

FAMILY LAW BRIEF

FOR

**FORT KNOX SOLDIERS,
DEPENDENT FAMILY MEMBERS,
AND MILITARY RETIREES**



The Fort Knox Legal Assistance Office
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TABLE OF CONTENTS

INTRODUCTION	2
KENTUCKY DIVORCE LAW	3
SUPPORT OF DEPENDENTS	6
UNIFORMED SERVICES FORMER SPOUSES' PROTECTION ACT	8
PREPARING FOR THE DIVORCE COURT	10
POST-DIVORCE CHECKLIST	14
THE SURVIVOR BENEFIT PLAN	16
APPENDIX A – USFSPA CHART OF BENEFITS	A-1
APPENDIX B – 2021 BAH RC/T CHART	B-1
APPENDIX C – ATTORNEY REFERRAL LIST	C-1
APPENDIX D – DD FORM 2293, USFSPA APPLICATION	D-1

INTRODUCTION

Welcome to the Fort Knox family law briefing. The purpose of your family law briefing is to provide preliminary information on the issues you should be thinking about if you are experiencing problems with your marriage or family situation. As you may know, Army attorneys cannot appear in civilian court with you. We can, however, provide general guidance about divorce, separation, the payment of support, and other issues which you will need to think about before hiring a civilian attorney to represent you and before you go to court.

As a part of your family law briefing, you will receive a comprehensive information packet, which discusses the major issues you will need to think about. The packet is very thorough and will answer most, if not all, of your questions. The packet includes information concerning:

- ✓ Kentucky Divorce Law – Details Kentucky’s requirements to have one of its courts hear your divorce action. Information papers for several of our surrounding states (Illinois, Indiana, Michigan, Ohio, and West Virginia) are also available if needed;
- ✓ Support of Dependents – Details a Soldier’s obligations to provide support for their family members under the Army’s interim support requirements (Army Regulation 608-99 requires payment of support in the absence of a court order or separation agreement specifying a different amount);
- ✓ Uniformed Services Former Spouses’ Protection Act – Explains the federal law that allows states to divide military retired pay as marital property. It also details benefits to which former spouses may be entitled;
- ✓ Preparing for Divorce Court – Covers some general guidelines for finding an attorney and some of the things that should be taken into consideration before hiring an attorney;
- ✓ Post-Divorce Checklist – Covers general issues arising out of a divorce;
- ✓ Survivor Benefit Plan – Explains the insurance plan used to protect your survivors against the risks of your early death, your survivor outliving the benefits, or inflation;
- ✓ 2021 BAH RC/T charts – List the amount of base pay, support, based on pay grade, that Soldiers are required to provide under the Army’s interim support requirements; and
- ✓ A local civilian attorney referral list – Contains names, office locations, and telephone numbers for local attorneys qualified to handle your case.

If you are a dependent family member and you are currently separated from your sponsor, and you are not receiving support (as required by a court order, separation agreement or under the Army interim support requirements), we can schedule you for an appointment following the briefing. During the appointment, we can discuss your non-support situation to determine an appropriate course of action.

As stated above, our office’s family law mission is to provide initial information and preliminary guidance. This information is not intended as a substitute for competent legal counsel. Therefore, you should consult an attorney, rather than use this guide as a tool to act as your own attorney.

KENTUCKY DIVORCE LAW

WHAT ARE THE GROUNDS FOR DIVORCE?

Kentucky has a “no fault” divorce law, which means it is not necessary to show grounds for dissolution of the marriage based on the wrongdoing or marital misconduct by either the husband or the wife. The basis for divorce is the irretrievable breakdown of the marriage, or the parties to the marriage cannot continue to live together as husband and wife and there is no reasonable prospect for reconciliation.

WHAT ARE THE PROCEDURES?

Below are general procedures. Keep in mind procedures may not be exactly the same in every divorce proceeding.

Jurisdictional Requirements:

--One of the parties to a divorce proceeding must be a resident of Kentucky for at least 180 days before filing the petition for divorce. A Soldier who has been stationed at Fort Knox for 180 days satisfies this requirement, even though his home of record is in another state.

--The court will not grant a divorce until the parties have lived "separate and apart" for 60 days. This requirement is satisfied if there have been no sexual relations between the parties for that period of time.

--The court will not grant a divorce if the wife is pregnant. The court will wait until the child is born, even if the other party is not the child's biological father.

Filing the Petition for Divorce: To apply for a divorce, a petition is filed in the Circuit Court of the county where the husband or wife usually resides. The other party then has 20 days to respond to the petition or a judgment by default may be entered by the judge. The divorce will be finalized after hearing evidence which may require the parties to have to testify in court. If the other party is contesting or objecting to any aspect of the divorce, such as alimony, child custody or support, division of property, etc., they will appear before the judge and argue their side of the issue.

Final Judgment: If there are minor children, the law requires a 60 day waiting period before the divorce can be finalized. Also, the parties must have been separated at least 60 days, as discussed above. Once these waiting periods have expired, and the judge has decided all the disputed questions, the judge will sign a final judgment and the divorce will be finalized.

CUSTODY, SUPPORT AND PROPERTY ISSUES

The rights and responsibilities that the parties have toward each other will be resolved in the divorce. If the parties can agree, then these issues can be listed in a separation agreement to be made part of the final divorce decree. If the parties cannot agree, then the judge will decide whether the marriage is to be dissolved and how alimony (or maintenance), child custody, child support, and division of property are to be handled.

Irretrievable Breakdown: The allegation that the marriage is irretrievably broken must be proved. This is normally not a significant issue in a divorce and is usually shown by an affidavit.

Child Custody, Parenting Time and Child Support: Either parent may be awarded custody of a minor child. Custody decisions are based upon an evaluation of what is best for a child and the child's physical, mental, moral and spiritual well-being. There is a legal presumption that joint custody and equal parenting time is in the best interest of the child. However, that presumption is not conclusive and can be overcome by evidence showing that a different type of custody and/or parenting time arrangement is in the child's best interest. Factors the judge may consider include the relative stability of each parent's household, the wishes of the parents, the preferences of the child, each parent's fitness as a parent, and the health of all concerned.

Child support is generally set by guidelines which are reflected in a formula that considers the total income of both parents and the number of children. The courts almost always award child support and can vary from the guidelines only for reasons permitted under Kentucky law.

Military members often believe the court will consider only their base pay when establishing their income for purposes of computing child support. This is incorrect. The court will consider all income, including base pay, Basic Allowance for Housing (BAH), Basic Allowance for Subsistence (BAS) and any other special pay the military member may receive.

In the absence of a court order or written agreement, Soldiers have a duty to provide support to family members in an amount established under Army Regulation 608-99, which is discussed in a later section of this booklet.

Division of Property: Kentucky divides marital property between the parties. Property acquired after the date of the marriage (that is not a gift or inheritance) is considered marital property. "Property" includes personal property, real estate and intangible property. Kentucky courts divide the marital property, without regard to fault or marital misconduct, in just or fair proportions as the court deems appropriate.

