

Military Divorce: Support Obligations and Healthcare Coverage

Navigating Unique Rules for Alimony, Child Support, Health Insurance Coverage and Enforcement Methods

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SETTING YOUR SIGHTS ON SUPPORT: A Brief Guide to Military Family Support

by Mark E. Sullivan* and Wm. John Camp

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[Note: At the end of this Guide you will find sections on: Resources and Websites, Glossary, Sample Army Non-support Letter, Flow charts for Army support regulation, and information on how to read a Leave and Earnings Statement.]

Introduction

With the current climate of deployments and Reserve/Guard mobilizations, there are undoubtedly many family law cases which involve plaintiffs or defendants who are on active duty in the armed forces. This guide highlights some of the issues related to the establishment and enforcement of family support provisions. A guide for some questions to ask at the initial interview is found at the end of this manuscript.

Paternity

For each of the military services, paternity is a civil matter to be determined by the courts. A military commander will not become involved in disputed cases, other than to refer the servicemember (SM) or the nonsupport complainant to the civil courts for resolution of this issue. The commander has no authority to order DNA testing or to enforce compliance with a court order to submit a tissue sample. Voluntary samples may be drawn by military health officials. The degree of cooperation varies from location to location.

Family Support

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. These are known as interim support regulations. The point of initial enforcement for support is the unit commander. The uniformed services cannot just take money from a servicemember's paycheck and send it along to your client. Regulations do, however establish a duty to pay support, and the military services, except the Air Force, can punish servicemembers who don't comply with this requirement. In addition, all branches of service will require servicemembers (SMs) to comply with valid court orders for support and separation agreements. Your best bet is to use these regulations as a temporary measure before the case is filed or while pending a hearing. Initiate a nonsupport complaint to get the commander's attention; a sample nonsupport letter is found at the end of this paper.

While a nonsupport letter may be faster, a court order provides more protection for a client. Always try to get a court order at your earliest opportunity. Most civilian practitioners agree that a court order is the best way to obtain enforceable child and spousal support remedies such as garnishment and involuntary allotment.

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

For the Army, 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. These are defined in terms of a soldier's Basic Allowance for Housing, BAH (RC/T). The BAH is a nontaxable housing allowance paid to all military personnel who don't live in government quarters or who are separated from their family members. It varies according to the grade or rank of the soldier and whether or not there are dependents. There is no additional amount if there is more than one dependent. The BAH will also vary by geographic location in recognition of the varying housing costs throughout the world. However, the BAH (RC/T) represents only the basic housing allowance without any geographic adjustment. The interim support requirements are based on this basic figure. You may obtain the BAH tables from the Defense Finance and Accounting Service's web site, www.dfas.mil. 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. See the full explanation in the regulation itself, especially paragraph 2-6d and e, which covers the rules as to BAH (RC/T), single family support and multiple family units. Two flow charts are found at the end of this paper showing Army support rules for single soldiers and for married soldiers.

The commander can require a soldier to pay more than these guidelines in exceptional cases but cannot excuse payment of lesser amounts. 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. The only permissible basis for failing to support a *civilian spouse* is proof that his or her income exceeds the soldier's income or that a court order relieves the soldier of the spousal support obligation.

PRACTICE TIP

AR 608-99 provides a structure for interim support requirements that apply only when there is no agreement between the parties and no court order. This interim support amount is not intended to provide adequate support in every case, and it is not supposed to be used as a guideline for judges or administrative hearing officers or agencies in establishing family support requirements.

The prime mover behind the Army support regulation is the soldier's unit commander. A unit commander must become involved when the parties have not agreed on support, but the commander's duty does not arise until a family member (or an authorized representative, such as an attorney, a social worker, or an agent of the child support enforcement agency) notifies the commander that the SM is not providing adequate support.¹ The commander can punish a soldier under the Uniform Code of Military Justice for failing to comply with the obligations imposed by the regulation. AR 608-99, therefore, is a punitive regulation.

Air Force Rules

The Air Force has the simplest rules. A brief summary might be "Hands Off!" The basic policy is to require complainants and SMs alike to utilize civilian courts for nonsupport issues. The Air Force will advise its members that they are expected to provide adequate financial support to family members. 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. In many instances the Air Force member will only pay to the non-military spouse the difference between what is their BAH at the with and without dependent rates so that they continue to draw BAH at the with dependent rate and give the token appearance of paying at least some support. So it is best to pursue a court order for support as early and as quickly as possible when dealing with Air Force members.

¹ *Id.* at 5 (¶ 2-1b.).

Marine Corps Rules

The Marine Corps regulation states that “The Marine Corps will not serve as a haven for personnel who fail to provide adequate and continuous support to their family members.”² 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/OHA³ (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.

The Marine Corps regulation is punitive; this means that a Marine may be punished under the Uniform Code of Military Justice by means of a court-martial or nonjudicial punishment for violation of the interim support regulation, the financial dependent support terms of a court order, or the financial support terms of a written agreement regarding dependent support.⁴

A commanding officer has the discretion to reduce or eliminate the interim financial support 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.”⁵

Navy Rules

² U.S. MARINE CORPS, ORDER P5800.16a MARINE CORPS MANUAL FOR LEGAL ADMINISTRATION, ch. 15, (Dependent Support and Paternity) 2003, para. § 15001.

³ OHA is overseas housing allowance. It is a monthly allowance paid to SMs assigned to a duty station outside the continental United States, 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 allowance.

³ *Id.* at § 15002.

⁴ *Id.* at § 15005.

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.⁶

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. This waiver request shall be submitted to the Director, Navy Family Allowance Activity. It must include a complete statement of facts, the recommendation of the SM’s commander, and substantiating evidence.⁷

Coast Guard Rules

The Coast Guard policy on support of dependents provides that if, after counseling, the SM demonstrates a pattern of non-support and/or failure to obey civil court support orders, he or she is subject to administrative discharge for unfitness. Non-support that is "notorious" and discrediting to the Coast Guard can result in a court-martial or other disciplinary proceedings. Court orders for support are normally binding on members. If, however, a "member acting on good faith and on the express advice of qualified legal counsel disputes such a claim, the commanding officer may withhold disciplinary /administrative action against the member for a reasonable length of time...."⁸

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.⁹

⁶ U.S. DEP’T OF NAVY, NAVAL MILITARY PERSONNEL MANUAL art. 1754-030 (Support of Family Members) (22 Aug. 2002), para. 4

⁷ *Id.*, para. 5

⁸ U.S. DEP’T OF HOMELAND SECURITY, U.S. COAST GUARD COMMANDANT INSTR. M1000.6A, ch. 8M (Supporting Dependents) (3 May 2001), found at http://www.uscg.mil/directives/cim1000_1999/CIM_1000_6A.pdf

⁹ *Id.*

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.¹⁰

PRACTICE TIP

Searching for military regulations on the Internet is easy if one simply types in the number of the regulation involved into a search engine such as Google. Typing “608-99” into a search engine usually will land you at the government website containing the text of AR 608-99, for example.

As stated above, a court order is the best way to obtain enforceable child or spousal support. An order supersedes the interim support regulations. Each branch of the armed services will comply with valid orders for support, as well as separation agreements.

Obtaining Documents from the Other Side, from the Government

When requesting government records, remember that personnel records are governed by the Privacy Act of 1974, as amended.¹¹ The last option should be to request papers from “Uncle Sam.” Perhaps there are easier options. If not, then be prepared to jump over some hurdles to get what you want, and don’t expect results overnight.

When trying to obtain pay and personnel records, there are only four options.

- **ASK YOUR CLIENT.** First, you should see if you can obtain the appropriate documents from your client. Mrs. Amanda Jones, the estranged wife of Navy CPO (chief petty officer) Clyde Jones, may just happen to have a copy of the most recent Leave and Earnings Statement (LES) of her husband. Perhaps he printed it from the internet and left it lying on the dining room table. Her quick action in snapping a picture of it on her “smart phone” would save you a boatload of work in regard to determining his pay and allowances. Even an LES which is a few months old will be helpful in determining what compensation he’s receiving. You can go to the Regular Military Compensation Calculator, which is located at <http://militarypay.defense.gov/pay/calc/index.html> to determine the “civilian equivalent” of his allowances and pay, some of which are non-taxable.

¹⁰ *Id.*

¹¹ 5 U.S.C. § 552a.

- **DISCOVERY.** Don't overlook requesting documents and information through discovery. A request for documents, pursuant to Rule 34 (that's the federal rule; look to your local/state rule for the equivalent provision as to document production) will usually produce a response within 30 days. The real issue here is: what documents are in the possession of the other party? The LES used to be mailed to the servicemember (SM) or given to him or her. No longer is that the case. Today the SM's LES is found at the secure website of the SM, located at <https://mypay.dfas.mil>. This is the source for information about the active-duty pay, Reserve/Guard pay or retired pay for the individual.
- **CONSENT.** Without documents from the above sources, you will usually need to obtain consent of the individual concerned. A consent form which is acceptable to DFAS is found at the end of this manuscript. Get the court to order Clyde Jones to execute the form so that you can transmit it to the military pay center right away.
- **COURT ORDER.** If all of these options fail, get an order from a court of competent jurisdiction. This order could be a subpoena, but it still must be signed by a judge, and it is recommended that the records be returnable to the court – and be sure to have it returnable to the court. Allow two to four weeks for a response. Details of how to request an order are found below.

