683-3591</p>	<p>Retired Military Pay DFAS Cleveland Center ATTN: DFAS-DCC/CL 1240 East 9th Street Cleveland, OH 44199-8006</p>

PRACTICE TIP

Below are some resources and references you might need for military family support cases:

1. Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform Act), Pub. L. No. 104-193, 110 Stat. 2105 (1996).
2. Uniformed Services Former Spouses' Protection Act (USFSPA), 10 U.S.C. § 1408 (2002).
3. 42 U.S.C. §§ 659–663 (2002) (Garnishment); 5 C.F.R. Part 581 (2002) -(Processing Garnishment Orders

⁷ 5 U.S.C. § 552a.

for Child Support and/or Alimony).

4. 15 U.S.C. § 1673 (2002) (Restriction on Garnishment).
 5. 42 U.S.C. § 665 (2002) (Allotments); 32 C.F.R. Part 54 (Allotments for Child and Spousal Support).
 6. U.S. Department of Defense, Dir. 5525.9 (Aug. 17, 1990) (Compliance of DoD Members, Employees, and Family Members Outside the United States with Court Orders).
 7. Joint Federal Travel Regulations, Chapter 1B, "Housing Allowances."
 8. U.S. Department of Army Regulation 608-99 (Nov. 29, 2003) (Family -Support, Child Custody, and Paternity) (hereinafter AR 608-99).
 9. U.S. Department of Navy, Naval Military Personnel Manual Articles 1754-030 (Support of Family Members) (ch. 15, April 26, 2006) and 5800-10 (Paternity Complaints) (Aug. 22, 2002).
 10. U.S. Marine Corps Order P5800.16A; Marine Corps Manual for Legal Administration, ch. 15 (2003) (Dependent Support and Paternity).
 11. U.S. Department of Homeland Security, U.S. Coast Guard Commandant Instr. M1000.6A, ch. 8M (May 3, 2001) (Supporting Dependents).
 12. Defense Finance and Accounting Service (DFAS) Website: <http://www.dfas.mil>
 13. Department of Health and Human Services, "Quick Guide to Working with the Military as an Employer."
 14. Department of the Army info-letters on family support: www.jagcnet.army.mil/legal > Family Law Matters > Child & Family Support.
 15. Navy information on garnishment for family support at: Secretary of the Navy (SECNAV) Instruction 7200.16, "Garnishment of Pay of Naval Military and Civilian Personnel for Collection of Child-Support and Alimony," found at 32 C.F.R. Part 734.
 16. Chapter 15 of the *Legal Admin Manual*, U.S. Marine Corps.
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Deployment and Expedited Hearings: THE SCRA

- Change in Income due to Mobilization: The first advice to give such a client is to file a motion to modify the support immediately.
- The option of a continuance, also known as a stay of proceedings under the Servicemembers Civil Relief Act, 50 U.S.C. App. § 522, requires four elements, as set forth in the following checklist:
 - A statement as to how the servicemember's current military duties materially affect his or her ability to appear;
 - A statement of a date when the servicemember will be available to appear;
 - A statement from the servicemember's commanding officer that the servicemember's current military duty prevents his or her appearance; and
 - A statement that military leave is not authorized for the servicemember at the time of the statement.
- Section 316(f) of the Uniform Interstate Family Support Act (UIFSA) provides for parties to "testify by telephone, through audiovisual means or by any other electronic means."

Medical Expenses

Information about TRICARE can be found in the TRICARE Standard Handbook, available at the

nearest uniformed services medical facility or from the TRICARE website, www.tricare.mil.

For medical care and health insurance, it is first necessary to determine whether the child (or spouse in an alimony case) is enrolled in the Defense Enrollment Eligibility Reporting System (DEERS). If the family is intact, the military member (also known as the “sponsor”) initiates the dependent's enrollment by filling out DD Form 1173. When the family is separated, the custodial parent can start the process by mail and then come in to the nearest military base to sign the final documents. With a child over ten years old, a military dependent ID card will be issued and the child’s picture will be taken. Contact the nearest military installation for more details. The location of the nearest place for enrollment or military installation can be obtained from the DEERS Telephone Center: 800-538-9552.

Once a child is enrolled in DEERS, he or she is eligible to receive medical care in two ways:

- Medical care and medications may be obtained from military hospitals and clinics at no charge; or
- TRICARE can be used with civilian health care providers. It is usually best to use military facilities for medical care, since it cuts down on paperwork, time and costs. The branch of service of the enrollment site doesn’t have to match the branch of service of the military parent; for example, although the father may be in the Air Force, the family members can get treatment at the nearest Navy facility.

Children born outside marriage are entitled to medical care TRICARE if the following conditions are met:

- a. The child is acknowledged and supported by the member; or
- b. There is a judicial decree of paternity.

A military ID card is issued to prove eligibility. If the member will not cooperate in getting a card for the child, his or her commander can coordinate issuance of the card.

TRICARE and Former Military Spouses

In most instances the non-military spouse will lose her access to TRICARE effective one minute after midnight on the day following the entry of a final decree of divorce, dissolution or annulment. However, if the former spouse can satisfy certain criteria as a 20/20/20 spouse⁸ she can maintain her full eligibility for TRICARE. These criteria are:

- 1) Not have remarried;

⁸ 10 U.S.C. §1072(2)(f).

- 2) Not be covered under an employer provided health insurance program;
- 3) Have been married to the Military Spouse for at least 20 years;
- 4) The Military Spouse has 20 creditable years of service for retirement; and
- 5) At least 20 years of the marriage was concurrent with at least 20 of the years of the creditable service used to determine the Military Spouse's retirement.

There is also a similar 20/20/15⁹ rule for unremarried former spouses who otherwise satisfy all of the criteria as a 20/20/20 former spouse except that they have at least 15 years of concurrent time of the marriage with the Military Sponsor's 20 years of creditable service that occurred during a 20 year marriage. However for 20/20/15 unremarried former spouses who divorced after April 1, 1985 will have only one year of TRICARE eligibility after the divorce. For your reference, the Air Force Former Spouse Determination Program pamphlet on military healthcare is attached and the Handbook for Military Life Benefits 2012 can be found at <http://militarytimes.com/projects/benefits-handbook/>. Also, attached is a Q & A handout on unremarried former spouses and their Tricare and other entitlements.

In applying the 20/20/20 and 20/20/15 tests, the rules become esoteric as to what periods of the Military Spouse's service were "creditable" for retirement. These rules vary depending upon which branch of the uniform services the Military Sponsor serves in and whether they are active duty or in a Reserve Component. There is a Former Spouse Determination Program whereby the former spouse can formally request the parent service to advise them of the number of years and months their marriage was concurrent with the creditable time used to determine the Military Spouse's retirement. The contact information for the individual offices of the uniform services are:

1) Air Force

Personnel Center Randolph
Total Force Service Centers—San Antonio & Denver
1-800-525-0102
DSN 665-5000
afpc.fmrsp@us.af.mil (San Antonio)
Fax (210) 565-6219, DSN 665 (San Antonio)
arpc.contactcenter@arpc.denver.af.mil (Denver)
Fax (478) 327-2215, DSN 497 (Denver)

2) Army

Human Resource Center of Excellence Ft Knox
1-888-276-9472, Fax (502) 613-9535
usarmy.knox.hrc.mbx.tagd-deers@mail.mil
Army National Guard

⁹ 10 U.S.C. §1072(2)(G) and §1072(2)(H).

Field Systems Operations Arlington
1-866-810-9183, Fax (703) 607-8448

3) Navy

Navy Personnel Command Millington
www.npc.navy.mil/CommandSupport/PayPersSupport
(901) 874-3362, Fax 2766

4) Marine Corps

HQ U.S. Marine Corps Quantico
Manpower & Reserve Affairs
1-800-336-4649, Fax (703) 784-9834

5) Coast Guard

Coast Guard Pay & Personnel Center Topeka
Retiree & Annuitant Services
1-800-772-8724, (785) 339-3441, Fax 3770

6) Public Health Services

Division of Commissioned Corp Officer Support
Rockville
(240) 453-6131, Fax 6134

7) National Oceanic Atmospheric Administration

Commissioned Personnel Center Silver Springs
(301) 713-0850, ext 158, Fax 4140

The rules on issuing Military ID Cards for military dependents and former spouses is a joint service regulation. The Air Force serves as the agency with primary responsibility for its development and publication. You can access a copy by using your Internet Browser's search engine and typing in "AFI 36-3026_IP". Chapter 3 of the regulation deals specifically with former spouses and chapter 4 addresses children. A copy of the regulation is attached.

Continued Health Care Benefit Program (CHCBP)

If the SM's spouse for some reason loses eligibility to medical care (such as due to divorce), she may purchase a conversion health policy¹⁰ under the DOD Continued Health Care Benefit Program (CHCBP). CHCBP is not part of TRICARE, but a health insurance plan negotiated between the Secretary of Defense and a private insurer. She must apply for coverage within 60 days of losing her TRICARE eligibility.

¹⁰ 10 U.S.C. §1086(a).

DoD sets the premiums for CHCBP, and they must be paid quarterly. For 2013 the premiums were set at \$1138. It is essential that the CHCBP premiums be paid on time and coverage not lapse, because re-enrollment will not be permitted.