Under Kentucky law, military retired pay is considered an item of marital property which will be divided by the court. Kentucky uses a formula to determine the portion of the military member's retired pay that will be awarded to the non-military spouse. That formula awards the non-military spouse 50% of that portion that the military member earned while the couple was married (not necessarily 50% total). Additionally, there is no minimum amount of time the couple have to be married for military retired pay to be divided in a divorce.

Debts acquired after the date of the marriage will also be divided in just and fair proportions as the court deems appropriate.

Spousal Maintenance: Kentucky uses the term "maintenance" in lieu of alimony or spousal support, and either spouse may be obligated to support the other. Maintenance may be awarded while the divorce is pending or after it is final. Unlike with child support or dividing military retired pay, there is no chart or formula the court uses to determine whether spousal maintenance will be awarded or how much will be awarded. Also, the court has the discretion to award maintenance temporarily or award permanent maintenance. A court can award maintenance even if it awards the non-military spouse a portion of the military spouse's retired pay.

Maintenance can be awarded only if the court first finds the spouse seeking maintenance lacks sufficient property to provide for his or her reasonable needs and is unable to support himself/herself through appropriate employment. The court is required to consider all relevant factors, including the financial resources of the party seeking maintenance and his/her ability to seek training or obtain appropriate employment, the standard of living during the marriage, duration of the marriage, age and physical or emotional condition of the spouse seeking maintenance, and the ability of the paying spouse to meet his/her needs while meeting those of the spouse seeking maintenance.

The burden is on the spouse seeking maintenance to convince the court of his or her need. As a practical matter, it may be difficult to get maintenance if the marriage is of a short duration and the requesting party can support himself/herself. Though fault and marital misconduct are not relevant factors in granting a divorce or determining most of the issues involved in a divorce (including whether maintenance will be awarded), the court may look at fault issues when determining the amount of any maintenance award.

SEPARATION AGREEMENTS

The parties to divorce may agree on the issues of maintenance, child custody and support, and property division. If so, they can voluntarily enter into a separation agreement which can be made part of the final divorce decree.

TAX CONSEQUENCES OF DIVORCE

Alimony or spousal maintenance may be deducted from the paying spouse's federal income tax if certain conditions are met. If the maintenance is deducted from the payer, then it will be included in the gross income of the person receiving the maintenance. Child support cannot be deducted from the paying spouse's income nor included in the receiving spouse's income. The custodial parent is entitled to an exemption regardless of the amount of child support provided by the non-custodial parent. The custodial parent can waive this right by giving a signed waiver of the exemption to the other parent who must attach a copy of the waiver to the tax return for that year.

SOME QUESTIONS ON DIVORCE

1. **Can a military attorney help me obtain a divorce in Kentucky?** NO. You will need to hire a civilian attorney to file for divorce and get a judgment.

2. **Who pays for my lawyer?** YOU. You must retain and pay for your own attorney in a divorce case. In Kentucky, the court is permitted, after considering the financial resources of both parties, to order one party to pay a reasonable amount to the other party for costs and attorney's fees.
3. **What if my spouse will not give me a divorce?** The judge is the person who grants a divorce, not your spouse. Once you have filed the petition for divorce at the court house, a copy will be served on your spouse. If your spouse does not respond within 20 days of receiving a copy of the petition and the summons to appear in court, the court can grant a divorce by default.
4. **Is my divorce final when the judge signs the written judgment?** ALMOST. After the judge signs the written judgment, it is delivered to the circuit clerk who records it in the civil docket book. Upon entry of the judgment, each party has 30 days to appeal. If neither party appeals within that 30 days, the divorce becomes effective on that date.
5. **Can I resume my maiden name after my divorce?** YES. The wife may request the court to order her maiden name or a former name restored if there are no children of the parties.
6. **Can I use mental cruelty, adultery, or other marital misconduct as a ground for divorce in Kentucky?** NO. The only ground for divorce is irretrievable breakdown of the marriage.
7. **If my state of residence is not Kentucky, but I am stationed in Kentucky, can I file for a divorce in Kentucky?** YES. The Kentucky statute specifically provides that the Circuit Court has jurisdiction if it "finds that one of the parties, at the time of the action was commenced, resided in this state, or was stationed in this state while a member of the armed services, and that the residence or military presence has been maintained for 180 days next preceding the filing of the petition."
8. **Can the judge in Kentucky order a property division at the time of the divorce?** YES. As part of the divorce, the judge can divide the marital property of the parties. If both parties are before the court, then the judge can dispose of all the marital property regardless of its location. However, if the party being sued has refused to respond and has not been personally served with the petition for divorce, then the judge can only divide the marital property located in Kentucky. The judge cannot divide separate property, that which was acquired before the marriage.
9. **How will the judge divide the property?** Marital property will be equitably divided in a just and fair manner between the spouses. Marital property includes a Soldier's military retirement even if the Soldier has not yet reached retirement eligibility. The court uses a formula which awards the non-military spouse a percentage of the military pension based upon the number of years they were married while the Soldier-spouse was in the military.

A legal assistance attorney cannot represent you in court for a divorce. You must obtain a civilian attorney for filing the petition for divorce and obtaining the divorce decree. A legal assistance attorney can advise you on divorce matters, negotiate with your spouse on alimony, child support and custody, and division of property, and refer you to a civilian attorney. If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771 or visit our website at <https://home.army.mil/knox/index.php/about/Garrison/legal-assistance-office/legal-assistance-division>. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300 – 1600. The Fort Knox Legal Assistance Office is located in Building 1310, Pike Hall at the corner of Knox and Third Street.

SUPPORT OF DEPENDENTS

SOLDIERS MUST COMPLY WITH COURT ORDERS AND WRITTEN SUPPORT AGREEMENTS

Under Army Regulation 608-99, a Soldier is required to provide financial support to family members and to obey court orders on child custody. This obligation exists even if the family is separated geographically because of military service. The dollar amount of this support is measured by what is stated in any court orders or written support agreements. In the absence of a court order or written support agreement containing a financial support provision, a Soldier will provide financial support in accordance with AR 608-99.

Minimum Required Support:

In the absence of a court order, agreement, or the family member(s) living in government housing, every Soldier owes to each separated dependent an amount equivalent to:

$$\text{Pro-rata share} = \frac{1}{\left[\begin{array}{c} \text{Total number of Supported} \\ \text{Family Members} \end{array} \right]} \times \text{Applicable BAH RC/T - WITH rate}$$

The payment of any pro-rata amount, however, will be paid in the following order and manner:

- 1) First, any court-ordered support will be paid as stated in the order.
- 2) The remaining family members who do not reside in Government family housing will receive a pro-rata amount of the BAH-RC/T - WITH at the with-dependents rate. This will be regardless of the amount of support provided to other family members.