An example of a request for documents which the author used in a custody case (with fictitious names and other information) is found at the end of this manuscript. This is a motion to obtain Department of the Navy disciplinary and investigative records, along with a subpoena and a letter to the Office of General Counsel, Department of the Navy. All these documents were prepared pursuant to the regulations cited therein and with unofficial guidance by a command judge advocate at the installation involved, who knew the contents of the records and was willing to point out what needed to be done to obtain their release. Despite all these precautions, the Navy denied the request and directed the author to federal court if he wanted to challenge the ruling! Based on this experience, the author cautions that one should not assume that every document request, even when done properly, will result in compliance; some cases are just too sensitive for release of their documents to a court in a divorce case without the intervention of a federal district court judge, which most clients cannot afford.

The Department of Defense has established its own regulations, pursuant to the Act and to DoD Directive 5400.11, and this privacy publication is set out in “Department of Defense Privacy Program,” DoD 5400.11-R (May 14, 2007). You can find the directives, publications, administrative instructions, memoranda, and forms you need from the “DoD Issuances” website, located at <http://www.dtic.mil/whs/directives/>. As an agency of DoD, the Defense Finance and Accounting Service is bound by these rules. The specific rules that DFAS has promulgated regarding release of information are found at DoD Financial Management Regulation, Volume 7B, Chapter 18, “Release of Information,” which contains specific references to the regulations of each of the DoD branches of service. The DoDFMR can be found at <http://comptroller.defense.gov/fmr>. Rules for the Coast Guard, an agency of the Department of Homeland Security, are found at the *CG-61 Reference Guide*, published by the USCG Office of Information Management. Go to www.uscg.mil and type “CG-61 Reference Guide” into the SEARCH window. Extensive information about release of information from the Coast Guard may be found at the USCG’s Freedom of Information & Privacy Act website located at <http://www.uscg.mil/foia>.

In addition to Retiree Account Statements and Leave and Earnings Statements, attorneys often need to see the discharge form of servicemembers to determine years of creditable service. The National Personnel Records Center (NPRC) has provided the following website for veterans to gain access to their DD-214s online: <http://www.archives.gov/veterans>. Military veterans and the next of kin of deceased former military members may now use a new online military personnel records system to request documents. Other individuals with a need for documents must still complete the Standard Form 180, which can be downloaded from the online website. Because the requester will be asked to supply all information essential for NPRC to process the request, delays that normally occur when NPRC has to ask veterans for additional information will be minimized. The new web-based application was designed to provide better service on these requests by eliminating the records center’s mailroom processing time.

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. This includes a printout of pay information for up to the last two years as well as

individual Leave and Earnings Statements. The subpoena must be signed by a state or federal judge. It must include the SM's name and Social Security number. The request letter and subpoena should be sent to:

Army

DFAS Indianapolis Center
ATTN: DFAS-DCC/IN, Column 302G
8899 East 56th Street
Indianapolis, IN 46249-0865

Navy

DFAS Cleveland Center
ATTN: DFAS-DCC/CL
Room 1429
1240 East 9th Street
Cleveland, OH 44199-8006

Marine Corps

DFAS Kansas City Center
ATTN: DFAS-DCC/KC
1500 East Bannister Road
Kansas City, MO 64197-0001

Air Force

DFAS Denver Center
ATTN: DFAS-DCC/DE
6760 E. Irvington Place
Denver, CO 80279-8000

Retired Military Pay

DFAS Cleveland Center
ATTN: DFAS-DCC/CL
1240 East 9th Street
Cleveland, OH 44199-8006

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 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

Clients in the Guard or Reserve who are mobilized (that is, called up to active duty) usually face immediate changes in their ability to provide family support. They leave their civilian careers and often face substantial reductions of income. Those Guard/Reserve personnel who are presently paying support based on higher (civilian) monthly income will find that support arrearages begin to build up. Those payments made by garnishment stop as soon as the SM leaves his or her job to report for activation. Those payments made by check or money order usually stop when the civilian pay stops.

The first advice to give such a client is to file a motion to modify the support immediately. Federal law requires that all states enact laws that make past due installments (under a court order) into a judgment by operation of law. Court-ordered support obligations generally cannot be modified retroactively. Once a payment is due, it cannot be changed or forgiven, so promptly requesting court help, and then following up with a request for a hearing, are essential for mobilized SMs. This filing can be done through private counsel or, in some jurisdictions, through a child support agency. The SM should provide a copy of the mobilization orders and as much information on military pay and allowances (such as pay grade, time in service, and a recent LES) as possible. A copy of the current support order is an important document to provide as well.

When a SM is involved in a support case and cannot be present in court to give testimony or evidence due to his military duties, the court has the choice of proceeding with the hearing without the SM's testimony or continuing the case. Doing without the SM's testimony leaves the court without the benefit of potentially useful and relevant information upon which to base its decision. The option of a continuance, also known as a stay of proceedings under the Servicemembers Civil Relief Act, 50 U.S.C. App. § 522, only delays the progress of the case.

There are times when the SM will want a hearing, and to participate actively in it, rather than to delay the resolution of a controversy. Such would be the case when a SM is asking for a modification of child support or alimony due to financial difficulties imposed upon him or her by deployment or, if the SM is a Guard/Reserve member, by mobilization. The reduction in pay that most Guard/Reserve SMs face frequently leads to support arrears with no ability to take leave to ask the court for an adjustment in payments. Any missed payment is “vested” and may not be modified by the court, as a general rule.

Knowing that delay often means increased legal fees, a SM might also want to participate electronically in a support hearing. A SM who needs a modification of child support or alimony might elect to request electronic testimony rather than to allow delay to drive up legal fees and risk an increased support arrearage. Counsel for the SM should explore any options available for taking testimony electronically. In addition to the telephone, a SM sometimes can obtain access to videoteleconferences (VTCs) at commercial or command facilities that allow real-time audiovisual interaction. The use of a camera and a microphone in connection with a computer connected to the Internet makes possible testimony from locations that do not have commercial or command VTC facilities. 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.”

When the case does not involve the UIFSA, opportunities to use telephone or audiovisual testimony are limited. As a general rule, telephone testimony is not allowed in a trial court. Some courts have recognized, however, that special circumstances can justify bending this rule. The option of taking electronic testimony and evidence upon the SM’s motion allows the SM to facilitate the prompt disposition of the case rather than leaving him or her with only the options of default or delay.

Military Pay

Military compensation consists of basic pay and other entitlements. Base pay is the wage paid to a SM. It is subject to the usual taxes that are deducted from anyone’s paycheck – federal and state income tax withholding, Medicare, FICA, etc.

BAH is described above. Entitlements may also include the Basic Allowance for Subsistence (BAS), special skill pay (such as combat pay for those in a combat zone, flight pay for pilots or “jump pay” for those who are on airborne status, variable special pay for military physicians), special allowances (*e.g.*, family separation allowance) and bonuses (*e.g.*, reenlistment bonuses).

To find out how much Sergeant John Smith is earning, review a copy of his monthly LES. It shows his Base Pay, BAH, BAS, tax withholdings, voluntary allotments to pay bills or support, and accrued leave. Carefully review his allotment deductions -- they can be used for elective payments (*e.g.*, an allotment can be for a car payment or an automatic savings plan). Also pay close attention to the following:

- How much leave has he accrued (to determine whether a stay of proceedings under the Servicemembers Civil Relief Act is justified)?
- What state does he claim as his legal residence for income tax purposes? This may be

important for jurisdictional issues.

While federal and state tax returns may be helpful in discovering other income, don't use them to look for military entitlements, since some of these are *tax-free*.

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*.¹² 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. The judge should also consider housing provided in-kind to military members. For the latter, the amount of the housing allowance should ordinarily be constructively added to the member's pay, as the reasonable value of the "in-kind" income.

The concept of in-kind equivalency, however, can be carried to extremes. It works fairly well if Sergeant John Smith is living in quarters at Ft. Swampy, East Carolina. On the other hand, suppose that SGT Smith is deployed to Afghanistan. Rather than adequate lodging in the barracks on base, SGT Smith will be living in a tent near Kabul, competing for living space with sand fleas and scorpions. Under these

¹² The current version can be found at <http://www.irs.gov>

circumstances, the soldier has a pretty good argument about the minimal value of government lodging, and that there should be little, if any, value assigned to “free government housing.” The same would be true for a sailor whose station was on a destroyer escort in the Persian Gulf. His “government housing” consists of a bunk and a shared small cabin. In either case, the judge would be justified in placing at zero the value of lodging and in deciding that the reduction in BAH constitutes a substantial change in SGT Smith’s income, unless offset by other added compensation, such as the Family Separation Allowance, combat pay or hazardous duty pay.

The court should also note that these allowances are not taxable. Since state guidelines are based on gross pay and assume that all pay is taxable, it may be appropriate to adjust military pay upward to factor in the nonexistent taxes. Since the Guidelines presume that all income is taxable, converting these two sums into their taxable equivalents would allow application of the Child Support Guidelines as originally intended by the drafters of the Guidelines. The amount of the adjustment would be the actual tax rate on the member's taxable income. It would also be appropriate to add in the member’s constructive share of FICA and Medicare taxes that would apply if these allowances were so taxable.

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. [$\$500 \div .80 = \mathbf{\$625}$]
- 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.

Use the same approach for state taxes if the member is from another state with no tax on wage income, such as Tennessee, or one with no income tax at all, such as Texas. You would add in a state income tax component if your state guidelines assume that all of the payor’s income is subject to state income tax. Just divide the non-taxed item (here, the base pay, BAH and BAS) by one minus the appropriate state tax rate.

BAH and BAS are not the only nontaxable funds available to the SM. Under section 112 of the Internal Revenue Code, all military personnel who are serving in a combat zone (CZ) or “Qualified Hazardous Duty Area” (QHDA) may exclude from gross income all compensation that they receive for that service. The maximum exclusion is the highest pay for an enlisted person (E-9). This exclusion frees up considerable amounts of income that otherwise would be consumed in taxes. This should be taken into account by the court or in negotiations by the parties in reaching an equitable settlement on support issues.