Upon purchase of the CHCBP policy the former spouse is entitled, upon request, to medical care until the date that is 36 months after (1) the date on which the final decree of divorce, dissolution or annulment occurs or (2) the date the one-year extension of dependency under 10 U.S.C. 1072(2)(H) (for 20/20/15 spouses with divorce decrees on or after April 1, 1985) expires, whichever is later.¹¹

For further information on CHCBP contact a military medical treatment facility health benefits advisor, or contact the CHCBP Administrator, P.O. Box 1608, Rockville, MD 20849-1608 (1-800-809-6119). General information and enrollment procedures are also available online at: <http://www.humana-military.com/south/bene/TRICAREPrograms/chcbp.asp>.

For certain unremarried former spouses who cannot satisfy the 20/20/20 or 20/20/15 rules may nevertheless be eligible for *indefinite* medical coverage through CHCBP (under 10 U.S. Code 1078a and 32 CFR §199.20). At present DoD is reviewing who may qualify for indefinite CHCBP coverage. The criteria DoD uses at this time that the former spouse must:

- 1) Have not remarried prior to age 55;
- 2) Not be covered under a TRICARE program (20/20/20 and 20/20/25 former spouses);
- 3) Receive a portion of military retired pay; or receive a survivor annuity (i.e., the Survivor Benefit Plan, or SBP) [NOTE – It is strongly recommended that BOTH of these be involved, not just “either-or”]
- 4) Have been divorced after the member retired.

The current DoD contractor for CHCBP is Humana Military Healthcare Services.

Life Insurance

If you do decide to use life insurance to back up child support promises in the event of the untimely death of the military member, just don't rely on SGLI (Servicemembers' Group Life Insurance). A 1981 Supreme Court case, *Ridgway v. Ridgway*,¹² states that a servicemember may choose whichever life insurance beneficiary he desires, regardless of court orders or separations agreements. So be sure not to include SGLI as the method of funding a child support death benefit. Protect your client by ensuring that there's other life insurance owned by the non-custodial parent.

Garnishment

¹¹ 10 U.S.C. §1078a(g)(1)(C).

¹² *Ridgway v. Ridgway*, 54 U.S. 46, 102 S. Ct. 49 (1981).

Federal law (42 U.S.C. § 659) authorizes the garnishment or attachment of the pay of active, Guard/Reserve, and retired members of the military, as well as the pay of civilian civil service employees, for child support and/or spousal support.

Include the following to allow identification of the payee and processing of the garnishment:

1. Full name of the SM;
2. Date of birth of the SM;
3. Social Security number of the SM;
4. Component and duty station (e.g., U.S. Air Force, stationed at Andrews AFB, Maryland); and
5. Status of obligor (e.g., active-duty, Utah Air National Guard or Navy Reserve).

The list of designated agents for the federal government is found at 5 C.F.R. Part 581, Appendix A. For all DoD SMs (active-duty SMs as well as retirees and members of the National Guard and Reserve), the agent is:

Assistant General Counsel for Garnishment Operations
Defense Finance and Accounting Service
Cleveland Center—Code L (DFAS-CL/L)
P.O. Box 998002
Cleveland, Ohio 44199-8002

The telephone number for the Garnishment Operations section of DFAS is (216) 522-5301. The garnishment agent for the Coast Guard, now a part of the Department of Homeland Security, is:

Commanding Officer (LGL)
Personnel Support Center
444 S.E. Quincy Street
Topeka, KS 66683-3591
Telephone: 785-339-3596
Fax: 785-339-3784

You can find fact sheets and other helpful information at “Garnishment” on the DFAS website, www.dfas.mil.

Involuntary Allotment

The addresses for involuntary allotment are:

All DoD military personnel-
Defense Finance and Accounting Service
Cleveland Center—Code L (DFAS-CL/L)
P.O. Box 998002

Cleveland, Ohio 44199-8002

Coast Guard-

Commanding Officer, Coast Guard Personnel Support Center

444 S.E. Quincy

Topeka, KS 66683-3591

Telephone: 785-339-3596

Fax: 785-339-3784

The form for involuntary allotments is DD Form 2653. It is available from the following Defense Department Website: <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.

Retired Pay and Support

Finally, the Uniformed Services Former Spouses' Protection Act ("USFSPA"), 10 U.S.C. § 1408, authorizes division of disposable retired pay for purposes of child support, spousal support, or both by means of garnishment of retired pay. A final decree of divorce, dissolution, or legal separation must be served on DFAS. The decree must be from a court of competent jurisdiction. You must include as a cover sheet a completed DD Form 2293, found at "Garnishment" at the DFAS website. The total of all direct support payments under the statute may not exceed fifty percent of disposable retired pay.

Here is a table comparing the above three methods of support payments:

	GARNISHMENT	INVOLUNTARY ALLOTMENT	USFSPA
Pay subject to process	Basic pay, bonus pay and retired pay	Basic pay, BAH and BAS and bonus pay	Disposable retired pay
Obligation enforced	Child support and/or alimony; arrears; attorney fees	Child support or child support plus alimony; arrears	Child support and/or alimony
Triggering events	A court order for garnishment	Letter or court order issued by an authorized person, plus an underlying support order, and arrears equal to two months' support	Final decree of divorce, dissolution or legal separation
Amount subject to process	50-65% of applicable pay	50-65% of applicable pay	50% of disposable retired pay

Resources and Websites

ABA Standing Committee on Legal Assistance for Military Personnel (LAMP):

www.abanet.org/legalservices/helpreservists/forms/lampbrochure.pdf and
www.abanet.org/legalservices/lamp/home.html

Resources for legal assistance issues (e.g., tax, family law, Servicemembers Civil Relief Act, Uniform Interstate Family Support Act, custody, jurisdiction, military pension division, etc.)

ABA Family Law Section's Military Committee: www.abanet.org/family/military

Includes information such as volunteer list for Operation Stand-By, all the Silent Partners (info-letters on family law matters), written materials from September 2005 and May 2006 military divorce seminars, past issues of *Roll Call* (Committee's newsletter), pre-deployment legal resources, etc.

ABA GP/Solo Section Articles ("Legal Face of War")

<http://new.abanet.org/divisions/genpractice/Pages/LegalFaceofWar.aspx>

Includes topics such as: deployment issues, reemployment rights of recalled Reservists, survivor benefits, estate planning and veteran's benefits.

Air Force: www.af.mil

Air Force Reserve: www.afreserve.com

Air National Guard: www.ang.af.mil

Allotments: 42 U.S.C. § 665 (2002).

Allotments for child and spousal support: 32 C.F.R. pt. 54.

Armed Forces legal assistance offices: <http://legalassistance.law.af.mil/content/locator.php>

Armed Forces Tax Guide: www.irs.gov/pub/irs-pdf/p3.pdf

U.S. Army: www.army.mil

Army Family Liaison home page: www.armyfamiliesonline.org

Army JAG Corps Legal Assistance Public Page: www.jagcnet.army.mil/legal

Army JAG School: www.jagcnet.army.mil/tjaglcs

Go to TJAGLCS Publications, then scroll down to "Legal Assistance" for course books for recent legal assistance classes covering family support, estate planning, deployment, taxes, separation agreements, custody, etc... and for all the School's guides to military family law topics (extensively footnoted and well written by the School's professors).

Army personnel issues: <http://www.armyg1.army.mil/>

Army Regulations: family support, child custody and paternity.
AR (Army Regulation) 608-99 (29 Nov. 2003).

Army Reserve: www.armyreserve.army.mil

Army Reserve Benefits: www.goarmy.com/benefits/after_the_army.jsp

Basic Allowance for Housing (BAH): U.S. Dep't of Defense Financial Management Reg, vol. 7, pt. A, ch. 26 (Sept. 2000).

BAH: <http://defensetravel.dod.mil/perdiem/bah.html>

Amount of BAH by zip code.

Coast Guard: www.uscg.mil

Coast Guard family support regulations: U.S. Dep't of Homeland Security, U.S. Coast Guard Commandant Instr. M1000.6A, ch.8M (Supporting Dependents)(2 May 2001), http://www.uscg.mil/directives/cim/1000-1999/CIM_1000_6A.pdf

Coast Guard Reserve: www.uscg.mil/reserve/

Code of Federal Regulations: www.gpoaccess.gov

Continued Health Care Benefit Program (CHCBP):

<http://www.humana-military.com/south/bene/TRICAREPrograms/chcbp.asp>

Humana Military Health Care Services website

Court order compliance as to family support: U.S. Dep't of Defense, Dir. 5525.9 (17 Aug. 1990)

Includes compliance of DoD members, employees and family members outside the United States with court orders.