Exceptions:

- 1) **When a Soldier is stationed overseas:** receives BAH solely on behalf of unaccompanied Family members who reside in the United States, the actual amount of BAH paid to the Soldier on behalf of those dependents will be used to calculate the support requirement for those dependents, if it is greater than the BAH RC/T - WITH rate.
- 2) **Soldier married to another servicemember:** In the absence of a written financial support agreement or court order containing a financial support provision, a Soldier is not required to provide financial support to a spouse on active duty in one of the military services. With regard to a Soldier's child or children (from that marriage or a prior marriage), a Soldier will provide the following financial support in the absence of a written financial support agreement or a court order containing a financial support provision:
 - a) If the Soldier does not have custody of any children, and the children do not reside in Government quarters, the Soldier will provide BAH - DIFF to the military member having custody of the child or children.
 - b) If the Soldier does not have custody of any children, and the children reside in Government quarters, the Soldier is not required to provide financial support to the military member having custody of the child or children.
 - c) If the Soldier has custody of one or more children, the Soldier is not required to provide financial support for a child or the children in the custody of the other military member.

Enhanced Interim Financial Support (EIFS): In addition to the minimum required support mentioned above, every Soldier owes their spouse, if the spouse is not a servicemember, an EIFS amount equal to 25% of the BAH RC/T - WITH for the following periods:

- (a) A one-time payment in conjunction with the first 30 days of interim support if the spouse is residing in a location subject to the jurisdiction of a state court able to order financial support.
- (b) For all other spouses, the Soldier will make this EIFS payment each month for the period of time that the spouse does not have access to a state court with jurisdiction (Example: U.S. citizen spouse living OCONUS because of servicemember) to order spousal support.

Relief From Required Support:

If the Soldier wants to reduce the amount of court-ordered support, the Soldier must go back to court to get it reduced. If the Soldier wants to reduce the amount of support owed under a written support agreement, then the Soldier must get it changed by a court order or another written support agreement.

If support is required in the absence of a court order or agreement, a Battalion-level Commander, or higher, may release a Soldier from the AR required support. The Commander must be satisfied, by a preponderance of the evidence, that the Soldier should be released as a matter of fundamental fairness. Situations which may warrant relief include, but are not limited to, the following:

- The income of the spouse exceeds the military pay of the Soldier;
- The Soldier has been the victim of substantial abuse by the spouse;
- The supported Family member is in jail;
- The AR-required support has been provided for 18 months;
- A court with the jurisdiction to order financial support for the spouse has issued one or more orders, none of which contain a financial support provision;
- The spouse has acted in a manner to cause divorce proceedings to be unreasonably prolonged.

Additionally, the requirement to provide EIFS should routinely be waived when all of the following criteria are met: (1) The Soldier and spouse have lived apart for 30 days and the spouse resides outside the jurisdiction of any state court with jurisdiction to order support; (2) The Soldier has paid the required EIFS for at least one 30-day period; and (3) The spouse is a citizen of the host nation (not the U.S.) or it is otherwise appropriate for a host nation court of competent jurisdiction to order spousal support. (This criterion requires more of a connection to the host nation than mere presence in compliance with military orders).

A Battalion-level Commander, or higher, may release a Soldier from the regulatory requirement to provide child support if all of the following criteria are met: (1) The Soldier is the lawful custodian of the child; (2) The child, without the Soldier's consent, is in the custody of another person who is not the lawful custodian; and (3) The Soldier is diligently pursuing legal means to obtain custody of the child.

Method and Form of Support Payments:

Unless otherwise required by court order or a written support agreement, financial support may be paid by cash, check, money order, Electronic Fund Transfer, allotment or garnishment. The monthly financial support payments are due on the first day of the month following the month for which support is due unless payment is being mailed, in which case it must be postmarked not later than the first day of the month.

A Soldier may comply with AR 608-99 by paying certain non-government housing expenses on behalf of family members. These expenses are limited to rent (including payments to privatized housing on a military installation), principal and interest payments on a mortgage loan, real property taxes and property insurance due under an escrow agreement covering that property, and essential utilities such as gas, electricity and water. Nongovernment housing expenses do not include other housing costs such as telephone, internet, or cable television. All other in-kind expenses paid on behalf of supported Family members require the written approval of the supported Family members to be credited toward the required regulatory support obligation.

Arrearages: Soldiers must comply with court orders regarding arrearages (unpaid support). These arrearages could result in involuntary allotments or garnishment of the Soldier's pay. Further, a failure to pay arrears may subject the Soldier to adverse administrative or punitive action.

Making a Nonsupport Complaint: A family member who is not receiving the required regulatory support can contact the Soldier's Commander directly. The Commander is responsible for investigating the allegation of nonsupport and responding to the complainant. The family member can also consult with a military Legal Assistance Attorney or retain civilian counsel.

Parentage Claims: Legal parentage in the U.S. is determined according to state law. Legal parentage in foreign jurisdictions can be determined by foreign courts which have proper jurisdiction, or by foreign governmental entities whose determination is enforceable by virtue of a U.S. treaty or agreement, or enforced by a U.S. court. Once parentage is determined in one of these ways, the Soldier has a regulatory financial support obligation. If parentage is not determined in one of these methods, the Soldier may terminate financial support at any time, even if the Soldier has admitted parentage.

UNIFORMED SERVICES FORMER SPOUSES' PROTECTION ACT

Facts:

The Uniformed Services Former Spouses' Protection Act (USFSPA) gives state courts the right to distribute military retired pay to a spouse or former spouse. Kentucky is one of many states that recognize military retired pay as an item of marital property that can be distributed as part of a divorce decree.

The USFSPA, does not establish a right to any specific amount of retirement pay that a former spouse may be awarded in a divorce settlement. The decision whether to award retirement pay is solely in the discretion of the state court and the amount awarded will vary.

Other benefits available to the former spouse depend on the former spouse's "category."

A spouse that passes the 20/20/20 test (the military member has completed at least 20 years of creditable service; the spouse has been married to the military member for at least 20 years at date of final decree of divorce; and the period of marriage overlaps the period of creditable service by at least 20 years) can receive Commissary and PX privileges and full medical benefits. These benefits will be suspended if the spouse remarries; however, they will be revived if the subsequent marriage is terminated.

A 20/20/15 spouse (at least 15 years of overlap between the marriage and the creditable service) may be entitled to full military medical benefits for a one-year period after which the spouse may purchase a DOD-negotiated conversion health policy. These benefits will be suspended if the spouse remarries and will not be revived unless the subsequent marriage is annulled.

Former spouses of military members or retirees may have additional benefits under the Survivor's Benefit Plan (SBP), certain separation incentive programs, and in certain domestic abuse situations.