In reality, however, few judges and attorneys are aware of this windfall. In addition, a combat tour usually lasts up to twelve months. Unless counsel for the recipient is able to time the hearing or negotiation for the period just before the SM is deployed to the combat zone, the SM will effectively be beyond the reach of the court or the parties due to the Servicemembers Civil Relief Act, which allows a stay of proceedings when

the military duties of the SM prevent his or her participation in court proceedings. Furthermore, courts might be reluctant to determine amounts of support based on income that will last for a relatively narrow window of income exclusion, only to have another motion filed at the end of the tour of duty to reduce support from the previous order.

Medical Expenses

These days health insurance covers most, but not all, medical expenses. At the outset, it is vital to find out whether the nonmilitary parent has private medical insurance covering the children and what is covered by the plan. A typical policy may have an annual deductible amount of \$250, cover 80% of most medical expenses and exclude entirely such items as elective surgery, routine physical examinations and dental work.

Military dependents are entitled to medical treatment at military hospitals and are covered for civilian health care purposes by TRICARE, which is a health care network of military and civilian providers that covers a major portion of allowable medical expenses. This is the military equivalent of medical insurance. TRICARE is a cost-sharing program. Just like any private medical insurance program, there is an annual deductible amount and co-payments are required. 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.

As to coverage alternatives to negotiate for the children, one option for parents who are both working is to have each parent maintain insurance. This provides "double coverage" (usually through TRICARE and, for the non-military spouses, an employer-sponsored plan) and reduces uncovered medical expenses to a small amount.

Another alternative is to have the noncustodial parent maintain medical coverage (either through TRICARE or private insurance) while both parents split the uncovered portion equally (or in some specified ratio, such as $\frac{3}{4}$ for dad and $\frac{1}{4}$ for mom). The advantage of this option is that it puts part of the financial burden on both parents, and gives them both an incentive to economize.

A third approach to consider is the payment of extraordinary unreimbursed amounts on behalf of the child. In case of a catastrophe, it would appear that the party earning more income should be liable for excess payments. Where the father earns more than the mother, such a clause might state that medical insurance would be maintained by the mother, that the uncovered part would be shared equally by the parties up to an annual per-parent ceiling of \$300, and that any uncovered expense in excess of this amount would be paid by the father.

If you're concerned that the custodial parent may never receive those reimbursements from the noncustodial parent, who at various times is thousands of miles away, ask the judge to listen to your client's testimony regarding medical expenses for the kids for the last year or two, what was covered, what was out-of-pocket. Then argue to the judge that, due to the distance presently – and the distance in the future after a couple of PCS moves – the judge's intentions regarding prompt payment for medical expenses for the children

would be best met by including in the monthly child support an additional amount based on the proper share for the noncustodial parent of his share of those average monthly uncovered medical expenses.

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 spouse¹³ she can maintain her full eligibility for TRICARE. These criteria are:

- 1) Not have remarried;
- 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

¹³ 10 U.S.C. §1072(2)(f)

- 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 20/20/15¹⁴ 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. A sample letter for a former spouse to make an inquiry appears in the materials at the end of this manuscript. 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
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

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

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 policy¹⁵ 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.

DoD sets the premiums for CHCBP, and they must be paid quarterly. For 2012 the premiums were \$1065 and in 2013 the premiums raise to \$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.¹⁶

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->

¹⁵ 10 U.S.C. § 1086 (a).

¹⁶ 10 U.S.C. § 1078 a (g) (1) (C).

military.com/south/bene/TRICAREPrograms/chcbp.asp A DD Form 2837 is used for enrollment and is available at the above website

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 (not “will 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

In case one of the parents dies while child support or college expenses are still due, it is a wise idea to use a life insurance clause to provide for the payment of insurance proceeds as a substitute for child support. Since both of the parents are legally responsible for the support of the children, it makes sense to have this provision apply to both parents, not just the noncustodial parent who is responsible for paying child support.

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*,¹⁷ 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

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. The procedure for garnishment is as follows: First, obtain an order for garnishment. The court must have jurisdiction over the payor. There is no requirement that the garnishment order name the U.S. government, DFAS, or the branch of service that employs the SM. There is no duty to join the government as a party (typically called a third-party garnishee). DFAS treats state wage assignment orders in the same manner as garnishments.

¹⁷ *Ridgway v. Ridgway*, 54 U.S. 46, 102 S. Ct. 49 (1981).

The next step is to serve a certified copy of the garnishment order on the proper *designated agent* by certified or registered mail, return receipt requested. This service should include a copy of the underlying support order or other evidence that the garnishment is entered to enforce a support obligation, if this is not apparent from the garnishment order. Also 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

Once the papers are properly served, the finance center will notify the SM-obligor and will suspend payment of funds necessary to comply with the garnishment order. The finance center is required to serve notice of the garnishment order on the SM-obligor no later than fifteen calendar days after receipt of the garnishment order.

The limits on garnishment are imposed by the Consumer Credit Protection Act, 15 U.S.C. § 1673, implemented in 5 C.F.R. Part 581. Payments are limited to:

1. Fifty percent of the SM's disposable pay if the SM can prove that he or she is providing more than half of the support for family members other than those to whom the garnishment order pertains; or
2. Sixty percent of the disposable pay of the SM if the SM is *not* providing more than half of the support for such other family members.

An additional five percent may be added to the fifty (or sixty) percent above if the arrearage is for twelve or more weeks. You can find fact sheets and other helpful information at "Garnishment" on the DFAS website, www.dfas.mil.

Involuntary Allotment

Another way to attach military pay for support purposes is through the use of an "involuntary allotment." Also known as a "mandatory allotment," this is actually a wage withholding action that's enforceable against active duty servicemembers. It can be used to attach active duty military pay (basic pay plus bonuses, *plus* BAH and BAS in some cases). It's usually easier to obtain than a wage garnishment, and more money may be available.

An involuntary allotment requires an initial order that establishes support. This may also be an order for alimony *and* child support. There must be an arrearage in an amount equal to or greater than *two months' support* under the order. Once this happens, the court or the state Child Support Enforcement Agency can send a notice to the military requesting initiation of an involuntary allotment. The "notice" can simply be a letter, and no prior notice to the obligor is necessary. It must include the member's name and SSN as well as a statement that there are arrearages equal to or greater than 2 months' support (and, if true, that the obligor is in arrears for more than 12 weeks). Also include a copy of the underlying order certified by the clerk of the court, the date the allotment should stop and a statement certifying that the writer is an "authorized person" under 32 C.F.R. § 54.3 (such as a state CSE agent, clerk or judge).

The allotment will be established for the amount of the monthly support obligation. If arrearages are sought, they must be requested, and there must be a court order requiring the payment of accrued arrearages. The allotment stays in effect until an order is served on the finance center to end it. The SM cannot unilaterally terminate the involuntary allotment. The amount of the allotment ordinarily will be the monthly support obligation plus arrears, if required by the order. The same percentage limitations apply as set out above. Disposable earnings subject to involuntary allotment are: (1) basic pay, some special pay, and bonuses; (2) BAH for all SMs with dependents, and for SMs without dependents in the grade of E-7 and above; and (3) BAS for all commissioned and warrant officers. The federal limits are the same as for garnishment (50%-65%), but the amount of pay available for attachment usually is greater.

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/helpservists/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_030.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, 2006).

* * *

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,

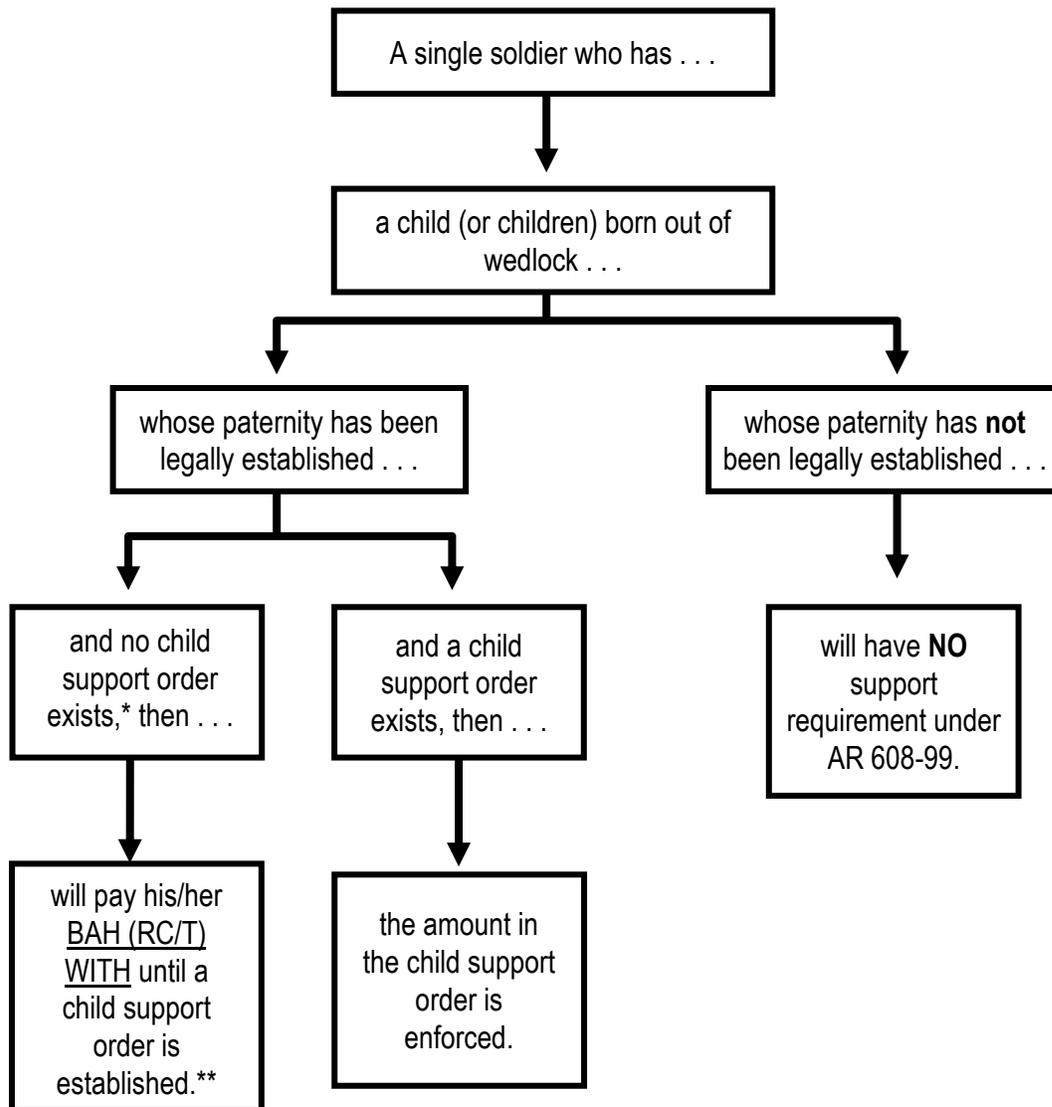
I am writing on behalf of Mrs. Anna Dewlap, the wife of Corporal Jack Dewlap, a member of your command. The parties separated on May 1, 2007, and at this point Mrs. Dewlap is residing here in King City, East Carolina, with her widowed mother. As her attorney, I am writing to ask that you assist in obtaining 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]