Defense Enrollment Eligibility Reporting System (DEERS): <http://www.tricare.mil/DEERS/default.cfm>

Enrollment information necessary for military medical care (on base or TRICARE)

Defense Finance and Accounting Service (DFAS)-main site: www.dfas.mil

DFAS—garnishment information for child support and alimony:

<http://www.dfas.mil/militarypay/garnishment/childsupportandalimonyfaqs.html>

DFAS Garnishment Quick Guide: <http://www.dfas.mil/militarypay/garnishment/DFAS-QuickGuide-05-2007.pdf>

DFAS website—commonly asked questions about pay, allowances:

<https://corpweb1.dfas.mil/askDFAS/askDFAS.jsp>

Defense Technical Information Center (DTIC): www.dtic.mil

Department of Defense (DoD): www.defense.gov

DoD Dictionary of Military Terms: www.dtic.mil/doctrine/dod_dictionary

DoD Directives: www.dtic.mil/whs/directives/corres/dir.html

DoD Forms: www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm

Employer Support of the Guard and Reserve: www.esgr.org

Garnishment: 42 U.S.C. §§ 659-662 (2002).

Garnishment—Processing for child support and alimony: 5 C.F.R. pt. 581 (2002).

Garnishment—Restrictions: 15 U.S.C. § 1673 (2002).

Leave and Earnings Statement (LES):

http://www.dfas.mil/militarypay/newinformation/Active_Duty_LES_Guide.pdf

(how to read a Leave and Earnings Statement) and www.dfas.mil/militarypay/newinformation.html
(includes Guard, Reserve and active-duty LES's)

Marine Corps: www.usmc.mil

Marine Corp Legal Assistance:

http://www.marines.mil/unit/judgeadvocate/Pages/Home/SJA_to_the_CMC.aspx

Includes an automatic child support calculator (type into search engine “Automatic Support Calculator”)

Marine Corps—Support. U.S. Marine Corps Order P5800.16A, *Marine Corps Manual for Legal Administration*, ch. 15 (Dependent Support and Paternity)2003-

<http://www.marines.mil/news/publications/documents/MCO%20P5800.16A%20CH%201-5.pdf>

Marine Forces Reserve: www.marforres.usmc.mil

Military branches: www.nightscribe.com/Military/military_branches.htm

Military Pay and Garnishment: www.dfas.mil/militarypay.html

Finding the military status of an individual, facts sheets on alimony and child support, mobilization information, and medical support)

Military pay tables: <http://www.dfas.mil/militarypay/militarypaytables.html>

Includes current and prior military pay scales (helpful for calculating retired pay)

Military Record Requests: www.archives.gov/st-louis/military-personnel/standard-form-180.html

myPay questions and answers: <https://mypay.dfas.mil/FAQ.htm>

National Guard: www.nationalguard.com and www.arng.army.mil

Navy: www.navy.mil

Navy Military Personnel Manual. U.S. Dep't of Navy, Art. 1754-030 (Support of Family Members)-

http://www.npc.navy.mil/ReferenceLibrary/MILPERSMAN/1000MilitaryPersonnel/1700Morale/1754_0

[30.htm](#)

and Art. 5800-10 (Paternity Complaints)(22 Aug. 2002)-

http://www.bupers.navy.mil/ReferenceLibrary/MILPERSMAN/5000Admin/5800_010.htm

Navy Reserve: www.navyreserve.com

North Carolina's State Bar Military Committee: <http://www.nclamp.gov/>

Includes general client handouts (TAKE-1 for North Carolina, "Legal Eagle" for general issues, not state-specific), attorney infoletters ("Co-Counsel Bulletin" and SILENT PARTNER), "A Judge's Guide to the Servicemember's Civil Relief Act," "A Judge's Guide to Military Divorce in North Carolina," and N.C. School of Government pamphlets on international establishment and enforcement of support, international service of process, service of process on military personnel and UIFSA.

Office of Child Support Enforcement – Guides on Nonsupport:

Working with the Military as an Employer- A Quick Guide –

http://www.acf.hhs.gov/programs/cse/newhire/employer/publication/military_quick_guide.pdf

Working with the Military on Child Support Matters: Trainer Guide

http://www.acf.hhs.gov/programs/cse/pubs/training/working_with_military/working_with_military.pdf

Reserve Affairs (Office of Assistant Secretary of Defense): www.dod.mil/ra/index.html

Standard Forms (SFs) from the Office of Personnel Management: www.opm.gov/forms/html/sf.asp

TRICARE: www.tricare.mil

TRICARE Continued Health Care Benefits: www.tricare.mil/chcbp/default.cfm

TRICARE local, regional toll-free numbers: www.tricare.mil/contactus/

Uniform Interstate Family Support Act (UIFSA)—Procedural Guidelines Handbook

www.acf.hhs.gov/programs/cse/fct/uifsahb.htm

Includes UIFSA Q&A and Lawyer's Reference.

Uniformed Services Former Spouses' Protection Act (USFSPA):

www.dfas.mil/garnishment/military/AttorneyInstruction-01-04-10.pdf

Attorney's Guide to Garnishments for family support and military pension division

Veterans Affairs (VA): www.va.gov

Information on VA benefits and programs

Welfare Reform: Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996)

<http://aspe.hhs.gov/hsp/abbrev/prwora96.htm>

Glossary of Terms, Abbreviations, and Acronyms*

Active Duty: Full-time duty in the active armed forces of the United States, including full-time training duty, annual training duty, and attendance (while in the active service), at a school designated as a service school by law or by the service secretary concerned.

Active Duty for Training: Full-time duty in the active armed forces of the United States for training purposes.

Allotment: A specified amount of the pay and allowances of a servicemember (SM) designated to be paid by the military pay center to a qualified allottee.

Allowance: A monetary amount paid to an individual in lieu of furnished quarters, subsistence, or the like; in general, allowances are non-taxable.

AR: Army Regulation.

Armed Forces of the United States: The U.S. Army, Navy, Marine Corps, Air Force, and Coast Guard.

Basic Allowance for Housing (BAH): A tax-free housing allowance that is provided to SMs (with or without family members) who are authorized to live off-base, or sometimes to those who receive these funds due to the need to pay child support. BAH amounts are determined according to rank, location, and dependency status, that is, whether or not the member has dependents.

Basic Allowance for Subsistence (BAS): An allowance that is meant to offset costs for a SM's meals. This allowance is based in the historic origins of the military in which the military provided room and board (or rations) as part of a member's pay. Beginning on January 1, 2002, all enlisted members get full BAS, but they pay for their meals (including those provided by the government). Because BAS is intended to provide meals for the SM, its level is linked to the price of the food. Therefore, each year it is adjusted based upon the increase of the price of food as measured by the USDA food cost index.

Basic Pay: The pay of an officer or enlisted member according to rank and longevity, before additional amounts are added for quarters, subsistence, flying status, overseas duty, and so on.

COLA: Cost of Living Adjustment.

CONUS: The continental United States (i.e., excluding Alaska and Hawaii).

Combat Zone: An area of potential or actual armed conflict, as defined by executive order of the President.

Commander: A commissioned or warrant officer who, by virtue of his or her grade and assignment, exercises primary command authority over a military organization, installation, or prescribed territorial area that under pertinent official directives is recognized as a command.

Continued Health Care Benefit Program (CHCBP): CHCBP is a health care program currently administered by Humana Military Health Care Services, Inc. offering health coverage to individuals who have lost eligibility for TRICARE. Premiums are paid quarterly and are currently \$988 per quarter (as of 10/01/10).

DEERS: Defense Enrollment Eligibility Reporting System.

Dependents: *See* Family Members.

DFAS: Defense Finance and Accounting Service.

DD Form 2293: The application form to send to DFAS with an order for garnishment for child support, alimony, or military pension division.

DoD: Department of Defense.

Duty Station: The place where a SM is assigned for regular duty; also, the place at which a SM performs an assigned duty.

Enlisted Member: A person enlisted, enrolled, or conscripted into the military service (pay grades E-1 to E-9).

Enlistment: Voluntary entrance into military service under enlisted status; also a period of time, contractual or prescribed by law, of service between enrollment and discharge.

Family Members: Family members, also known as “dependents,” include:

1. A lawful spouse of a sponsor.
2. A sponsor’s former spouse who is eligible for commissary and exchange privileges under the Uniform Services Former Spouses Protection Act and applicable regulations.
3. An unmarried child who is under 21 years of age and who is:
 - a. A legitimate child of a sponsor.
 - b. An illegitimate child whose parentage has been admitted in writing by a sponsor or whose sponsor has been determined to be the child’s parent by a court order, or the functional equivalent of a court order.
 - c. An adopted or pre-adoptive child of a sponsor.
 - d. A stepchild of a sponsor.
 - e. A foster child (or ward) for whom a sponsor possesses a legal decree or other instrument issued by a court of law or placement agency awarding custody of the child to the sponsor
4. An unmarried child, as defined in 3.a. through 3.e. above, but who is 21 years of age or older and less than 23 years of age, and is dependent upon a sponsor for more than one-half of his or her support, and is enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of the Army.
5. An unmarried child, as defined in 3.a. through 3.e., above, but who is 21 years of age or older and incapable of self-support because of mental or physical handicap.
6. A parent, stepparent, parent by adoption, or parent-in-law of a sponsor who is dependent on the sponsor for more than one-half of his or her support. The relationship between a stepparent and stepchild ends if the stepparent divorces the parent.