Processing Requests for Allotment under the USFSPA:

The USFSPA also provides a method for enforcing the court's decree on retired pay. If a former spouse has been awarded a portion of the military member's retired pay as marital property, the former spouse can apply to receive direct payment from the Government through the Defense Finance and Accounting Service (DFAS). However, the former spouse must meet certain requirements:

- The former spouse must have been awarded a portion of the member's retired pay as an item of marital property in the final court order. The USFSPA only gives state courts authority to award retired pay to the former spouse if the court chooses to do so; it does not require the court do so. Unless the court has issued a final order awarding a portion of the member's retired pay to the former spouse, then DFAS cannot give the pay directly to the former spouse.
- The court order must show that the member's rights under the Servicemembers' Civil Relief Act (SCRA) were observed during the court proceeding.
- The court order must show that the court had jurisdiction over the member by reason of (1) the member's residence within the territorial jurisdiction of the court (other than because of military assignment); (2) the member's domicile in the territorial jurisdiction of the court; or (3) the member's consent to the court's jurisdiction, usually shown by the member taking some affirmative action to appear or defend in the legal proceeding.
- There must be a "10/10 overlap": At least 10 years of marriage between the former spouse and the member, during which the member performed at least 10 years of military service creditable for retirement purposes. The court order should reflect the 10/10 overlap by containing information regarding the date of marriage and the Soldier's period of military service.
- The court order must set forth the award of retired pay as either a fixed dollar amount or as a percentage of disposable retired pay. (The percentage method is more often used because it is generally fairer to the former spouse; it allows for Cost of Living Adjustments (COLA), which members routinely receive. If the order sets forth the award as a fixed dollar amount, the former spouse cannot receive any amount above that dollar figure, and the former spouse's percentage of retired pay effectively decreases with each COLA.)

There is no “magic language” required to express a percentage: For example, “[Former spouse] is awarded _____ percent of [Servicemember]’s military retired pay” is sufficient for enforcement of the order under the USFSPA. In fact, most of the problems arise in cases where the court order contains a formula or hypothetical for computation of the award of retired pay. In completing a formula, the only number DFAS will supply is the amount of time creditable for retirement. All other information must be provided in the court order. If more information than that is needed to fill in the formula numbers and compute an amount of retired pay, DFAS will reject the application and require that the former spouse obtain an order from the court supplying the other numbers necessary to complete the formula. This type of order is known as a “clarifying order.”

DFAS has stated that the following is an acceptable way to express an active-duty award of retired pay by means of a formula:

The former spouse is awarded a percentage of the member’s disposable retired pay, to be computed by multiplying _____% times a fraction, the numerator of which is _____ months of marriage during the member’s creditable military service, divided by the member’s total number of months of creditable military service.

How to Apply for an Allotment of Retired Pay under the USFSPA:

In order to apply for payments under the USFSPA, the former spouse must complete and sign DD Form 2293, Application for Former Spouse Payments from Retired Pay (available at <http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd2293.pdf> or from the Legal Assistance Office). The form is also enclosed at Appendix D. The form is fairly self-explanatory and also has directions on the back. The applicant must also provide a copy of the final court order that has been certified within 90 days of being mailed to DFAS. If the order was entered earlier than that, the former spouse must obtain another certified copy of the order from the court clerk’s office.

The maximum that can be paid to the former spouse by DFAS is 50% of a member’s disposable retired pay, which is generally defined as retired pay to which the member is entitled less money owed to the Government, money awarded as disability pay, and money deducted because of election of Survivors’ Benefit Plan. However, if there are additional garnishments for alimony or child support, up to 65% may be sent to the applicant.

If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771 or visit our website at <http://home.army.mil/knox/index.php/about/garrison/legal-assistance-office>. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300 – 1600. The Fort Knox Legal Assistance Office is located in Building 1310, Pike Hall at the corner of Knox and Third Street.

PREPARING FOR THE DIVORCE COURT

When facing the prospect of divorce, your first action should be to find an attorney, whose practice is in family or divorce law, and who is aware of the laws affecting the servicemembers and their families, and how those laws impact the laws of your state. It is to your advantage to have an attorney draft a property settlement agreement that you consider fair. Attorneys are hired for their negotiating skills, not their trial skills; the goal is to settle quickly and get the best agreement possible without going to trial. Don't wait for your spouse to present an unacceptable settlement. Let him/her negotiate YOUR settlement. The following are some guidelines for:

FINDING AN ATTORNEY

- ✓ DON'T use the attorney who is representing your spouse. Divorce is an adversary situation and one person cannot adequately represent both parties.
- ✓ DON'T use attorneys who are family friends as their loyalties will be divided; however, you might ask them for a referral.
- ✓ DON'T use an attorney not aware of the new laws to protect the dependent spouse or you will have to supply the information.
- ✓ Be cautious about using family attorneys if they have worked for you or your spouse on wills and other financial matters. They may have a closer rapport with your spouse.
- ✓ DO ask friends or acquaintances who have been recently divorced, or know someone who has, about the attorneys they used.

One method of checking the professional qualifications of attorneys is to contact State Bar Association or County Bar Association in the state/county where the court will be located. The Bar Association also provides attorney referral services to assist you in finding an attorney to represent your interests. If you want to observe attorneys in action, visit the courts where the divorce will take place on a day they are scheduled to appear. You may want to visit on motions day to observe divorce proceedings; this is when most of the divorce action takes place.

The effectiveness of an attorney in presenting a client's case to the court is especially critical in divorce. Because judges are vested with broad judicial discretion and the resolution of issues takes place in an adversary setting, even in no-fault jurisdictions, effective legal skills are required. Unlike most other areas of law, where statutes and court decisions set forth precise principles and rules of law for attorneys to argue and courts to follow, family law is characterized largely by judicial discretion. Old and new statutes use such language as the court may authorize whatever is "reasonable", or "necessary", or "equitable under the circumstances." This lack of precise guidelines in family law gives judges wide latitude and vast power to decide family law matters on a case-by-case basis. Their decisions often reflect their own personal biases or values, and there is little chance of these decisions being overturned on appeal.

The Legal Assistance Office also maintains a list of local attorneys and their fields of practice. This list is attached to this Family Law Brief as Appendix C, but a more current list may be available at the office itself.

HIRING AN ATTORNEY

When you have the names of several attorneys, you should consult with two or three of them before making your decision. The return on such an investment is worth the cost. The choice of an attorney to represent you in a divorce is one of the most important consumer decisions you will ever make. You need someone you feel comfortable with, someone whose "style" is comparable to yours. You wouldn't think of buying a new car or a refrigerator without doing some comparison shopping; the same concept should be true in selecting attorneys because their legal skills can affect your whole future.

INITIAL INTERVIEW WITH AN ATTORNEY

Before you make a final decision on an attorney, phone the one(s) you have selected and ask the charge for an initial one-half hour interview (some may be free). A first interview does not commit either you or the attorney. If possible, take a friend with you on this and future visits and be prepared to take notes. It is better not to involve your children.

- ✓ DON'T be intimidated by an attorney's expertise; remember, you are hiring one just as you would hire a plumber or an auto mechanic; it is his professional training and experience that is important.

You may not want the divorce, but if it is inevitable, do not fight it. It is expensive to cross file and seldom will a judge award more than you could obtain with a negotiated agreement. You want to obtain a settlement that will allow you to live with dignity in the style to which you are accustomed. You are NOT begging for help. The initial interview will set the tone for your future relationship with your attorney. Start with discussing the attorney's: experience handling divorces that occur after long-term marriages; experience and attitude toward the handling of military divorces; extent of knowledge of the Uniformed Services Former Spouses' Protection Act (USFSPA), and experience incorporating its terms into a divorce agreement; willingness to accept the case if modification and/or enforcement are needed; views toward pension sharing and providing for retirement income for spouses. Do the answers agree with your own beliefs and values?