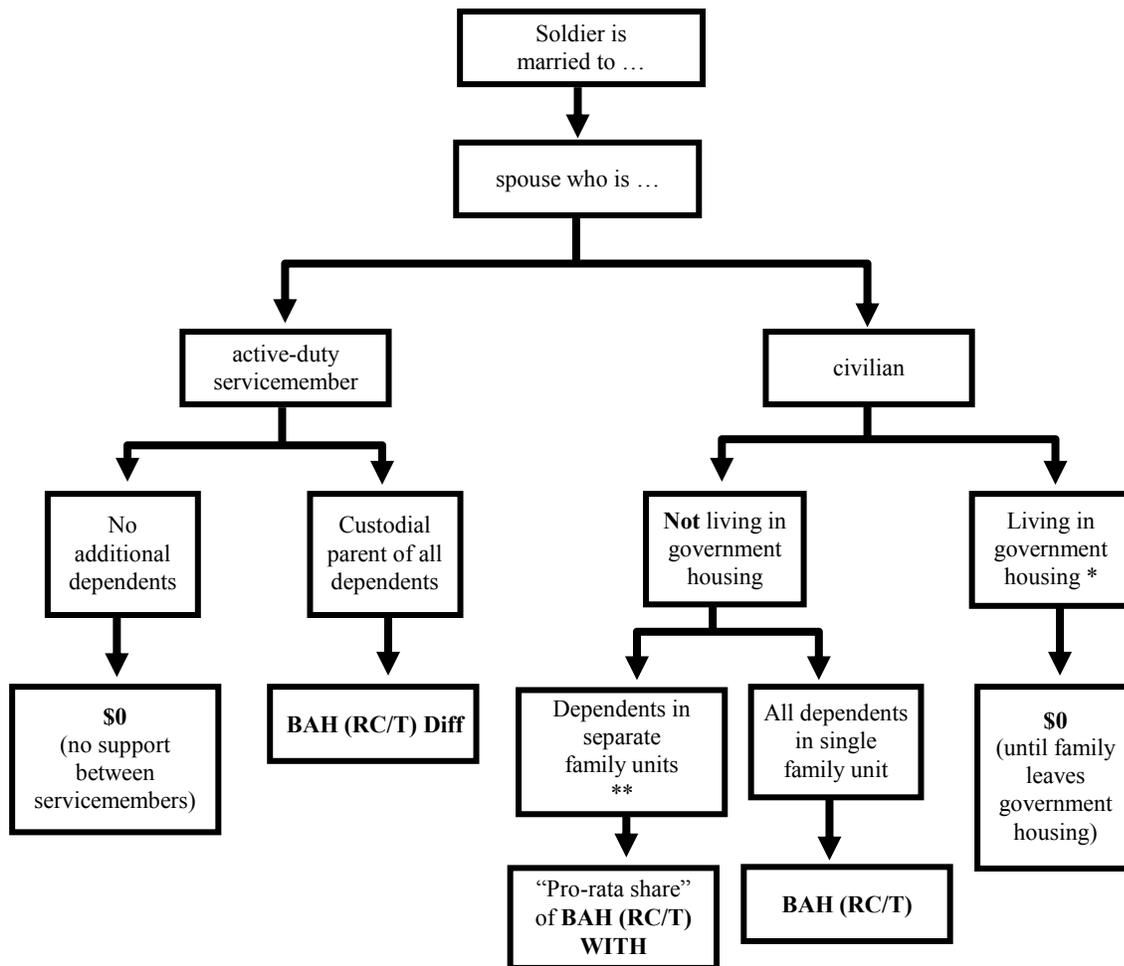
AR 608-99 and the Single Soldier



* 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.

How to read an active duty Army

Leave and Earning Statement

Your pay is your responsibility.

This is a guide to help you understand your Leave and Earnings Statement (LES). The LES is a comprehensive statement of a member's leave and earnings showing your entitlements, deductions, allotments (fields not used for Reserve and National Guard members), leave information, tax withholding information, and Thrift Savings Plan (TSP) information. Your most recent LES can be found 24 hours a day on *myPay*.

If members receive Career Sea Pay, the Sea Service Counter will still be displayed in the remark portion of the LES. The LES remains one page in length.

Verify and keep your LES each month. If your pay varies significantly and you don't understand why, or if you have any questions after reading this publication, consult with your disbursing/finance office.

DEFENSE FINANCE AND ACCOUNTING SERVICE MILITARY LEAVE AND EARNINGS STATEMENT																					
ID	NAME (LAST, FIRST, MI)				SOC. SEC. NO.		GRADE	PAY DATE	YRS SVC	ETS	BRANCH	ADSN/DSSN	PERIOD COVERED								
	1				2		3	4	5	6	7	8	9								
ENTITLEMENTS				DEDUCTIONS				ALLOTMENTS				SUMMARY									
TYPE		AMOUNT		TYPE		AMOUNT		TYPE		AMOUNT		+ AMT FWD		13							
A B C D E F G H I J K L M N O	10				11				12				- TOT ENT		14						
													- TOT DED		15						
													- TOT ALMT		16						
													- NET AMT		17						
													- CR FWD		18						
													= EOM PAY		19						
													DIEMS		23						
													RET PLAN		24						
	TOTAL				20				21				22								
	LEAVE		BF BAL	ERND	USED	CR BAL	ETS BAL	LV LOST	LV PAID	USELSE	FED TAXES		WAGE PERIOD	WAGE YTD	MS	EX	ADD'L TAX	TAX YTD			
		25	26	27	28	29	30	31	32	33		34	35	36	37	38					
FICA TAXES		WAGE PERIOD		SOC WAGE YTD		SOC TAX YTD		MED WAGE YTD		MED TAX YTD		STATE TAXES		ST	WAGE PERIOD	WAGE YTD	MS	EX	TAX YTD		
		39		40		41		42		43		44		45	46	47	48	49			
PAY DATA		BAQ TYPE		BAQ DEPN	VHA ZIP	RENT AMT	SHARE	STAT	JFTR	DEPNS	2D/JFTR	BAS TYPE		CHARITY YTD		TPC	PACIDN				
		50		51	52	53	54	55	56	57	58	59		60		61	62				
Thrift Savings Plan (TSP)		BASE PAY RATE		BASE PAY CURRENT		SPEC PAY RATE		SPEC PAY CURRENT		INC PAY RATE		INC PAY CURRENT		BONUS PAY RATE		BONUS PAY CURRENT					
		63		64		65		66		67		68		69		70					
		CURRENTLY NOT USED				TSP YTD DEDUCTIONS				DEFERRED				EXEMPT				CURRENTLY NOT USED			
		71				72				73				74				75			
REMARKS		YTD ENTITLE				YTD DEDUCT															
		76				77								78							

Fields 1 - 9 contain the identification portion of the LES.

- **1 NAME:** The member's name in last, first, middle initial format.
- **2 SOC. SEC. NO.:** The member's Social Security Number.
- **3 GRADE:** The member's current pay grade.
- **4 PAY DATE:** The date the member entered active duty for pay purposes in YYMMDD format. This is synonymous with the Pay Entry Base Date (PEBD).
- **5 YRS SVC:** In two digits, the actual years of creditable service.
- **6 ETS:** The Expiration Term of Service in YYMMDD format. This is synonymous with the Expiration of Active Obligated Service (EAOS).
- **7 BRANCH:** The branch of service, i.e., Navy, Army, Air Force.

- **8 ADSN/DSSN:** The Disbursing Station Symbol Number used to identify each disbursing/finance office.
- **9 PERIOD COVERED:** This is the period covered by the individual LES. Normally it will be for one calendar month. If this is a separation LES, the separation date will appear in this field.