Government Quarters or Housing Facilities: Lodging which includes the following:

1. Any sleeping accommodations or family-type housing owned or leased by the U.S. government.
2. Quarters obtained by U.S. government contract.
3. Dormitories or similar facilities operated by cost-plus-a-fixed-fee contractors.
4. Any sleeping or housing facilities furnished by a foreign government.
5. Transient facilities such as guest houses and hotel-type accommodations (accommodations built and operated by non-appropriated fund activities are considered to be rental quarters for the purpose of BAH eligibility); payment of service charges for laundering of linens, janitorial services, and so on, has no effect on whether the facilities are considered government quarters or housing facilities.
6. -Quarters in a state-owned National Guard facility.

JAG Officer: *See* Judge Advocate.

Judge Advocate: A lawyer who is a commissioned officer of the Judge Advocate General’s Corps.

Legal Assistance: Legal advice, counseling, and other help provided by military attorneys to eligible clients regarding their personal legal affairs.

LES: Leave and Earnings Statement. The pay statement of a SM showing total entitlements (pay and allowances), taxes and other mandatory deductions, voluntary allotments, days of annual leave taken and available, state of residence for tax purposes, etc.

Member (Servicemember): An officer or enlisted member of the uniformed services.

MTF: Military treatment facility (e.g., hospital, clinic, etc.).

Officer: A commissioned or warrant officer.

Permanent Change of Station (PCS): The assignment or transfer of a member or unit to a different duty station under competent orders that neither specify the duty as temporary nor provide for further assignment to a new station or direct return to the old station.

Permanent Station: In general, the post of duty or official station to which the member is assigned for permanent duty.

Rations in Kind: Meals furnished to SMs by the military, in lieu of paying an allowance for the meals.

RC: Reserve Component (*see below*).

Reenlistment Bonus: Special pay to an enlisted member who reenlists under the provisions of 37 U.S.C. § 308.

Reserve Component: The U.S. Army National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve, Coast Guard Reserve, and the Reserve Corps, Public Health Service.

SCRA: Servicemembers Civil Relief Act, 50 U.S.C. App. § 501 *et seq.*

Separation: Discharge, release from active duty or, in the case of enlisted members, the date when the enlisted member begins to serve on a voluntary extension of enlistment for any period of time. Some statutes consider retirement or death of a SM as “separation.”

Servicemember (SM): An officer or enlisted member of the uniformed services.

SGLI: Servicemembers Group Life Insurance, 38 U.S.C. § 765 *et seq.*

SJA: Staff judge advocate.

SM (Servicemember): An officer or enlisted member of the uniformed services.

Sponsor: A person who is entitled to military benefits by virtue of his or her military service or employment.

Staff Judge Advocate (SJA): The principal legal advisor on the staff of a military commander.

TRICARE: Military medical insurance program.

Uniformed Services: The U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

Warrant Officer: A person who holds a commission or warrant in a warrant officer grade.

NOTES

*This glossary was reproduced in part from Mark E. Sullivan, *The Military Divorce Handbook* (American Bar Association, 2nd Ed. 2011).

* * *

SAMPLE ARMY NONSUPPORT LETTER

May 28, 2012

Commander of Corporal Jack A. Dewlap, 222-55-8888
Company C, 12th Humvee Battalion
Corps Intelligence Group
Ft. Swampy, East Carolina 27409

Re: Nonsupport Complaint by Mrs. Anna Dewlap

Dear sir/madame,

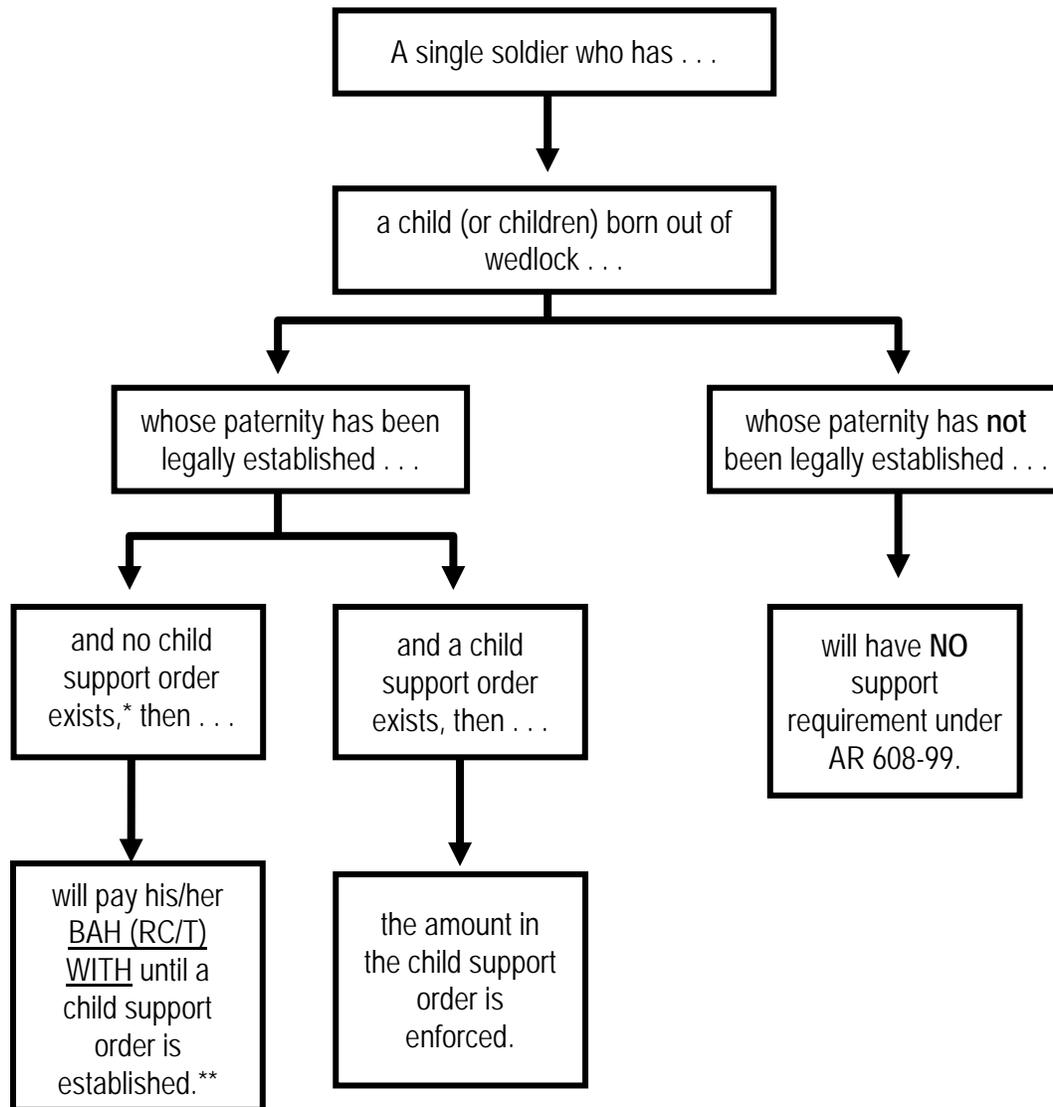
I am writing on behalf of Mrs. Anna Dewlap, the wife of Corporal Jack Dewlap, a member of your command. The parties separated on May 1, 2007, and at this point Mrs. Dewlap is residing here in King City, East Carolina, with her widowed mother. As her attorney, I am writing to ask that you assist in obtaining regular monthly support payments for Mrs. Dewlap and their three minor children. Mrs. Dewlap has had no payment of support this month, and she reports that her husband has told her by telephone that he intends to “bring her to her knees” until she returns to him and begs forgiveness.

I understand that, in the absence of an order or agreement for support, a soldier must comply with the interim support requirements of Army Regulation 608-99, and that you are required to counsel him and take action to ensure that the appropriate amount of support is sent each month. Thank you in advance for your help. We look forward to your prompt reply.

Very truly yours,

[signature block]