Be prepared to explain your situation BRIEFLY. Remember, this is a 30-minute interview. If your spouse has already initiated proceedings, take with you copies of all legal documents you have received.

- ✓ DO question the attorney's fees: What is the initial retainer? What does it cover? Will you receive a refund if the court orders your spouse to pay your attorney fees? What are the hourly rates? What is the hourly rate to appear in court? Will monthly statements be sent to you?

Ask for an Authorization and Retainer Agreement signed by both you and the attorney. Read it carefully. You are giving him/her your power of attorney unless you specify that you want to approve certain decisions. Ask about your attorney's assistant(s)-their names, duties, and who will appear in court for you. You should send your attorney a written request to appear in court for you and not to send an assistant. Request that copies of all documents and correspondence referring to your case be sent to you as well as a written report of any phone calls made on your behalf, particularly those with your spouse's attorney. A patronizing attitude on the part of your attorney (don't worry, I'll take care of everything) is not acceptable.

WORKING WITH YOUR ATTORNEY

Since your initial interview with the attorney will have set the tone for your relationship, you should expect to be an active participant in the proceedings. Ask the attorney for an outline of events that will normally be a part of the divorce. You have asked to be kept informed by way of written reports and you, in turn, must keep your attorney informed. Keep a record of the time you spend with your attorney, subtracting phone interruptions, and bring it to the attention of the secretary when leaving. Make an effort to be in court with your attorney. If you are not, the opposing attorneys may negotiate a settlement.

Prepare as complete a statement as you can of the family financial position (the more information you can provide, the less work involved and the less it will cost you). If possible, include income, copies of, or information on: -Income tax returns for the past two or three years. If you do not have them, contact the Internal Revenue Service for copies. You signed them; you are entitled to them. -All papers pertaining to your family home and other real estate, such as deeds, mortgages, etc. -Military and other pensions. If your spouse has not retired, find out the date he will be eligible and estimate the amount he will receive. Know his date of entry into the service, his rank and any prior service such as Reserves or National Guard. If your spouse will be receiving a non-military pension, provide your attorney with their date of eligibility and other pertinent information. - Survivor Benefit Plan (SBP). If your spouse has already retired and subscribed to the SBP, find out the amount of coverage and monthly payments. (noted on W2 form attached to income tax return). -Bank accounts. -Stocks and bonds--check income tax returns for this information but be aware that tax exempt securities may not be included. - Outstanding debts - such as credit cards, car payments, bank loans, etc. -Household furnishings and personal possessions. Estimate total value (refer to insurance coverage); list separately any item(s) of particular monetary and sentimental value. - Insurance policies, (life, car, household, etc.). -A budget adequate for your needs. You may not get everything you ask for but DON'T start with a minimum. -Investigate the use of vocational counselors as "expert witnesses" to establish the earning potential given up by the homemaker. Most important is providing information from factual statistics that confirm the labor market's reluctance to employ older women who MUST return to work.

NOTE: Gathering of some of the above information depends on state laws regarding a spouse's legal right to knowledge of marital assets in areas such as: -Obligation of financial institutions (banks, savings and loans, etc.) to reveal amounts of accounts. -Amount of military pension. Acquiring this information will depend on laws in the state where the action will take place. In states which consider military pensions as part of the income, any asset that is a source of future income is 'discoverable'. This means demanding income information (present and future) from your spouse's attorney by requesting a disclosure of assets (Discovery Request). If unsuccessful, go to court and ask for it. Be sure that you know the laws of the state where he/she claims a residence. Be aware of the jurisdictional requirements contained in 10 USC, sec. 1408 (c) (4).

BE AWARE THAT:

If you are served with divorce papers but do not answer them, you are part of the suit; and your spouse may, in some states, obtain a judgment by default. You must prove that you were not properly served. Your spouse can also obtain a court order for publication, publish a notice in a local paper and then obtain the divorce by default. This is possible especially in cases where the petitioner does not know the addresses of their spouse. If you are served and do nothing, then there is no requirement that you be sent a copy of the final divorce decree. There will be no property settlement or award of alimony.

As your case progresses, communicate with your attorney in writing rather than by phone. Except in cases of emergency, phone calls are not effective and can be expensive (you will be charged for your attorney's time). They disrupt the internal workings of the office and frequently cannot readily provide the information you seek, thus requiring a return call. By writing and keeping copies, both you and your attorney will have a record of what has been said. If you must call, leave a message describing your request so that your attorney can have an answer for you when he returns your call. Remember the assistant clerks and secretaries are bound to secrecy in your case.

- ✓ DON'T depend on an attorney for emotional support. They are not trained for this and it is an unnecessary expense for you to spend your time discussing personal problems. It is much better to consult a trained therapist and/or support groups sponsored by various organizations in your community.

Sometimes family and friends can be helpful and supportive but again you must make careful choices. Anyone can be called as a witness against you. Don't admit fault to anyone.

FINANCIAL CONSIDERATIONS

If charge cards, utility accounts, bank loans, etc. are in your spouse's name (Mrs. John Jones) have them changed or reissued to also include your name (Alice Jones) in order to establish a credit rating for yourself. If this is not done, you may be considered (after separation and/or divorce) as a new account and have to apply again to a store or financial institution where you have been a valued customer for years. An established credit rating is vital for a person without a salary. Ask your local credit bureau about the appropriate procedures for establishing accounts for separated and/or divorced spouses (similar to accounts that a widow can set up in her own name). All people should have their own checking accounts and savings accounts and credit cards. If you do not, try to establish them before official separation.

Rewrite your will. In some states, divorce and/or remarriage will NOT invalidate your old will.

WRITING YOUR PROPERTY SETTLEMENT AGREEMENT (PSA)

Take copies of current and pending legislation to your attorney so that you can be covered in the event that future legislation is enacted. Consider adding a statement in your PSA to allow you to go back to court for new benefits in the event of a change in state or federal laws.

Ask for a pro rata share of your spouse's pension(s). A pro rata share is the number of years of marriage while the pension was being earned divided by the number of years the member served times 50%. Some state courts still will NOT award a portion of the pension per se but will accept such a provision if your spouse agrees. If they do not agree and the court makes the decision, you may still be awarded support in an equal amount. If your spouse takes another government job after retirement, their military pension may be reduced, or eliminated entirely when they retire from the second job. Consider adding a provision in your PSA to protect you against such a contingency. If your husband has not yet retired at the time of divorce, ask for alimony until you begin receiving your share of the pension. In that case, your PSA should include a stipulation that your spouse will notify you of their retirement date and/or give you permission to contact the Finance Center for the information.

Consider the tax consequences. Unless otherwise stated, you are responsible for income tax on the money you receive whether it is for alimony or a portion of the pension as property.