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 type 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,

Date: _____/12

NC

27604

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, 2009
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: _____/12

March 1, 2012
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

Chapter 3

UNIFORMED SERVICES DOD BENEFICIAIRES (FORMER SPOUSES)

3.1. General Information. Initial verification for DoD Beneficiary (former spouse) must be accomplished by the parent Service. Refer to Table 1.3, Categories of Personnel Who Can Not Be Cross-Serviced. The Uniformed Services Former Spouses Protection Act (USFSPA) provides ID card benefits and privileges to several categories of DoD Beneficiaries (DBs), referred to as unremarried former spouses (see attachment 1, Terms). This chapter defines the categories of DBs and provides eligibility criteria and verification procedures for ID cards. The chapter also includes eligibility criteria for DBs who qualify for ID card benefits and privileges as abused dependents. **Note:** When the member and his or her spouse are living apart because of a legal separation or interlocutory decree of divorce, set the expiration date at 1 year from the date of issue or the date on which the divorce becomes final.

3.1.1. Effective 1 October 2003, eligible Uniformed Service Former Spouses shall be enrolled in DEERS as a sponsor in their own right in the category designator of DoD Beneficiary (DB); and issued a DD Form 2765, Department of Defense/Uniformed Services Identification and Privilege Card. **Note:** A DB cannot convey benefits or privileges for the purposes of DEERS sponsorship to family members, e.g. grandchildren or legal custody ward, etc; their initial eligibility to benefits and privileges are originally based on their former marital relationship to the military member.

3.1.2. A DB (unremarried former spouse) of a member who retired under the Early Retirement Program with less than 20 years service which is creditable in determining eligibility to retired pay is *NOT* entitled to an ID card. (See Attachment 1, Terms.)

3.1.3. A DB (unremarried former spouse) of a member who was placed on the disability retired list with less than 20 years which is creditable in determining eligibility to retired pay is *NOT* entitled to an ID card.

3.2. Basic Eligibility Criteria for DoD Beneficiaries (Unremarried Former Spouses). To qualify for a military ID card under the USFSPA, on the date of divorce, dissolution or annulment, the unremarried former spouse must meet the eligibility criteria reflected in Table 3.1:

Table 3.1. Basic Eligibility Criteria For DoD Beneficiaries (Unremarried Former Spouses).

BASIC ELIGIBILITY CRITERIA FOR UNREMARIED FORMER SPOUSES		
Years of Marriage	Years of Member's Creditable Service in Determining Eligibility to Retired Pay	Years of Overlap of Marriage and Member's Creditable Service
At least 20 years	The military member must have performed 20 years of creditable service in determining eligibility to	At least 15 years of the marriage must have been during the period the member performed service creditable in determining eligibility
Exception:	retired pay.	to retired pay.

Abused Retirement Eligible (10-20-10) and Abused Transitional Compensation (See paragraphs 3.3.4 and 3.3.5 for abused former spouses).		The amount of overlap determines the benefits and privileges the former spouse is entitled to receive (see Attachment 2).
		The date of divorce determines the expiration date for those former spouses with a 15-year overlap of marriage and sponsor's creditable service, but not 20 years (see Tables 3.3 and 3.4). Exception: See paragraph 3.3.5 for abused former spouses (URFS 05 and URFS 06).
<p>Additional Requirements:</p> <p>The DB (former spouse) must not have remarried.</p> <p>The DB (former spouse) is <i>not</i> eligible for medical care (medical service (MS) or TRICARE (MC)) if he or she is enrolled in an employer-sponsored health plan. If the former spouse disenrolls from the employer-sponsored health plan, medical benefits can be restored effective the date of disenrollment.</p> <p>The DB (former spouse) is <i>not</i> eligible for TRICARE when eligible for Medicare, Part A, unless he or she is a dependent of an active duty member or is under age 65, entitled to Medicare Part A as a result of a disability or end-stage renal (kidney) disease and is enrolled in Medicare, Part B (see chapter 7).</p>		

3.2.1. Active Components use active duty service to compute sponsor's creditable service for retired pay. This includes an active service performed after retirement while still married.

3.2.1.1. Guard and Reserve Components use satisfactory service to compute creditable service for eligibility of former spouses of their members. This includes active service performed while in an inactive reserve or reserve retired status while still married. Refer to paragraph 16.1.1 for dependents of Standby Reserve members, dependents of Reserve retirees who are entitled to retired pay at age 60, but who have not yet attained age 60 (Table 1.9) and dependents of former members when the former member is eligible for retired pay at age 60 but not yet age 60. **Note:** Qualifying former spouses are eligible to receive the DD Form 1173-1 ID card with the following eligibility of shopping privileges to the commissary, exchange, and MWR (and no medical) prior to the service member or former member attains age 60. When the service member or former member reaches age 60, then, the former spouse becomes eligible for medical benefits with the Military Treatment Facility (MTF) and TRICARE. See paragraph 3.2.1.3 for members who are recalled to active duty for 31 days or more.

3.2.1.2. Qualifying former spouses of Guard or Reserve Components members meeting the requirements as of the date of divorce are eligible for a DD Form 1173 on the date the member becomes entitled to retired pay at age 60. If the member dies prior to age 60, use the date the member would have turned age 60 to determine the eligibility date.

3.2.1.3. When Guard or Reserve members awaiting retired pay at age 60 are recalled to active duty for 31 days or more, qualifying former spouses may be eligible for ID card entitlements during the sponsor's active service. Contact the appropriate Guard or Reserve project office for further guidance (paragraph 25.1). **Exception:** For Marine Corps, contact the HQMC (MMSR-6) (paragraph 22.7).

3.3. Categories, Eligibility Criteria, Benefits, Privileges and Expiration Dates for DoD Beneficiaries (Unremarried Former Spouses (URFS)) . Although Table 3.1 refers to basic eligibility criteria for unremarried former spouses, the following tables provide the different categories of former spouses, eligibility requirements, benefits and privileges and expiration dates for unremarried former spouse ID cards (see Attachment 1, Terms).

3.3.1. DB (Unremarried Former Spouse) (20-20-20). A DB (unremarried former spouse) who at the time of divorce was married to the member for 20 years during which time the member performed 20 years creditable service in determining eligibility to retired or retainer pay and the marriage and service overlapped at least 20 years:

Table 3.2. DB (Unremarried Former Spouse) (20-20-20).

(20-20-20)	BENEFITS AND PRIVILEGES	EXPIRATION DATE
1. Married at least 20 years to a military member, 2. Who performed at least 20 years creditable service in determining eligibility to retired pay and, 3. The overlap of marriage and service was at least 20 years, and, 4. Has not remarried, or 5. Is not enrolled in an employer-sponsored health plan.	Is entitled to Medical Service (MS) & TRICARE (MC), and Commissary, Exchange, Morale, Welfare and Recreation (MWR). See Table 3.1 for restrictions for those eligible for Medicare. Note: Medical benefits are not authorized if DB (former spouse) is covered by an employer-sponsored health plan.	4 years from date of verification. Note: ID card may be renewed every 4 years if all the eligibility requirements are still met.

3.3.2. DB (Unremarried Former Spouse) (20-20-15) Divorced Prior to 1 Apr 85. A DB (unremarried former spouse) who at the time of divorce was married to the member for 20 years during which time the member performed 20 years creditable service in determining eligibility to retired or retainer pay and the marriage and service overlapped at least 15 years but less than 20:

Table 3.3. DB (Unremarried Former Spouse) (20-20-15) Divorced Prior to 1 April 1985.

(20-20-15) DIVORCED PRIOR TO 1 APR 85	BENEFITS AND PRIVILEGES	EXPIRATION DATE
1. Married at least 20 years to a military member, 2. Who performed at least 20 years creditable service in determining eligibility to retired pay and, 3. The overlap of marriage and service was at least 15 years, and 4. Has not remarried, or 5. Is not enrolled in an employer-sponsored health plan.	Medical Service (MS) and TRICARE (MC). See Table 3.1 for restrictions for those eligible for Medicare. Note: Medical benefits are not authorized if former spouse is covered by an employer-sponsored health plan.	4 years from date of verification. Note: ID card may be renewed every 4 years if all eligibility requirements are still met.

3.3.3. DB (Unremarried Former Spouse) (20-20-15) Divorced on or after 29 September 1988. An unremarried former spouse who at the time of divorce was married to the member for 20 years during which time the member performed 20 years creditable service in determining eligibility to retired or retainer pay and the marriage and service overlapped at least 15 years but less than 20. **Note:** Former spouses qualifying under the 20-20-15 provision whose divorce occurred on or after 1 April 1985 but before 29 September 1988 were entitled to an ID card for two years from the date of divorce. This time has expired. See Table A6.1:

Table 3.4. DB (Unremarried Former Spouse) (20-20-15) Divorced on or After 29 September 1988.

(20-20-15) DIVORCED ON OR AFTER 29 SEPTEMBER 1988	BENEFITS AND PRIVILEGES	EXPIRATION DATE
1. Married at least 20 years to a military member,	Medical Service (MS) and TRICARE (MC).	1 year from date of divorce only. May not be renewed
(20-20-15) DIVORCED ON OR AFTER 29 SEPTEMBER 1988	BENEFITS AND PRIVILEGES	EXPIRATION DATE
2. Who performed at least 20 years creditable service in determining eligibility to retired pay and, 3. The overlap of marriage and service was at least 15 years, and 4. Has not remarried, or 5. Is not enrolled in an	See Table 3.1 for restrictions for those eligible for Medicare. Note: Medical benefits are not authorized if former spouse is covered by an employer-sponsored health plan.	

employer-sponsored health plan.		
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3.3.4. DB (Abused Unremarried Former Spouse) (10-20-10) Retirement Eligible Member. This former spouse category is the result of sponsor's discharge for family member abuse. An unremarried former spouse of a retirement eligible member who was married to the member for a period of at least 10 years; the member performed at least 20 years of service that is creditable in determining the member's eligibility for retired or retainer pay; and the period of overlap of marriage and the member's creditable service was at least 10 years; and the former spouse is in receipt of an annuity as a result of the member being separated from the Service due to misconduct involving dependent abuse (see paragraph 5.1 and Tables 5.1, and 5.2).