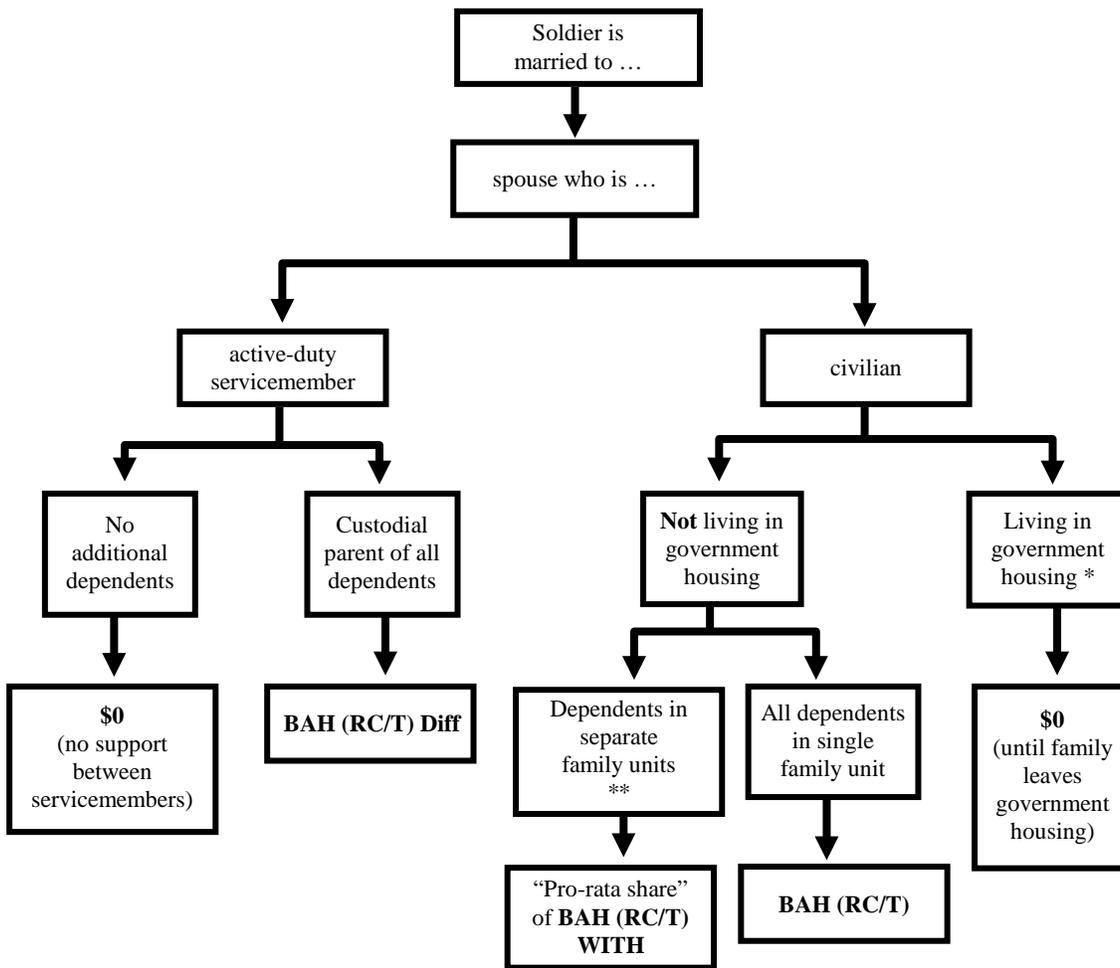
AR 608-99 and the Single Soldier



* Of course, it is rare that a judicial establishment of paternity exists without an accompanying child support order.

** If the soldier is supporting multiple children who reside in different family units, each child who is not covered by a child support order will receive a "pro-rata share" of the soldier's BAH (RC/T) WITH. See para. 2-6e(1)(a)-(e).

Family Support for the Married Soldier under AR 608-99



NOTE – A servicemember must pay BAH (RC/T) to his dependents only when there is no court order (*i.e.*, divorce decree, child support order, etc.) or separation agreement with a financial support provision. BAH (RC/T) is intended to be interim support only, not a permanent means of family support.

* For Army purposes, “government housing” means on-post quarters (*i.e.*, family housing), NOT low-income housing (*i.e.*, HUD homes).

** For example, a servicemember’s dependents reside in “separate family units” when the soldier is married to his/her current spouse, but has a child from a previous relationship who lives with a former spouse. Another example would be if a male soldier has two children with different mothers.

Fields 10 through 24 contain the entitlements, deductions, allotments, their respective totals, a mathematical summary portion, date initially entered military service, and retirement plan.

- **10 ENTITLEMENTS:** In columnar style the names of the entitlements and allowances being paid. Space is allocated for fifteen entitlements and/or allowances. If more than fifteen are present the overflow will be printed in the remarks block. Any retroactive entitlements and/or allowances will be added to like entitlements and/or allowances.
- **11 DEDUCTIONS:** The description of the deductions are listed in columnar style. This includes items such as taxes, SGLI, Mid-month pay and dependent dental plan. Space is allocated for fifteen deductions. If more than fifteen are present the overflow will be printed in the remarks block. Any retroactive deductions will be added to like deductions.
- **12 ALLOTMENTS:** In columnar style the type of the actual allotments being deducted. This includes discretionary and non-discretionary allotments for savings and/or checking accounts, insurance, bonds, etc. Space is allocated for fifteen allotments. If a member has more than one of the same types of allotment, the only differentiation may be that of the dollar amount.
- **13 +AMT FWD:** The amount of all unpaid pay and allowances due from the prior LES.
- **14 + TOT ENT:** The figure from Field 20 that is the total of all entitlements and/or allowances listed.
- **15 -TOT DED:** The figure from Field 21 that is the total of all deductions.
- **16 -TOT ALMT:** The figure from Field 22 that is the total of all allotments.
- **17 = NET AMT:** The dollar value of all unpaid pay and allowances, plus total entitlements and/or allowances, minus deductions and allotments due on the current LES.
- **18 - CR FWD:** The dollar value of all unpaid pay and allowances due to reflect on the next LES as the +AMT FWD.
- **19 = EOM PAY:** The actual amount of the payment to be paid to the member on End-of-Month payday.
- **20 - 22 TOTAL:** The total amounts for the entitlements and/or allowances, deductions and allotments respectively.
- **23 DIEMS:** Date initially entered military service: This date is used SOLELY to indicate which retirement plan a member is under. For those members with a DIEMS date prior to September 8, 1980, they are under the FINAL PAY retirement plan. For those members with a DIEMS date of September 8, 1980 through July 31, 1986, they are under the HIGH-3 retirement plan. For those members with a DIEMS date of August 1, 1986 or later, they were initially under the REDUX retirement plan. This was changed by law in October 2000, when they were placed under the HIGH-3 plan, with the OPTION to return to the REDUX plan. In consideration of making this election, they become entitled to a \$30,000 Career Service Bonus. The data in this block comes from PERSCOM. DFAS is not responsible for the accuracy of this data. If a member feels that the DIEMS date shown in this block is erroneous, they must see their local servicing Personnel Office for corrective action.
- **24 RET PLAN:** Type of retirement plan, i.e. Final Pay, High 3, REDUX; or CHOICE (CHOICE reflects members who have less than 15 years service and have not elected to go with REDUX or stay with their current retirement plan).

Fields 25 through 32 contain leave information.

- **25 BF BAL:** The brought forward leave balance. Balance may be at the beginning of the fiscal year, or when active duty began, or the day after the member was paid Lump Sum Leave (LSL).
- **26 ERND:** The cumulative amount of leave earned in the current fiscal year or current term of enlistment if the member reenlisted/extended since the beginning of the fiscal year. Normally increases by 2.5 days each month.
- **27 USED:** The cumulative amount of leave used in the current fiscal year or current term of enlistment if member reenlisted/extended since the beginning of the fiscal year.
- **28 CR BAL:** The current leave balance as of the end of the period covered by the LES.
- **29 ETS BAL:** The projected leave balance to the member's Expiration Term of Service (ETS).
 - **30 LV LOST:** The number of days of leave that has been lost.
 - **31 LV PAID:** The number of days of leave paid to date.
 - **32 USE/LOSE:** The projected number of days of leave that will be lost if not taken in the current fiscal year on a monthly basis. The number of days of leave in this block will decrease with any leave usage.

Fields 33 through 38 contain Federal Tax withholding information.

- **33 WAGE PERIOD:** The amount of money earned this LES period that is subject to Federal Income Tax Withholding (FITW).
- **34 WAGE YTD:** The money earned year-to-date that is subject to FITW. Field 35 M/S. The marital status used to compute the FITW.
- **36 EX:** The number of exemptions used to compute the FITW.
- **37 ADD'L TAX:** The member specified additional dollar amount to be withheld in addition to the amount computed by the Marital Status and Exemptions.
- **38 TAX YTD:** The cumulative total of FITW withheld throughout the calendar year.

Fields 39 through 43 contain Federal Insurance Contributions Act (FICA) information.

- **39 WAGE PERIOD:** The amount of money earned this LES period that is subject to FICA.
- **40 SOC WAGE YTD:** The wages earned year-to-date that are subject to FICA.
- **41 SOC TAX YTD:** Cumulative total of FICA withheld throughout the calendar year.
- **42 MED WAGE YTD:** The wages earned year-to-date that are subject to Medicare.
- **43 MED TAX YTD:** Cumulative total of Medicare taxes paid year-to-date.

Fields 44 through 49 contain State Tax information.

- **44 ST:** The two digit postal abbreviation for the state the member elected.
- **45 WAGE PERIOD:** The amount of money earned this LES period that is subject to State Income Tax Withholding (SITW).
- **46 WAGE YTD:** The money earned year-to-date that is subject to SITW. Field 47 M/S. The marital status used to compute the SITW.
- **48 EX:** The number of exemptions used to compute the SITW.
- **49 TAX YTD:** The cumulative total of SITW withheld throughout the calendar year.

Fields 50 through 62 contain additional Pay Data.