Decide whether you will need permanent alimony or rehabilitative alimony (ending after a set number of years); your job prospects depend on your age, education, and past work experience. Remember that you have EARNED financial security (the same as your spouse) after a long-term marriage career devoted to homemaking, child raising, and enduring the personal sacrifices required by military life.

You are entitled to Cost of Living Adjustments (COLAS) if you get a percentage of the pension; if you do not, try to have COLAs included in your settlement agreement.

If your decree states that your award will be paid by allotment, you will not be able to receive direct pay from the Finance Center if your spouse cancels the allotment.

Ask that you be named the irrevocable beneficiary of your spouse's Survivor Benefit Plan (SBP) and have it written into the settlement agreement. If you are not eligible for the SBP, negotiate for an annuity or life insurance policy (on your spouse) with you the owner of the policy. Ask to have your spouse's life insurance policies, including group life, irrevocably assigned to you as beneficiary, with you as the owner of the policy; and pay the premiums yourself if they refuse to do so. Notify the insurance company by certified letter (with a copy for your files) that you are the beneficiary. Instruct them to allow no borrowing against the policy and to inform you if any payments are missed.

Spousal support ends on the death of your former spouse, as does any portion of a pension you are awarded. There are no survivor's benefits payable from an ex-spouse's estate. It is very important that older spouses list as PROPERTY whatever intangibles they can (pension funds, insurance, royalties, receivables, etc.), rather than rely on spousal support for all future income.

Ask for a share of all real and personal property acquired during the marriage. Consider whether you want to keep the family home or receive other assets. Your decision should depend, in part, on the equity in the home and its physical condition. Often the court will order the home sold in order to divide its value. Attorneys frequently favor this action, because their fees can be paid out of escrow. You must decide what is best for you. The house is a shelter, an investment, a tax write-off, an income potential, and has credit value. However, maintaining a large house can be a physical and financial burden.

If not eligible for military health coverage and your ex-spouse is retired and has another career, retain, if possible, group health membership in your ex-spouse's present employment plan for you and the children. If remaining a member is NOT possible under the plan, explore the conversion right to an individual health policy. If none of the above is possible, negotiate to have your ex-spouse pay the premiums on a new plan for you.

Ask for child support THROUGH their higher education. Use an expert witness, such as an economist, to testify on the REAL cost of child raising, using graphs to illustrate changing costs.

Be sure your attorney covers you in the event that pending and future legislation is enacted.

✓ DO NOT WAIVE ANY OF YOUR FUTURE RIGHTS.

CHANGING ATTORNEYS

When your attorney files your first official paper(s) with the court, THAT attorney becomes your "attorney on record". This means that YOU can discharge him/her at any time but, unless you agree or the court orders, the attorney cannot withdraw from your case. Remember, you are the employer and the attorney is your employee; you should not tolerate poor representation. However, you must learn to distinguish between poor representation and information that is unpleasant but true. When attorneys say that something is not obtainable, they may not be fighting hard enough, but more likely they are pointing out the legal fact. It is not the attorney's fault that the law is not always fair. If your attorney procrastinates or doesn't return your calls, write a letter explaining the problem(s). If this fails and you feel you must find a new attorney, request a copy of your complete file. It is a violation of legal ethics (subject to discipline by most state bars) for an attorney to withhold your file for ANY reason, including non-payment of fees.

If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771 or visit our website at <http://home.army.mil/knox/index.php/about/garrison/legal-assistance-office>. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300 – 1600. The Fort Knox Legal Assistance Office is located in Building 1310, Pike Hall at the corner of Knox and Third Street.

POST-DIVORCE CHECKLIST

Completing divorce proceedings can make you feel like the separation is finalized and there is nothing left to do; however, it is likely there will still be many matters that need to be resolved after the judge has made a divorce final. This is a post-divorce checklist to help ensure that you take all the necessary actions to protect yourself by truly finalizing your divorce from your former spouse.

It is extremely important that you contact all relevant businesses and parties to inform them of your updated marital status. You will need to change all official records and business records to show your change in marital status. This list is only intended to give you general guidance on who you should contact. It is not a full and complete list. Please remember to always keep a copy of your divorce papers in a secure location. You may also want to keep a copy of your marriage license.

POST-DIVORCE CHECKLIST

- ❑ **Notify Your Employer:** Your employer may need to change company records, health or life insurance plans, or accounts regarding retirement or 401-K programs.
- ❑ **Notify Your Banks and/or Places of Investment:** Make sure you close all joint accounts and have your former spouse's name removed from all open accounts and other bank and financial records.
- ❑ **Cancel or Change Credit Card Accounts.** Close all credit card accounts held jointly by you and your former spouse or ensure that your former spouse's name is removed from the accounts. Along with major credit cards, do not forget to change the account information on retail store charge account cards such as Sears, Dillard's, etc.
- ❑ **Change Your Tax Status:** Change your tax status to reflect you are no longer married and/or to alter the number of exemptions you have been claiming. If you use a tax preparer you will want to notify that person of your change of marital status.
- ❑ **Change Your Insurance Policies:** Notify ALL of your insurance carriers – health insurance, life insurance, disability insurance, etc. – that your marital status has changed. Be sure that your insurance policies correctly list your beneficiaries and those who are insured under the policy. Be prepared to provide a copy of your divorce papers.
** If you are on your former spouse's insurance policy and you want to pay for an extended amount of coverage, contact your insurance carrier and ask about COBRA rights that allow you to pay for your own coverage for a limited amount of time.
- ❑ **Ensure the Accuracy of Your Will:** Do not assume your will automatically changes when you get a divorce. Make sure you remove your former spouse's name as a beneficiary or executor if you do not desire your spouse to be a beneficiary or executor.
- ❑ **Revoke all Powers of Attorney:** If you have given your former spouse a power of attorney you should ensure that it is revoked in writing. Make sure all copies of a power of attorney have been destroyed. Notice of the revocation should be given to all third parties that previously relied on the power of attorney and to all third parties that may unwittingly rely on it in the future. ** If the power of attorney was somehow recorded as part of a public record, a properly acknowledged revocation should be recorded as well.
- ❑ **Other Important Documents:** Make sure other important documents show correct and accurate information. Deeds to real property, automobile titles, stock certificates, bonds, treasury notes and other such items should be reviewed to ensure that only the proper names appear on the documents. You may need to transfer ownership to change these documents.
- ❑ **Social Security Benefits:** It is important that you keep your divorce papers and a copy of your marriage license because you may have the right to claim your spouse's social security benefits. For example, if you are married more than ten years, or if your spouse dies while making child support payments, you may be eligible to receive his or her social security benefits.

- ❑ **Child Support:** Ensure that the County Attorney's Office has your correct address. Be sure to document the dates and amounts of any payments you make as child support. It is best to obtain a receipt from your spouse for your payments.

- ❑ **Changing Your Name:** If you change your name you are required to notify and change your name with (1) the Department of Motor Vehicles or whoever issues your driver's license; (2) the Social Security Administration; (3) your employer (so they can ensure a correct W-2); (4) your bank and other financial institutions (so they can change your account information, ensure a correct W-4, etc.); (5) all credit card companies with whom you have credit.