Table 3.5. DB (Abused Unremarried Former Spouses) (10-20-10) Retirement Eligible Member.

(10-20-10) ABUSED FORMER SPOUSE OF RETIREMENT ELIGIBLE MEMBER SEPARATED ON OR AFTER 23 OCTOBER 1992	BENEFITS AND PRIVILEGES	EXPIRATION DATE
1. Married at least 10 years to a military member,	Is entitled to Medical Service (MS) & TRICARE (MC), and Commissary, Exchange, Morale, Welfare and Recreation (MWR).	4 years from date of verification. Note: ID card may be renewed every four years provided all eligibility requirements are still met.
2. Who performed at least 20 years creditable service in determining eligibility to retired pay and, 3. The overlap of marriage and service was at least 10 years, and 4. Has not remarried, or 5. Is not enrolled in an employer-sponsored health plan.	Note: Do not authorize TRICARE if the applicant is eligible for Medicare, Part A and not enrolled in Part B. Medical benefits are not authorized if former spouse is covered by an employer-sponsored health plan.	

3.3.5. DB (abused unremarried former spouse) Transitional Compensation Eligible of a member on active duty for 31 days or more who separated from the Service on or after 30 November 1993 due to dependent abuse and the former spouse is entitled to transitional compensation (see Table 5.3):

Table 3.6. DB (Abused Unremarried Former Spouse) Transitional Compensation Eligible.

ABUSED FORMER SPOUSE (TRANSITIONAL COMPENSATION)	BENEFITS AND PRIVILEGES	EXPIRATION DATE

SEPARATED ON OR AFTER 30 NOV 93		
Married to the member at the time of abuse. Receiving transitional compensation.	Medical care in military treatment facilities and TRICARE on or after 17 October 1998 and commissary, exchange, and MWR	Remarriage or stop payment date reflected on DD Form 2698, <i>Application for Transitional Compensation.</i>

3.4. Initial Verification Procedures for DB (Unremarried Former Spouses). These procedures apply to former spouses of active duty, retired, National Guard, and Reserve members.

3.4.1. Initial verification of DB (former spouses) must be accomplished by the parent Service. A marriage certificate, divorce decree, statement of service or a complete set of DD Forms 214 should be provided or forwarded to the locations reflected in Table 3.7:

Table 3.7. Where to Accomplish Initial Application.

UNIFORMED SERVICE	WHERE TO ACCOMPLISH INITIAL APPLICATION
Army	The nearest Army issuing activity.
Navy	Bureau of Naval Personnel BUPERS-26, 5720 Integrity Drive, Millington TN 38055-6730 (see paragraph 20.5 for Navy verification procedures).
Air Force	The nearest Air Force issuing activity.
Marine Corps	20/20/20 or 20/20/15 (DB) Former Spouses: Headquarters U.S. Marine Corps (MMSR-6), 3280 Russell Road, Quantico, VA 22134-5103 (see paragraph 22.7 for Marine Corps verification procedures). Abused Spouses: Headquarters U.S. Marine Corps (MRP-1), 3280 Russell Road, Quantico, VA 22134-5103 (see paragraph 22.10 for Marine Corps verification procedures).
Coast Guard	Personnel Service Center (PSC), Commanding Officer (RAS), (785) 339-3441. 444 S.E. Quincy Street, Topeka, Kansas 66683-3591 (see paragraph 23.3 for Coast Guard verification procedures).
National Oceanic and Atmospheric Administration	Commissioned Personnel Center, CPC1, 8403 Colesville Road, Suite 500, Silver Spring, MD 20910.
United States Public Health Service	Division of Commissioned Corps Officer Support, OCCO, 1101 Wootton Parkway, Plaza Level, Suite 100, Rockville, MD 20852.

3.5. Initial Verification Procedures for DB (Unremarried Former Spouses) (20-20-20 and 20-20-15). The following applies to *initial* DB verification procedures:

3.5.1. ID card issuing activity or Uniformed Service Personnel project offices listed in Table 3.7 take the following steps reflected in Table 3.8 to verify initial eligibility for unremarried former spouses upon receipt of documents:

Table 3.8. Initial Verification Procedures for DB (Unremarried Former Spouses) (20-20-20 and 20-20-15).

STEP	ACTION
1	Review marriage certificate and final divorce decree, dissolution or annulment of marriage to verify that the DB (former spouse) was married to the military member for at least 20 years.
2	Verify the member's status (i.e., retired, active duty, deceased). Note: If member is deceased, contact the parent Uniformed Service Personnel project office (paragraph 25.1) to confirm the member's status at the time of death. In the case of the Army, a Casualty Report or a DD Form 214, Certificate of Release or Discharge from Active Duty will be required.
3	Request the dates of inclusive service from the office that maintains the member's records by message or letter if member is active duty.
4	<p>Request the documents to reflect total creditable service in determining eligibility to retired pay if member is retired, and the DB (former spouse) does not have a Statement of Service or a complete set of DD Forms 214. Mail requests to the following addresses:</p> <p>Army Reserve – Army Human Resources Command, 1 Reserve Way, Attn: PAV-A/DEERS Project Office, St. Louis, MO 63132-5200. Telephone (314) 592-1034, DSN 892-1034, Fax 1-800-325-4981.</p> <p>Navy - National Personnel Records Center, 9700 Page Avenue, St. Louis, Missouri 63132, or contact BUPERS-26, (901) 874-3362/3360 and DSN: 882-3362/3360 or 1-866-827-5672 (paragraph 25.1).</p> <p>Air Force - NPRC/NRPMF, 9700 Page Avenue, St. Louis, Missouri 63132-5100. Comm: (314) 801- 0800, select appropriate options; Fax request to (314) 801-9195 (see Attachments 7 and 8 for sample letters).</p> <p>Marine Corps – Headquarters, U.S. Marine Corps, 3280 Russell Road, Quantico, VA 22134-5103. Telephone: 1-800-336-4649. (See paragraphs 22.7 and 22.10 for verification procedures).</p> <p>Coast Guard - Commanding Officer (RAS), Personnel Service Center (PSC), (785) 339-3441. 444 S.E. Quincy Street, Topeka, Kansas 66683-3591.</p> <p>National Oceanic and Atmospheric Administration - Commissioned Personnel Center CPC1, 8403 Colesville Road, Silver Spring, MD 20910.</p> <p>United States Public Health Service - Personnel Services Branch, DCP, Parklawn Building, Room 4-35, 5600 Fishers Lane, Rockville MD 20857.</p>
5	<p>Terminate spouse from sponsor DEERS record.</p> <p>A temporary ID card may be issued with the following expiration dates while waiting for confirmation of eligibility, if (DB) former spouse appears to be conditionally eligible:</p> <p>Up to 90 days for retired member's former spouse.</p> <p>30 days for an active duty member's former spouse.</p> <p>Note: For Navy (DB) former spouses, see paragraph 20.5.2.3; for Marine Corps (DB) former spouses see paragraph 22.7.</p>

6	Have (DB) former spouse sign a statement in item 89 on the DD Form 1172 that he or she has: Not remarried Is not enrolled in an employer-sponsored health plan and; He or she will be responsible for any medical care received during this period if found not to be eligible for an ID card.
7	File completed DD Form 1172 in suspense file.
8	Start tracer action if documents are not received within 90 days.

3.5.2. Take the actions reflected in Table 3.9 upon receiving the statement of service or a complete sets of DD Form 214:

Table 3.9. Verification Actions Upon Receiving Statement of Service or a Complete Set of DD Forms 214.

STEP	ACTION
1	Compare service dates with inclusive dates of marriage and divorce.
2	Retrieve temporary card and issue full term card if documentation confirms eligibility. See Attachment 2 for specific entitlements and Attachment 4 for expiration and MC TRICARE effective dates.
3	Annotate in block 89 on the DD Form 1172 that the former spouse has not remarried since the divorce from the member and does not have medical coverage under an employer-sponsored health plan. Have the former spouse initial this statement.
4	Have the former spouse sign block 90 on the DD Form 1172.
5	Batch process the DD Form 1172 to DSO according to paragraph 1.12.

3.6. Renewal Procedures for DB (Unremarried Former Spouses) if Enrolled in DEERS. Cross-servicing is authorized for renewal of (DB) former spouse ID cards if correctly enrolled in DEERS with date of divorce. **Note:** The date of divorce is not reflected in RAPIDS for DB. **Exception:** Navy former spouses must have a letter of approval from the Navy Personnel Command. If the applicant does not have a letter, contact BUPERS-26 (paragraph 25.1.2). Marine Corps former spouses must have a letter of approval from Headquarters, U.S. Marine Corps (MMSR-6), 3280 Russell Road, Quantico, VA 22134-5103. If the applicant does not have a letter, contact HQMC (MMSR-6) (paragraph 25.1.4).

3.7. Renewal Procedures for DB (Unremarried Former Spouses) Whose Date Of Divorce Is Not in DEERS. Take the steps reflected in Table 3.9 when renewing an ID card for a (DB) former spouse whose date of divorce is *NOT* in DEERS. **Exception:** Navy (DB) former spouses must be verified by contacting PERS 352E (paragraph 25.1); Marine Corps (DB) former spouses date of divorce can be confirmed by calling HQMC MMRS-6, at (703) 784-9310.

3.8. Documents Required for Verification:

3.8.1. Certified copy of a marriage certificate. A marriage license will not be used. (See Attachment 5, **Note 7** for definition of certified copy).