- **50 BAQ TYPE:** The type of Basic Allowance for Quarters being paid.
- **51 BAQ DEPN:** A code that indicates the type of dependent. A - Spouse C -Child D - Parent G - Grandfathered I -Member married to member/own right K - Ward of the court L - Parents in Law R - Own right S - Student (age 21-22) T - Handicapped child over age 21 W - Member married to member, child under 21
- **52 VHA ZIP:** The zip code used in the computation of Variable Housing Allowance (VHA) if entitlement exists.
- **53 RENT AMT:** The amount of rent paid for housing if applicable.
- **54 SHARE:** The number of people with which the member shares housing costs.
- **55 STAT:** The VHA status; i.e., accompanied or unaccompanied.
- **56 JFTR:** The Joint Federal Travel Regulation (JFTR) code based on the location of the member for Cost of Living Allowance (COLA) purposes.
- **57 DEPNS:** The number of dependents the member has for VHA purposes.
- **58 2D JFTR:** The JFTR code based on the location of the member's dependents for COLA purposes.
- **59 BAS TYPE:** An alpha code that indicates the type of Basic Allowance for Subsistence (BAS) the member is receiving, if applicable. This field will be blank for officers.
 - B - Separate Rations
 - C - TDY/PCS/Proceed Time
 - H - Rations-in-kind not available
 - K - Rations under emergency conditions
- **60 CHARITY YTD:** The cumulative amount of charitable contributions for the calendar year.
- **61 TPC:** This field is not used by the active component of any branch of service.
- **62 PACIDN:** The activity Unit Identification Code (UIC). This field is currently used by Army only.

Fields 63 through 75 contain Thrift Savings Plan (TSP) information/data.

- **63 BASE PAY RATE:** The percentage of base pay elected for TSP contributions.
- **64 BASE PAY CURRENT:** Reserved for future use.
- **65 SPECIAL PAY RATE:** The percentage of Specialty Pay elected for TSP contribution.
- **66 SPECIAL PAY CURRENT:** Reserved for future use.
- **67 INCENTIVE PAY RATE:** Percentage of Incentive Pay elected for TSP contribution.
- **68 INCENTIVE PAY CURRENT:** Reserved for future use.
- **69 BONUS PAY RATE:** The percentage of Bonus Pay elected towards TSP contribution.
- **70 BONUS PAY CURRENT:** Reserved for future use.
- **71** Reserved for future use.
- **72 TSP YTD DEDUCTION (TSP YEAR TO DATE DEDUCTION):** Dollar amount of TSP contributions deducted for the year.
- **73 DEFERRED:** Total dollar amount of TSP contributions that are deferred for tax purposes.
- **74 EXEMPT:** Dollar amount of TSP contributions that are reported as tax exempt to the Internal Revenue Service (IRS).
- **75** Reserved for future use

76 REMARKS: This area is used to provide you with general notices from varying levels of command, as well as the literal explanation of starts, stops, and changes to pay items in the entries within the “ENTITLEMENTS,” “DEDUCTIONS”, and “ALLOTMENTS” fields.

77 YTD ENTITLE: The cumulative total of all entitlements for the calendar year.

78 YTD DEDUCT: The cumulative total of all deductions for the calendar year.

PRIVACY ACT RELEASE FORM

DATA REQUIRED BY THE PRIVACY ACT OF 1974 (5 U.S.C. 552a). AUTHORITY: Title 5 U.S.C. 552, Title 5 U.S.C. 552a, Title 5 U.S.C. 551, DoD 5400.7-R, and DoD 5200.1-R. PURPOSE: To obtain and maintain information upon which to base a reply or inquiry. ROUTINE USES: Data may be provided under any of the DoD "Blanket Routine Uses" published at <http://privacy.defense.gov/notices/>. Disclosure: Voluntary; however, if you fail to provide all the requested information DFAS may not be able to fulfill your request in a timely manner.

Pursuant to the Privacy Act of 1974, I hereby authorize _____ to obtain information from any federal government records information regarding my entitlements as the former spouse of a retired military member, including but not limited to, records regarding military retired pay (as shown on the Retiree Account Statement), the Survivor Benefit Plan, VA disability compensation, current pay and allowances (as shown of the Leave and Earnings Statement) or any other benefit or entitlement from the federal government.

Special instructions or limitations (or "none")

Signature _____ Date _____

Printed Name _____

Address _____

City _____ State _____ Zip _____

Home Telephone _____ Work Telephone _____

Date of Birth _____ Claim Number (if applicable) _____

OVERVIEW FOR THE INITIAL CONSULTATION:

Here are questions to ask the custodial parent/child support payee, actions to take, documents to request, when meeting with a client about a military child support case:

QUESTIONS FOR THE CLIENT:

1. Is there a paternity determination? If so, when and where?
2. Do you have an agreement or court order determining child support? If so, when, where, how much support, what other terms?
3. If the parties were married, when did they separate, and when, if applicable, did they divorce? Where was the divorce granted?
4. What is the rank of father/alleged father?
5. What is his Social Security Number?
6. What is his branch of service (e.g., Coast Guard, Navy Reserve, Ohio National Guard)?
7. What is his full name?
8. What is his location (e.g., Fort Hood, Texas, or Shaw Air Force Base, South Carolina)?
9. What is his unit (e.g., 82d Airborne Division, or 3rd Bomber Wing)? The more detailed this information is, the better. For example, instead of 82d Airborne Division, it would be preferable to identify the other party's unit as "Company C, 2d Battalion, 503 Parachute Infantry Regiment, 82d Airborne Division."
10. What support have you received?
11. What attempts have you made to obtain support?

DOCUMENTS: GET THE FOLLOWING:

12. Divorce decree
13. Paternity determination
14. Child support order or agreement
15. Military ID cards, military orders
16. Payments of support
17. Attempts to obtain support payments (e.g., letters, e-mails, long-distance phone charges)

MOTION AND LETTER FOR NAVY DOCS

NORTH CAROLINA
COUNTY OF BUCKINGHAM

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. 08 CV 223

ROGER K. BAIRD, JR.,
Plaintiff

v.
NANCY L. BAIRD,
Defendant

MOTION FOR NAVY RECORDS

Plaintiff hereby moves this Court pursuant to N.C.G.S. §1A and Rule 45 of the Rules of Civil Procedure for an order granting a subpoena directed to the United States Navy for the production of documents, as further explained below. The Plaintiff shows the court that:

BACKGROUND

- 1) Plaintiff is an officer in the U.S. Navy, currently stationed in Japan and the Defendant is a Navy officer, currently stationed in Florida. The parties were married to each other on April 12, 1997 and subsequently separated from each other on October 9, 2008. There are two minor children born during the parties' marriage: Ellen G. Baird, born August 2, 2001 and Lewis R. Baird, born April 19, 2003.
- 2) On November 3, 2008, Plaintiff filed his Complaint seeking, *inter alia*, child custody.

DISCOVERY REQUESTS FROM BOTH PARTIES

- 3) Both parties have asked for all documentation that the other party has related to a disciplinary hearing involving the conduct of a certain Commander John Q. Doe in December 2008. Mr. Doe is the former commander of the Navy's Far East Intelligence Group, based at Naval Air Facility Watusi in Japan. Upon information and belief, Defendant had an extramarital affair with Mr. Doe, this conduct destroyed the Baird marriage, it also destroyed Mr. Doe's career and it had an impact on the care and custody of the minor children.

- 4) Plaintiff in discovery has requested that Defendant admit this affair and explain the consequences that her behavior with Mr. Doe had on the family, including the effects on the minor children.
- 5) Then-Commander Doe was relieved of his duty as commander of the Group on December 23, 2008. He received nonjudicial punishment, referred to as “Admiral’s Mast,” as a direct result of his committing adultery with the wife of a fellow officer.
- 6) The parties both seek to obtain from each other all documentation about these proceedings in December 2008. Both parties have demanded, through their attorneys, to review this documentation.

RELEVANCE TO THE CASE

- 7) The Plaintiff, by way of discovery, has requested that Defendant both admit the affair and explain specific details from Defendant as to the nature of her relationship with Mr. Doe, its duration and its impact on the minor children.
- 8) The information in Mr. Doe’s case file associated with the administrative action taken in December 2008, will tend to show that Mr. John P. Doe did, in fact, have an extramarital affair with the Defendant. It will also show the nature, frequency and duration of the Defendant’s conduct with Mr. Doe, which directly correlates to her absences.
- 9) The case file will show documents, e-mails, and witness statements regarding the lapses of time in which Defendant left the minor children to be with Mr. Doe.
- 10) The case file will also assist in impeaching Defendant on her sworn statements if she denies that she had an affair, is untruthful as to its nature or duration, denies that her behavior had an impact on the children or claims that her conduct never resulted in their being left alone, with no supervision.

PROCEDURES FOR OBTAINING NAVY RECORDS

- 11) The United States Navy, pursuant to its publication, SECNAVINST 5820.8A, Enclosures (3) and (4), describes the proper procedure for obtaining Navy records. The Secretary of the Navy’s sole delegate for service of process is the General Counsel of the Navy, who must be

served with a subpoena by certified mail or Federal Express at the following address: General Counsel of the Navy, Navy Litigation Office, 720 Kennon Street SE, Bldg. 36 Room 233, Washington Navy Yard, DC 20374-5013. The office of the General Counsel of the Navy will subsequently forward the matter to the proper determining authorities for action.

12) In addition to a subpoena requesting specified Navy records, a detailed written request must be submitted to the appropriate determining authority to assure an informed and timely evaluation of the request. The outline of information to be provided is included in Enclosure (4) of SECNAVINST 5820.8A. Additionally, counsel for the Plaintiff has prepared this detailed written request to accompany the court's subpoena to the General Counsel of the Navy and it is included with this motion.