Please be aware that this is not a complete list of who you should contact after a divorce or what actions you should take. This list is only meant to get you started.

If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771 or visit our website at <http://home.army.mil/knox/index.php/about/garrison/legal-assistance-office>. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300 – 1600. The Fort Knox Legal Assistance Office is located in Building 1310, Pike Hall at the corner of Knox and Third Street.

SURVIVOR BENEFIT PLAN

The 1986 Department of Defense Authorization Act (PL 99-145), effective March 1, 1986, changed the basic structure of the SBP. A military member retiring after March 1, 1986 will be enrolled automatically in the SBP with full coverage for his spouse as beneficiary unless both the member and the spouse agree in writing to elect less than full coverage or coverage for a child only. Under the previous system the spouse was notified of the member's decision but consent was not required. If at the time of retirement, the member has no spouse, he/she may elect coverage for a child or for another person under the insurable interest category.

The member and spouse together may elect less than the gross retired pay as the "base amount" upon which payments and benefits will be calculated. The minimum base amount that may be selected is \$300.

The beneficiary will receive 55% of the base amount until age 62; after age 62, the amount will drop to 35% of the base amount selected. There will be no social security offset as there was in the previous system. Those who were enrolled in the plan before March 1, 1986, are grandfathered in. When the member dies, the beneficiary will receive payments under the new system or the old social security offset, whichever is most advantageous for him/her. Benefits will be discontinued if the widow remarries before age 55. However, if the second marriage ends because of death or divorce, payments to the widow will be resumed.

When a retiree who has enrolled in the SBP with his spouse as beneficiary is divorced, he/she is obligated to notify the appropriate Finance Center. Coverage will cease and any payments made since the divorce will be refunded. If the divorced retiree dies without having remarried, no one will receive the benefits even if he/she has not notified the Finance Center and has continued payments. If he/she remarries, the new spouse will be covered automatically after one year of marriage. However, at the time of the divorce, the retiree may elect to reinstate his/her former spouse (or former spouse and minor child/children) as beneficiary in the spouse category if he/she was the beneficiary at the time they were married. An active duty member may agree at the time of divorce to name his/her ex-spouse as beneficiary of the SBP when he retires. If the election is voluntary on the part of the member/retiree, there must be a written notarized agreement signed by both and it should be incorporated into the divorce decree and property settlement. The decision can be revoked only by a new court order. Application for the reinstatement of a former spouse must be made to the appropriate Finance Center within one year of the date of divorce.

A provision in PL 99-661 (Nov. 14, 1986), allows a court to require a person to elect the SBP for a former spouse or for both a former spouse-child. The Department of Defense is honoring such elections only if the former spouse was the beneficiary when they were married. In addition, the former spouse must submit a request to be an SBP beneficiary, to the appropriate military finance center, within one (1) year of the date of the court order.

The cost for spouse or former spouse coverage is 6.5% of the base amount selected. Those with a base amount of less than \$720, will pay 2.5% of the first \$349 (indexed to active duty pay raises) of the base amount plus 10% of the remainder if they were enrolled in the Plan before March 1, 1990.

There are advantages and disadvantages to the SBP as opposed to an assigned regular life or term policy on your ex-husband with you as beneficiary. Periodic (rather than lump sum) payments may be a disadvantage to the SBP. Advantages are that the amount withheld for SBP is tax deductible, the cost may be lower for SBP, and COLAs will be received when payments to you begin. With regular life or term insurance, paid in lump sum, interest accrued on the lump sum could equal or surpass the COLAS. Also, the lump sum will go to your beneficiaries on your death (rather than, as in the SBP, being returned to the fund). With all of this in mind, you should consult with an unbiased insurance agent and/or a tax accountant.

If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771 or visit our website at <http://home.army.mil/knox/index.php/about/garrison/legal-assistance-office>. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300 – 1600. The Fort Knox Legal Assistance Office is located in Building 1310, Pike Hall at the corner of Knox and Third Street.

APPENDIX A

Summary of Benefits under USFSPA

See USFSPA information on Page 8

Uniformed Services Former Spouses' Protection Act ¹	Length of Time that Marriage Overlaps with Service Creditable for Retirement Purposes ³			
	Number of Years			
Benefits for Former Spouses ²	0 to <10	10 to <15	15 to <20	20 or more
Division of Retired Pay ⁴	X	X	X	X
Designation as an SBP Beneficiary ⁵	X	X	X	X
Direct Payment ⁶				
Child Support	X	X	X	X
Alimony	X	X	X	X
Property Division ⁷		X	X	X
Health Care ⁸				
Transitional ⁹			X	
Full ¹⁰				X
Insurance ¹¹	X	X	X	X
Commissary ¹²				X
PX ¹²				X
Dependent Abuse				
Retired Pay Property Share Equivalent ¹³		X	X	X
Transitional Compensation ¹⁴	X	X	X	X

FOOTNOTES

1. Pub. L. 97-252, Title X, 96 Stat. 730 (1982), as amended. This chart reflects all changes to the Act through the amendments in the National Defense Authorization Act, Fiscal Year 1994, Pub. L. 103-160 (1993).