3.8.2. Certified copy of a divorce decree.

3.8.3. A statement of service or a complete set of DD Forms 214.

3.8.3.1. Service issuing activities should follow initial verification procedures contained in chapters 19 through 23.

3.9. (DB) Unmarried Former Spouse (UMFS). A (DB) former spouse who qualified under the 20/20/20 provision listed above, who remarries, and becomes unmarried through death or divorce of the subsequent spouse, is eligible for reinstatement of commissary, exchange, and MWR privileges only. Medical care reinstatement is not authorized for a (DB) unmarried former spouse. (See attachment 2, A2.4.)

QUESTIONS AND ANSWERS ABOUT UNREARRIED FORMER SPOUSES AND THEIR TRICARE AND OTHER ENTITLEMENTS

1. Who is the DEERS Sponsor for 20/20/20 Unremarried Former Spouses?
 - a. ANSWER: Since Oct 1, 2003, eligible USFSPA 20/20/20 Former Spouses are their own sponsor for DEERS enrollment. Their SSNs and not those of their former Military Sponsor appear on their Military ID Cards. (¶3.1.1, AFI 36-3026_IP (17 June 2009))

2. Can a 20/20/20 Former Spouse enroll their dependent child or legal ward into DEERS like their former Military Sponsor?
 - a. ANSWER: No. The Former Spouse's DEERS status is already that of a dependent, and they do not have the ability to enroll their dependents under DEERS. (¶3.1.1, (Note), AFI 36-3026_IP (17 June 2009))

3. If the former Military Sponsor is allowed to retire under an Early Retirement Program (with less than 20 years of active service), will the Former Spouse ever be entitled to benefits such as TRICARE, TRICARE for Life, Commissary and Base Exchange?
 - a. ANSWER: No. The Former Spouse fails to meet the statutory criteria in 10 USC §1072 and is legally not a 20/20/20 Former Spouse. ((¶3.1.2, AFI 36-3026_IP (17 June 2009))

4. Same question as above, but the former Military Sponsor is given Medical Disability (Chapter 61) Retirement?
 - a. ANSWER: No. The Former Spouse fails to meet the statutory criteria in 10 USC §1072 and is legally not a 20/20/20 Former Spouse. ((¶3.1.3, AFI 36-3026_IP (17 June 2009))

5. Is an Unremarried Former Spouse eligible for TRICARE if he/she is eligible for employer provided health insurance, but is just not enrolled? (Example: FS is also a federal civilian employee eligible for FEHBs.) Does the fact such insurance is available to them mean they can not elect to have TRICARE as their primary health insurance?
 - a. ANSWER: As long as the Unremarried Former Spouse is not ENROLLED IN an employer provided health insurance program, the merely because they are "eligible to enroll" does not deny them TRICARE coverage. (Table 3.1, Additional Requirements, AFI 36-3026_IP (17 June 2009))

6. What if the Unremarried Former Spouse enrolls in an employer provided health insurance plan and then dis-enrolls? Can he/she again become eligible for TRICARE?
 - a. ANSWER: Yes, an Unremarried Former Spouse can request TRICARE enrollment retroactive to the disenrollment of the employer provided coverage. (Table 3.1, Additional Requirements, AFI 36-3026_IP (17 June 2009))

7. During the period of their marriage, the Military Spouse has served on active duty, was in the Reserves for a few years, and for the past 10 years has been in the National Guard. He just received his "20 Good Years" letter for Retirement. He is age 53. If we should divorce, will I be a 20/20/20 Former Spouse and can I get TRICARE immediately upon our being divorced?
 - a. ANSWER: No, because Reservists and National Guard personnel do not become eligible for TRICARE until they start receiving Retired Pay (Retainer Pay), which is for most Reserve Component individuals not until their 60th birthdays. Unremarried 20/20/20 Former Spouses may receive a USFSPA ID Card (DD Form 1173-1) authorizing them shopping privileges at the Commissary and Base Exchanges, and MWR Facilities. When the former Military Sponsor becomes entitled to Military Retired Pay (or would have become eligible except because of their death), the Unremarried 20/20/20 Former Spouse will then receive a Military ID Card authorizing use of Military Treatment Facilities and TRICARE effective on the date their Former Military Sponsor would have turned 60. ((¶3.2.1.1. & ¶3.2.1.2. AFI 36-3026_IP (17 June 2009))

8. Colonel Tom has been in the Air Force for 28 years. After serving 8 years of initial active duty, he transferred to the Reserves for the remaining 20 years of his career. His wife, Betty, married him two years after he was commissioned. Four years ago Colonel Tom received his "20 Good Years" letter. Last year he filed for divorce from Betty and started a four year tour of active duty, which if he successfully completes it will allow him to have enough time to request a "regular retirement" from the Air Force. Will Betty be a 20/20/20 Former Spouse if they are immediately divorced?
 - a. ANSWER: It could go either way! A close review of Colonel Tom's Reserve Retirement Point Summary Sheet might well show that Betty has sufficient "active duty" credits during the marriage to be considered a 20/20/20 Former Spouse should her husband seek a regular retirement under one of the provisions of 10 USC Chapter 367 (Army); Chapter 571 (Navy & USMC); or, Chapter 867 (Air Force). If Betty does qualify as a 20/20/20 Former Spouse based upon Colonel Tom's active duty service occurring during the marriage, then Betty will commence receiving her TRICARE benefits immediately upon

divorce. But if Betty does not qualify as a 20/20/20 Former Spouse in the event Colonel Tom is granted a regular retirement, then the fact she might have otherwise been a 20/20/20 Former Spouse had Colonel Tom sought a non-regular retirement will not help her in qualifying to receive TRICARE benefits. In other words, if Colonel Tom receives a regular retirement at say age 55, Betty would not become a 20/20/20 Former Spouse when he would have achieved his 60th birthday and started to receive his non-regular retirement. Betty's eligibility for TRICARE benefits are determined by the actual type of retirement (i.e., regular vs. non-regular) her Military Sponsor received and not the one she could have benefited from but did not elect. ((¶3.2.1.1. & ¶3.2.1.1. AFI 36-3026_IP (17 June 2009))

- b. BUT.....If Colonel Tom never becomes eligible for a regular retirement, a similar analysis would have to be undertaken to determine if Betty would be a 20/20/20 Former Spouse had Colonel Tom later sought a non-regular (Reserve) retirement under one of the provisions of 10 USC Chapter 1223 at the time he achieved age 60. ((¶3.2.1.1. & ¶3.2.1.2. AFI 36-3026_IP (17 June 2009))
 - c. AND.... If Betty is determined to be a 20/20/20 Former Spouse based upon Colonel Tom's expected non-regular retirement (at age 60) and after the divorce and before Colonel Tom is 60 he is called to active duty for 31 days or longer, Betty will become eligible for TRICARE coverage during such period of active duty service even if they are divorced. ((¶3.2.1.3. AFI 36-3026_IP (17 June 2009))
9. Does it matter if the Military Sponsor has not retired when the parties divorce as long as the *Former Spouse satisfies the 20/20/20 criteria at the time they are divorced*? What exactly are the "benefits" or "entitlements" a 20/20/20 Former Spouse receives?
- a. ANSWER: An Unremarried Former Spouse of a Military Sponsor eligible for a regular retirement, who satisfies the criteria as a 20/20/20 Former Spouse set forth in Table 3.2 of AFI 36-3026_IP (17 June 2009), will receive immediately upon divorce Medical Service (TRICARE), Commissary, Exchange, and access to MWR facilities. ((¶3.3.1., AFI 36-3026_IP (17 June 2009)) If the Military Sponsor is instead eligible for a non-regular retirement, then they will receive only Commissary, Exchange and MWR benefits (i.e., no TRICARE) until the Military Sponsor is age 60; or, if the Military Sponsor is deceased when that Sponsor would have become age 60. ((¶3.2.1.1. & ¶3.2.1.2. & ¶3.3.1 and Table 3.2. of AFI 36-3026_IP (17 June 2009))
10. What about 15 year Unremarried Former Spouses? Are there some special rules that apply to them?

- a. ANSWER: Yes, there are several rules for 20/20/15 Former Spouses. They are addressed at ¶3.3.2. & Table 3.3 and ¶3.3.3. & Table 3.4 of AFI 36-3026_IP (17 June 2009))
 - i. Unremarried Former Spouses who satisfy the 20/20/15 Rule and were **divorced prior to April 1, 1985** are essentially treated as if they were a 20/20/20 Unremarried Former Spouses for purposes of TRICARE and other entitlements.
 - ii. Unremarried Former Spouse who satisfy the 20/20/15 Rule and were divorced **after April 1, 1985 but before September 29, 1988**, get two (2) years of TRICARE and other entitlements. (NOTE: This provision has no present application as anyone who could qualify for it has already used their benefits.) (See Note to ¶3.3.3., AFI 36-3026_IP (17 June 2009))
 - iii. Unremarried Former Spouse who satisfy the 20/20/15 Rule and were **divorced after September 29, 1988** receive one (1) year of TRICARE and other benefits from the date of their divorce from the Military Sponsor. (Note: A 20/20/15 Former Spouse can transition to “Indefinite CHCBP” Coverage after their one year of TRICARE benefit.)
11. Are there any special provisions for Abused Former Spouses?
- a. ANSWER: Yes, there are actually two provisions discussed for Abused Unremarried Former Spouses:
 - i. Those of Retirement Eligible Members who were married to the Military Sponsor for at least 10 years during creditable service and where the Military Sponsor is being discharged as a result of abuse of the Former Spouse and the abused spouse is receiving an annuity (portion of Military Retired Pay under 10 USC §1408). (Sometimes called 10/20/10 Former Spouses) (See: ¶3.3.4. & Table 3.5 of AFI 36-3026_IP (17 June 2009)). 10/20/10 These Unremarried Former Spouses receive TRICARE, Commissary, Exchange, and MWR benefits for as long as they meet the eligibility criteria under ¶3.4 and Table 3.5 of AFI 36-3026_IP (17 June 2009).
 - ii. Abused Unremarried Former Spouses eligible for Transitional Compensation where the Military Sponsor is being discharged due to dependent abuse. (See: ¶3.3.5. & Table 3.6 of AFI 36-3026_IP (17 June 2009)). These Unremarried Former Spouses are eligible for TRICARE, Commissary, Exchange, and MWR benefits until their remarriage and for as long as they are entitled to Transitional Compensation. (See also Table 5.3 of AFI 36-3026_IP (17 June 2009))