13) The subpoena in this case should request the following:

- a) The Navy's internal investigation of the alleged inappropriate relationship between John P. Doe and Nancy L. Baird, in Japan, Okinawa, and elsewhere during and before December 2008 including witness statements, e-mails; and
- b) The Navy's record of administrative, punitive, nonjudicial or other action against Commander Doe.

WHEREFORE the Plaintiff prays that this Court:

- 1) Sign a subpoena (copy attached hereto) for production of the United States Navy's disciplinary and investigative files for Commander John P. Doe.
- 2) Grant such other relief for Plaintiff as is just and proper.

Jack M. Wilson, Attorney for Plaintiff
9926 Greenwood Drive
Warren, NC 27604

Date: _____/13

NORTH CAROLINA
COUNTY OF BUCKINGHAM

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. 08 CV 223

ROGER K. BAIRD, JR.,
Plaintiff

v.
NANCY L. BAIRD,
Defendant

SUBPOENA FOR NAVY RECORDS

Pursuant to N.C.G.S. §1A and Rule 45 of the North Carolina Rules of Civil Procedure, the court issues this subpoena:

To: General Counsel of the Navy, Navy Litigation Office, 720 Kennon Street SE, Bldg. 36 Room 233, Washington Navy Yard, DC 20374-5013	Date: April 17, 2013
Documents: 1) The Navy's internal investigation of the alleged inappropriate relationship between Commander John P. Doe, SSN 432-22-5567, and Nancy L. Baird, in Japan, Okinawa, and elsewhere during and before December 2008 including witness statements, documents and e-mails; and 2) The Navy's record of administrative, punitive, nonjudicial or other action against Commander Doe.	Time: 9:00 a.m.
Place for Production: Buckingham County Courthouse, Room 141, Warren, NC 27604 (P.O. Box 355)	

Ellen G. Lindhoffer, Judge Presiding

Date: _____/13

March 1, 2013
General Counsel of the Navy
Navy Litigation Office
720 Kennon Street SE
Bldg. 36 Room 233
Washington Navy Yard, DC 20374-5013

Re: SECNAVINST 5820.8A, Enclosure (4) – Subpoena for Navy Records

To Whom It May Concern:

Pursuant to SECNAVINST 5820.8A, Enclosure (4): Contents of a Proper Request or Demand, the undersigned attorney for the Plaintiff herein provides the requisite written request for documents to be produced pursuant to a *subpoena duces tecum* (attached hereto). In making said request, we disclose the following:

1. Identification of parties, their counsel, and the nature of the litigation:

- a **Case Caption:** Roger K. Baird, Jr. vs. Nancy L. Baird
- b **Docket Number:** 08 CVD 19038
- c **Court:** District Court, Buckingham County, North Carolina
- d **Plaintiff:** Roger K. Baird, Jr.
- e **Defendant:** Nancy L. Baird
- f **Attorney for Plaintiff:** Jack M. Wilson, 9926 Greenwood Drive, Warren, NC 27604; phone number - 919-999-7766; fax number - 919-233-4455
- g **Attorney for Defendant:** Janet Kelly, 208 Green Valley Ave., Warren, NC 27604; phone number - 919-334-8211; fax number – 919-243-9967
- h **Date and Time that documents must be produced:** April 17, 2009, at 9:00 a.m.
- i **Location for Production:** Clerk of Court, ATTN: District Court Judge Ellen G. Lindhoffer, PO Box 355, Warren, NC 27604 Buckingham County Courthouse, Room 141, Warren, NC 27604

2. Identification of information or documents requested

- a Documents requested are the case files associated with the administrative action taken against Commander John P. Doe, former commander of the Far East Intelligence Group based at Naval Air Facility Watusi in Japan, in December 2008.
- b The location of the requested case files associated with the administrative action taken against Commander John P. Doe in December 2008 is at Naval Air Facility Watusi Japan.

3. Description of why the information is needed

- a **Summary and Posture of Case:** Commander Roger K. Baird, Jr., the Plaintiff, filed a lawsuit in North Carolina against the Defendant, Nancy L. Baird, for claims related to child custody, child support, and equitable distribution. The assigned judge on the case is District Court Judge Ellen G. Lindhoffer. The minor children currently reside with Plaintiff in Japan. Defendant current resides in Norman, Oklahoma. On May 13, 2009 the Warren County District Court will conduct a temporary child custody hearing.
- b **Statement of Relevance:** The information in the case files associated with the administrative action taken in May 2008 against former Commander John P. Doe, former commander of the

Japan-based Carrier Air Wing 5 based at Naval Air Facility Watusi in Japan, is relevant for the foregoing reasons:

- i. It will show that the Defendant carried on an extramarital affair with Commander Doe;
 - ii. It will also show that she was absent from the children during the periods of time when she was with Commander Doe;
 - iii. When she was absent, depending on the dates and times, the children were either left alone or in the care and custody of Commander Baird, who is petitioning for custody of the children.
- c **Testimony Sought:** Plaintiff seeks no factual, expert or opinion testimony from the U.S. government.

4. Additional Considerations

- a Plaintiff is willing to pay in advance all reasonable expenses and costs of searching for and producing documents associated with the administrative action taken against Commander John P. Doe in May 2008.
- b We will provide Defendant's attorney with a copy of all correspondence and documents originated by the determining authority so they may have the opportunity to submit any related litigation requests and participate in any discovery.

If the General Counsel of the Navy requires any additional information in evaluating this request, please let our office know and we shall provide same.

Sincerely,

Jack M. Wilson
Attorney at Law

Excerpt from November 2012 “Best of the FamLawEsq List” – ABA Family Law Section

Fixing Family Support – What Military Pay/Allowances Should Be Included?

Hi all,

I have a client who is active duty military in dissolution of marriage action. His pay record shows that he receives his base pay, BAS, BAH, and COLA. The BAH is approximately 80 percent of his base pay and is thus a significant payment that he receives monthly. Does anyone have any insight on whether all of these payments should be disclosed and reported as monthly income in mandatory financial disclosures, or only the base pay? Or do you report the total amount with reference to a statement showing the breakdown of the total or some explanation?

Thank you,

Kate Sereff

Lakewood, CO

RESPONSES

Response 1

Hi, Kate:

Obviously, Colorado State law will be your primary and binding guide here, but according to the case law I know around the country generally, and Laura Morgan's research, the answer is the whole shebang gets reported. For my write up, see legal note Vol. 46 - Military Allowances for Child-spousal Support, posted at <http://willicklawgroup.com/full-list-of-newsletters/>. If you need anything further, let me know.

Marshal S. Willick

Las Vegas, NV

Response 2

Under Ohio law, all those items are includible in income. We just report the total income on the financial affidavit form filed with the court. BAS and BAH are not taxed, but our courts do not take that into account. Also, BAH is subject to change following the divorce.

Dalma C. Grandjean

Dayton, OH

Response 3

Of course, this could be jurisdiction dependent.... In Illinois, support is calculated on all income from all sources, and this would definitely include BAH and BAS as well as the COLA. But watch out about lumping them all together, for example the BAH is not taxable, and is therefore worth more than the salary dollar for dollar. I list the different elements as separate line items. With military pay, there are often additional line items of income and deductions, such as combat zone pay, so look at the LES (Leave and Earnings Statement, equivalent to a civilian paystub) carefully.

Nancy Chausow Shafer

Highland Park, IL

Response 4

Kate,

You should check your Colorado Child Support Guidelines as to what is "gross income" and see how fringe benefits are treated or if there is some specific provision for members of the Armed Forces. The majority of states require that ALL COMPENSATION be reported as gross monthly income, and this may include your jurisdiction.

But if you are representing the Service Member parent, you can make a persuasive argument for a deviation. Base Pay is always considered as a component of GMI for Child Support. The Basic Allowance for Subsistence (BAS) is for food the service member consumes and is also included. You should know that a portion of the Basic Allowance for Housing (BAH) is paid as part of the Service Member's compensation (this is typically referred to as the BAH II amount, which can be found on page 3 of the Department of Defense Pay Tables under BAH RC/T broken down by pay grade and whether the Service Member has family dependents.) The remainder of the BAH is for "variable area housing costs" that are paid based upon the location of the Service Member's assignment. In a few "stateside" assignments with high-cost of living, a Cost of Living Allowance is also paid. (Distinguish Cost of Living Adjustments, which are paid only to keep a portion of the Base Pay current due to inflation.)

If the Service Member is overseas, then OHA (Overseas Housing Allowance) is paid. Recognize that for the Service Member, most of all of the "variable area housing", COLA, and OHA just go directly to their landlord or for higher costs of being assigned in that area. Very often the Service Member has no say-so where he or she is being assigned, and there can be a significant injustice to the Service Member if his or her child support is based upon the "variable area housing costs" that are not later available to them to pay an inflated child support award.

The results are often counterproductive to the Service Member and the children being support in that they are unable to support their children at the level of the court order. If an inflated child support award is then garnished from their paycheck, the Service Member cannot pay their bills or avoid going into significant debt. The debt and appearance of "financial irresponsibility" leads to a suspension or loss of their security clearance and may even lead to discharge from the armed forces. Of what benefit is it to the children then if the NCP [non-custodial parent] loses their job and the health insurance they were providing to the children.

Georgia has addressed this by a provision in our Child Support Guidelines that only include the Base Pay, BAS and the BAH without any variable housing costs included and at the without dependent rate for determining gross monthly income for child support. These components produce the same gross monthly income regardless of where the military parent is assigned. You can make the same argument in almost any jurisdiction by asking for a deviation from the presumptive amount of Child Support due to the extraordinary costs and expenses of the Military Parent at their duty assignment. You may have to prove-up the rent costs, utility costs, food, gas, and other essential living expenses and show how much they are compared to what the Service Member receives in BAH, COLA, or OHA. You can also ask for a visitation related deviation if the Service Member is outside the area of where the child resides with the CP. You do not have those arguments if the Service Member is assigned to the area where the CP and child reside and is in the jurisdiction of where the trial court is sitting.

There are some decided and reported cases involving analogous civilian cases where a parent was assigned to Paris or Tokyo, and received very high housing and subsistence bonuses. I believe the cases did require the inclusion of those additional amounts under an "all compensation paid" child support provision, but the trial court also was within its authority to allow that parent a deviation due to the higher cost of living....

I hope this helps.

John Camp

Warner Robins, GA

Response 5

Kate-

The provision in the child support statute regarding in-kind payments and expense reimbursements is contained in a subsection separate from the definition of "gross income." CRS § 14-10-115(7)(a)(III). The types of payments that are contemplated by the statute include, but are not limited to, such items as free housing, reimbursed meals, mileage reimbursements, and car allowances. Similarly, the basic allowance for quarters ("BAQ") provided to military personnel has been found to be included within the definition and computation of gross income for purposes of calculating child support. *In re Marriage of Long*, 921 P.2d 67 (Colo. App. 1996).

Jennifer Rice

Fort Collins, CO

Response 6

Jennifer's comment is well taken, but I would like to add something about BAQ (Basic Allowance for Quarters) and what is today BAH (Basic Allowance for Housing). When BAQ was around, it represented that portion of the Service Member's compensation used to obtain housing (Quarters as per the English). Congress made it a non-taxable "allowance" as it did not want to include it in Base Pay, which would of course have led to a much higher retirement pension.

In the early 1970's and creation of the All-Volunteer Force, Congress also recognized that in order to put Service Members and their families in high-cost of living areas in the United States and overseas assignments required that they offset those higher living expenses with additional tax free allowances that were tied to the "Variable Area Housing and Living Costs" for those areas.

So Congress created the Variable Housing Allowance (VHA) which was based upon the Zip Code of where the Service Member was assigned. In the early 1990's Department of Defense consolidated the BAQ and VHA into the Basic Allowance for Housing (BAH), which is what we have today. What use to be the BAQ is today called BAH-II and it is increased annually by the same Housing Index as was its predecessor, BAQ. What was formerly known as the Variable Housing Allowance (VHA) is what I suggest should be removed from the Child Support equation through a deviation for the Service Member Parent. For a definition of the different types of Housing Allowance, see the Department of Defense Military Compensation Website at: http://militarypay.defense.gov/pay/bah/02_types.html

And yes for all of you who are guessing, I was in the Air Force from before it became an all volunteer force to when BAH came out and consolidated BAQ and VHA.

John Camp

Warner Robins, GA

Response 7

As noted in another posting, the issue is long since decided in Colorado. 921 P.2d 67, *IN RE MARRIAGE OF LONG*. All of his allowances are income under Colorado guidelines. However, if your SM is receiving COLA you need to recognize that COLA is only paid in overseas assignments and a very few places in the US. If the SM is due to return to the US or move in the near future, that COLA will soon terminate. And, it is also possible that upon completion of the divorce and a change of duty station the amount of BAH will change significantly. To avoid

imminent modification due to that change, you should anticipate the possibility and consider providing for those contingencies.

John E Kirchner

Colorado Springs, CO

Response 8

I am interested in what you gurus may have to say about these remarks.

In these parts the court will be looking at the LES and calculating away while the two lawyers and witnesses drone on. The court will include BAH. I prepare my service member clients for the worst. In a number of past cases like where the soldier was in Korea or Italy, the BAH was quite high. If the spouse's attorney is not careful, the court will treat the BAH as taxable income. This helps the service member.

In Texas, what the court should do is to calculate in two steps. One step is for the taxable compensation. The other step is for the non-taxable. Prepared counsel should point this out to the court and even offer his/her calculations on paper to make it easier. Most judges I have run into may do some verifying of the math but most do not mind receiving exhibits with calculations. Many attorneys are not aware of this and it slips by to the benefit of the soldier.

Another problem is where the BAH is going to disappear at divorce or possibly just change to a much lower number in the near future. I have a soldier client now who insists he will lose his BAH at divorce and he does not want child support calculations for the future to include BAH. Am I hearing my client correct? Could he be losing BAH altogether? And here is another demand to be prepared for. This is where the service member/obligor resides on post/base and gets room and board. Should not the value of that be incorporated into the calculations? If yes, how does one prove up a formula? Possibly just imply BAH and walk-around money (what is that called?) Comments are requested, and very much appreciated....

Rob V. Robertson

Austin, TX

Response 9

Rob:

I often hear Service Members complain that they will suffer a significant loss in their BAH allowance after the divorce. That is not entirely true. If the SM does not have custody of a child or acquire other dependents to qualify them for BAH at the "with dependents" rate, they will go to the "without dependent rate" for BAH. However, if they are obligated to pay child support and the amount to be paid equals or exceeds the difference between their BAH at the "with" and "without" dependent rate, then they will receive an additional payment called BAH Diff. The combination of their single rate BAH and the BAH Diff will equal or exceed what they were receiving as BAH at the "with" dependent rate.

So the Non CP Military Parent does not suffer a loss of BAH entitlements. They are just paid differently. If they are assigned to Government Quarters (housing or a dorm) they will not receive BAH at any rate, but they will still receive the BAH Diff as long as their child support obligation exceeds the difference of their BAH at the "with" and without rates. You can find the BAH Diff rates at page 3 of the Department of Defense Pay Tables.

<http://www.dfas.mil/militarymembers/payentitlements/militarypaytables.html>

In dual military parents cases, who gets to enroll the child in DEERS and claim the child as their dependent for "with dependent" BAH purposes have far reaching consequences....even later when the Military Parent goes PCS and wishes to include the child(ren) on their PCS Orders. They draw additional Travel Allowances for that child during that travel, which can be substantial in long distance moves. The Financial Management Regulations (FMR) and Joint Travel Regulations (JTR) typically address these situations, but they are buried deep in those regulations. Generally in a true "joint physical custody" arrangement, the more senior Military Parent is the one who the regulations favor in claiming the child as a dependent for whatever purpose.

John Camp

Warner Robins, GA

DEERS and Maintaining Eligibility for TRICARE

Proper registration in the Defense Enrollment Eligibility Reporting System (DEERS) is **the key** to receiving timely and effective TRICARE benefits. DEERS is a worldwide, computerized database of uniformed services members (sponsors), their family members, and others who are eligible for military benefits, including TRICARE. All sponsors (active duty, retired, National Guard, or Reserve) are automatically registered in DEERS. However, the sponsor **must register** eligible family members. After family members and sponsors are registered, they can update personal information such as addresses and phone numbers.

One should update DEERS immediately after experiencing any of the following life events (this list is not all-inclusive):

- Change in sponsor’s status:
 1. Retiring or separating from active duty
 2. National Guard or Reserve member activation or deactivation
- Change in service status (e.g., enlisted to officer, branch change)
- Getting married or divorced
- Having a baby or adopting a child (**Note:** DEERS registry is a **separate step** and is required before enrolling a child in TRICARE Prime.)
- Moving to a new location for any reason
- Becoming entitled to Medicare
- Death of sponsor or family member

Updating DEERS

To register family members or update DEERS records, sponsors must complete a DD Form 1172 *Application for Uniformed Service Identification Card and DEERS Enrollment* and provide documentation, such as marriage, birth, or death certificates; Social Security numbers; active duty separation papers; or Medicare cards. Each family member’s eligibility record must be updated separately. **Note:** If the sponsor is not available, family members can update DEERS with a notarized DD Form 1172 or if you have Power of Attorney. One can verify and update DEERS as follows:

1	To add or delete family members, visit a local uniformed services personnel office. Search for an office near you by ZIP code, city, or state at www.dmdc.osd.mil/rs1 Call the office first to verify location and business hours.
2	Call the Defense Manpower Data Center Support Office (DSO) at 1-800-538-9552 to update your address, e-mail address, and phone numbers.
3	Fax address, e-mail address, or phone number changes to the DSO at 1-831-655-8317 .
4	Mail changes to the DSO. You must also mail supporting documentation if you are adding or deleting a family member: Defense Manpower Data Center Support Office Attn: COA 400 Gigling Road Seaside, CA 93955-6771
5	Visit www.tricare.mil/DEERS and follow the steps to update your address, e-mail addresses, and phone numbers.

Loss of Eligibility

If you try to obtain care and your DEERS record shows you as ineligible for TRICARE (but you have not truly lost TRICARE eligibility), you’ll need to update your DEERS information. For more information about Loss of Eligibility, visit www.tricare.mil/certificate.