12. When my first spouse and I divorced, I was determined to be a 20/20/20 Former Spouse, and I enjoyed TRICARE and Base Access privileges for several years. I then met and married a Military Retiree, and I then became his Military Dependent and had the same TRICARE and Base Access privileges as I did as a 20/20/20 Former Spouse. Now I found him cheating on me and that he never divorced his first wife before he married me! If my second husband and I either divorce or get our marriage annulled, can I get my TRICARE and other privileges restored as a 20/20/20 Unremarried Former Spouse of my first husband?

a. ANSWER: No. It was the act of being married, even though that marriage later ends in divorce or an annulment, that now denies you the ability to meet the statutory criteria of 10 USC §1072(2)(F) (2008). Any “remarriage” even though ending in divorce or annulment, will render you ineligible for the statutory TRICARE benefit; however, you may request reinstatement of Commissary, Base Exchange and MWR privileges. See: ¶3.9 AFI 36-3026_IP (17 June 2009)

13. Where do eligible Unremarried Former Spouses go to obtain their TRICARE and other benefits?

a. ANSWER: The initial verification of the Unremarried Former Spouse must be done by the parent service of the Military Sponsor. (See: ¶3.4. and ¶3.4.1. and Table 3.7 of AFI 36-3026_IP (17 June 2009)). Table 3.7 provides the Point of Contact and Office Responsible for determining whether an Unremarried Former Spouse meet statutory requirements for being entitled to TRICARE and other federal benefits a 20/20/20; 20/20/15; 10/20/10; or, Transitional Compensation Eligible former spouse.

14. What documents should I have available with me when I seek determination as to my Unremarried Former Spouse entitlements?

a. ANSWER: “If in doubt, bring it!!!” (See: ¶3.8 of AFI 36-3026_IP (17 June 2009))
Bare minimum documents are:

- i. Certified Copy of Marriage Certificate (NOT a Marriage LICENSE!!!!)
- ii. Certified Copy of Divorce Decree or Dissolution of Marriage
- iii. A Statement of Service or a complete set of the Military Sponsor’s DD Forms 212, Discharge Certificate from the Armed Forces
- iv. Proof of the Former Spouse’s Identity. (Examples: Certified copy of their birth certificates; U.S. Passport; State Drivers License; Social Security Card; present Military Dependent ID Card)

15. My Military Sponsor and I are contemplating a divorce, but I don't know if I will be able to satisfy the requirements as a 20/20/20 or even 20/20/15 Unremarried Former Spouse. I've had some significant illnesses during our marriage, and obtaining "follow-on" health insurance will be difficult and expensive. Is there a way of finding out for certain beforehand if I will be eligible for TRICARE as an Unremarried Former Spouse?

- a. ANSWER: Yes, all of the Uniformed Services have created a program for providing advanced determinations on military spouses being able to satisfy the statutory requirements for TRICARE and other benefits (i.e., Commissary, Base Exchange, and MWR). It is called the Former Spouse Determination Program. Contact information for the personnel offices for each branch of the Uniformed Services may be found on the following page and at this website: www.jber.af.mil/shared/media/document/AFD-120613-063.pdf

Scenarios 1 & 2

Scenario 1: The "20-20-20" Rule

You are eligible for continuing TRICARE benefits as your record in DEERS as long as you do not remarry and meet the following criteria:

- 20** - You were married to the same service member for at least 20 years.
- 20** - Service member / sponsor has at least 20 years of creditable service towards determining retirement pay.
- 20** - All 20 years of marriage overlapped during the 20 years of creditable (Active or Reserve) service which counted towards your sponsor's retirement.

Scenario 2: The "20-20-15" Rule

You are eligible for limited TRICARE benefits (normally, 1-year from date of divorce) as your record in DEERS as long as you do not remarry and meet the following criteria:

- 20** - You were married to the same service member for at least 20 years.
- 20** - Service member / sponsor has at least 20 years of creditable service towards determining retirement pay.
- 15** - All 15 years of marriage overlapped during the 20 years of creditable (Active or Reserve) service and your sponsor must have been in a retired pay status.

If the TFSCs determine you qualify, a new ID card is issued under your record in DEERS as 20/20/20 or 20/20/15.

Finally, you can lose your TRICARE and ID card eligibility if the following occurs:

1. Re-marry, even if the remarriage ends in death or divorce (unless you gain eligibility under your new sponsor (service member).
2. Purchase and are currently covered by an employer-sponsored health plan other than TRICARE, or if
3. A spouse of ANG & Reserve member, not authorized TRICARE benefits until the service member reaches age 60.

For more information about the
Air Force Former Spouse
Determination Program

Contact

Total Force Service Center
(TFSC)

1-800-525-0102
DSN 665-5000

E-mail afpc.fmrsp@us.af.mil (San Antonio)
Fax (210) 565-6219, DSN 665 (San Antonio)
E-mail arpc.contactcenter@arpc.denver.af.mil (Denver)
Fax (478) 327-2215, DSN 497 (Denver)

*Air Force Former Spouse
Determination Program*



Sources: Title 10, Chapter 55, Section 1072, Uniformed Services Former Spouses' Protection Act (USFSPA), Public Law 97-252, amended by Public Laws 98-525 & 100-456, and inter-service Air Force Instruction 36-3026 IP, 17 June 2009, Chapter 3.

Current as of 11 May 2012

Air Force Former Spouse Determination Program

Are you divorced or planning to divorce? This decision can result in consequences that last a lifetime. Divorce impacts your eligibility for benefits and privileges associated with the Defense Enrollment Eligibility Reporting System (DEERS). Your identification (ID) card eligibility is based on your marital status in DEERS.

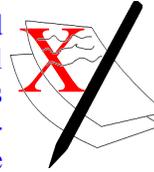
The Air Force Former Spouse Determination Program was created in 2011 as an initiative to provide one-source for DEERS eligibility information in the event of divorce.

Our former spouses receive individualized guidance through the complex process of determining their eligibility to qualify for ID card benefits and privileges.

There are specific eligibility requirements that must be met to qualify after a divorce. First, you must have been married to the sponsor (uniformed service member) for at least 20 years. Secondly, your sponsor must have at least 20 years of creditable service towards determining retirement pay. Automatic disqualifiers occur when the marriage is less than 20 years or the sponsor has not served 20 years in the military. There is also a third requirement, explained further in Scenarios 1 & 2, the marriage time occurring during the sponsor's military service known as "marriage overlap."

Documentation

If you think you are eligible based on the mentioned criteria, you will need the following documents provided to the Total Force Service Centers (TFSCs) at Air Force Personnel Center (AFPC-San Antonio) for active & retired sponsors, or Air Reserve Personnel Center (ARPC-Denver) for Air National Guard (ANG) and Reserve sponsors:



1. Marriage certificate.
2. Divorce decree.
3. Verification of creditable service. Examples of creditable service documents for Active Duty and Retired Members - DD Form 214 or Statement of Service; or example of creditable service document for ANG / Reserve Members – Air Reserve Personnel Center (ARPC) Former Spouse Verification Letter.

If you are unable to obtain the service member's creditable service documents as listed above, you may contact the Total Force Service Centers (TFSCs) at 1-800-525-0102, or contact your nearest Military Personnel Element (MPE), or Force Support Squadron (FSS) ID Card Customer Service Office for further assistance.

If your (ex) spouse served with another branch of service, refer to the Resources column within this brochure. The appropriate uniformed Services Personnel Office will need to be contacted for a determination of eligibility for former spouse benefits.

Resources

Personnel Offices

Air Force

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)

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

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

Navy

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

Marine Corps

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

Coast Guard

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

Public Health Services

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

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

(SAMPLE LETTER FOR FORMER SPOUSE DETERMINATION)

(DATE)

Individual's Personal Letter Head with Full Address
(Include Email and USPS Address)

(Address for Appropriate Branch of Uniformed Services)

Subject: Request for Former Spouse Determination and for Statement of Years, Months, Days of Creditable Service Occurring During Period of Marriage for Retirement and For Pay

Dear sir or madam:

This letter is my formal request under your Service's Former Spouse Determination Program. I seek your response to two questions concerning my Military Sponsor, Lt Col Dudley Will Dowright, SSN: 000-000-000, who is (retired) (active duty) (reserves) (National Guard of ??). To assist in your determination, I am submitting with this correspondence the following:

1. A copy of my marriage certificate to Lt Col Dowright
2. (A copy of my divorce decree; dissolution of marriage; or, "Please determine my requests based upon a hypothetical date of _____, when we (filed for date of Lt Col Dowright's retirement/ our divorce/when we separated/or a stipulated date)
3. I am attaching what creditable information I have of Lt Col Dowright's military service. (Include all DD Forms 214; Reserve Point Summary Sheet; Statement of Military Service; etc.)

FIRST QUESTION: How many years/months/days of Lt Col Dowright's creditable service for determining his eligibility for (regular) (non-regular) retirement occurred during our marriage (or between the date of our marriage and _____ (date of divorce, retirement, or _____ date.)

SECOND QUESTION: For determining Lt Col Dowright's Military Retired Pay, how many years/months/days of creditable service for determining his retired pay occurred (during our marriage) (between the date of our marriage and _____ date.)

Sincerely,

(Spouse/Former Spouse/Attorney)

Encl