2. For guidance on obtaining a military identification card to establish entitlement for health care, commissary, and PX benefits, see appropriate service regulations (e.g., AR 640-3). Former spouses of reserve component members may be entitled to these benefits; see the following notes for applicable benefits.
3. Except for Dependent Abuse Victims Transitional Compensation payments, this chart assumes that the member serves long enough to retire from an active duty component or reserve component of the Armed Forces (generally this will mean (s)he has twenty years of service creditable for retirement purposes, but can mean fifteen years in the case of the Voluntary Early Release and Retirement Program [statutory authority for this program expires in 1999]).
4. At least one court has awarded a portion of military retired pay to a spouse whom the retiree married after he retired, *Konzen v. Konzen*, 103 Wash.2d 470, 693 P.2d 97, cert denied, 473 U.S. 906 (1985).
5. Federal law does not create any minimum length of overlap for this benefit; the parties' agreement or state law will control a former spouse's entitlement to designation as an SBP beneficiary.
6. See 10 U.S.C. §§ 1408(d) & 1408(e) and 32 C.F.R. part 63 for further guidance on mandatory language in the divorce decree or court-approved separation agreement. The former spouse initiates the direct payment process by sending a written request to the appropriate finance center.
7. While eligibility for direct payment does not extend to former spouses whose overlap of marriage and service is less than ten years, this is not a prerequisite to award of a share of retired pay as property to the former spouse (see Note 4).
8. To qualify for any health care provided or paid for by the military, the former spouse must be unremarried and must not be covered by an employer-sponsored health care plan; see 10 U.S.C. §§ 1072(2)(F), 1072(2)(G) & 1072(2)(H). Department of the Army interpretation of this provision holds that termination of a subsequent marriage by divorce or death does not revive this benefit, but an annulment does. These remarriage and employer-insurance restrictions do not limit eligibility to enroll in the civilian health care insurance plan discussed in Note 11.
9. "Transitional health care" was created by Pub. L. 98-625, § 645(c) (not codified), as a stop-gap measure while a civilian health care plan was negotiated for former spouses and other who lose an entitlement to receive military health care (see Note 11). The program subsequently was modified and narrowed by the National Defense Authorization Act, Fiscal Year 1989, Pub. L. 100-456, Title VI, § 651, 102 Stat. 1990 (1988). Current program benefits are described at 10 U.S.C. § 1078a, titled "Continued Health Benefits Coverage." Qualifying former spouses are those who are unremarried, who have no employer-sponsored health insurance, and who meet the "20/20/15" requirement (i.e., married to the member for at least 20 years, and the member has at least 20 years of service that are creditable for retirement purposes, and the marriage overlaps at least 15 years of the creditable service). Transitional health care now includes full military health care for 1 year after the date of the divorce, and during this period the former spouse is eligible to enroll in the civilian group health care plan negotiated by DOD (see Note 11). Note that for health care purposes, 10 U.S.C. § 1072(2)(G) treats a 20/20/15 former spouse as if he or she were a full 20/20/20 former spouse (20 years of marriage, 20 years of service, and 20 years of overlap) if the divorce decree is dated before April 1, 1995. A 20/20/15 former spouse of a reserve component retiree with a divorce decree prior to April 1, 1985, can receive full health care too, but only if the member survives to age 60 or if he or she elected to participate in the Reserve Component Survivor Benefit Program upon becoming retirement eligible.
10. "Full health care" includes health care at military treatment facilities and that provided through the TRICARE insurance program. A former spouse of a reserve component retiree is eligible for this benefit upon the retiree's 60th birthday (or on the day the retiree would have been 60 if (s)he dies before reaching age 60) if (s)he meets the normal qualification rules (i.e., an unremarried 20/20/20 former spouse who is not covered by an employer-sponsored health care plan); see 10 U.S.C. § 1076(b)(2).
11. Implementation of the Department of Defense Continued Health Care Benefit Program (CHCBP) was directed by Congress in the National Defense Authorization Act for Fiscal Year 1993 (see 10 U.S.C. § 1078a). It is a premium based program of temporary continued health benefits coverage available to eligible beneficiaries. Medical benefits mirror those available under the standard TRICARE program, but CHCBP is not part of TRICARE. For further information on this program, 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). The CHCBP replaces the Uniformed Services Voluntary Insurance Program (USVIP).
12. Pursuant to statute and service regulations, commissary and PX benefits are to be available to a former spouse "to the same extent and on the same basis as the surviving spouse of a retired member..." Pub. L. 97-252, Title X, § 1005, 96 Stat. 737 (1982); see Army Regulation 640-3. The date of the divorce is no longer relevant for commissary and PX purposes. See Pub. L. 98-525, Title IV, § 645, 98 Stat. 2549 (1984) (amending Uniformed Services Former Spouses' Protection Act § 1006(d)). The former spouse must be "unmarried," and, unlike the rules for health care, any termination of a subsequent marriage revives these benefits. Qualified former spouses of reserve component retirees receive commissary and PX benefits when the retiree reaches age 60 (or when (s)he would have reached age 60 if the retiree dies before that time, but in such cases the entitlement arises only if the retiree elected to participate in the Reserve Component Survivor Benefit Plan when (s)he became retirement eligible; see AR 640-3). Notwithstanding the provision of the Act and the regulation, however, the extent of commissary and exchange privileges in overseas locations may be restricted by host-nation customs law.
13. When a retirement-eligible member receives a punitive discharge via court-martial, or is discharged via administrative separation processing, the member's retirement benefits are lost. In certain cases where the court-martial or separation action was based on dependent abuse, eligible spouses may receive their court-ordered share of retired pay (divided as property) as if the member had actually retired. Authority for these payments was created in the National Defense Authorization Act, Fiscal Year 1993, § 653, Pub. L. 103-484. An overlap of marriage and service of at least ten years is a prerequisite to receipt of payments. The National Defense Authorization Act, Fiscal Year 1994, § 555, Pub. L. 103-160, clarifies that eligibility begins on the date the sentence is approved and does not have to wait until the member is actually discharged.
14. The National Defense Authorization Act, Fiscal Year 1994, § 554, Pub. L. 103-160, also creates authority for monthly transitional compensation to dependents of a nonretirement eligible member separated from the service by reason of dependent abuse.

2021 Non-Locality BAH Rates

Effective 1 January 2021

Pay Grade	Partial	BAH RC/T*		Differential*
		Without Dependents	With Dependents	
O-10	\$ 50.70	\$ 1,758.90	\$ 2,111.10	\$ 379.80
O-9	\$ 50.70	\$ 1,758.90	\$ 2,111.10	\$ 379.80
O-8	\$ 50.70	\$ 1,758.90	\$ 2,111.10	\$ 379.80
O-7	\$ 50.70	\$ 1,758.90	\$ 2,111.10	\$ 379.80
O-6	\$ 39.60	\$ 1,612.80	\$ 1,900.20	\$ 322.80
O-5	\$ 33.00	\$ 1,553.10	\$ 1,831.80	\$ 312.00
O-4	\$ 26.70	\$ 1,439.10	\$ 1,614.60	\$ 207.90
O-3	\$ 22.20	\$ 1,153.80	\$ 1,335.90	\$ 207.60
O-2	\$ 17.70	\$ 914.10	\$ 1,140.30	\$ 244.80
O-1	\$ 13.20	\$ 784.80	\$ 1,020.30	\$ 264.60
O3E	\$ 22.20	\$ 1,245.30	\$ 1,436.10	\$ 217.20
O2E	\$ 17.70	\$ 1,059.30	\$ 1,295.70	\$ 260.10
O1E	\$ 13.20	\$ 921.30	\$ 1,197.60	\$ 305.10
W-5	\$ 25.20	\$ 1,462.50	\$ 1,559.40	\$ 129.90
W-4	\$ 25.20	\$ 1,298.40	\$ 1,429.50	\$ 160.20
W-3	\$ 20.70	\$ 1,091.70	\$ 1,310.40	\$ 240.90
W-2	\$ 15.90	\$ 968.70	\$ 1,203.90	\$ 255.00
W-1	\$ 13.80	\$ 812.40	\$ 1,042.20	\$ 246.90
E-9	\$ 18.60	\$ 1,065.60	\$ 1,371.60	\$ 325.80
E-8	\$ 15.30	\$ 979.50	\$ 1,264.80	\$ 305.40
E-7	\$ 12.00	\$ 902.70	\$ 1,173.90	\$ 353.10
E-6	\$ 9.90	\$ 834.00	\$ 1,084.50	\$ 341.70
E-5	\$ 8.70	\$ 750.30	\$ 976.20	\$ 290.70
E-4	\$ 8.10	\$ 652.80	\$ 848.40	\$ 250.80
E-3	\$ 7.80	\$ 606.90	\$ 788.70	\$ 206.10
E-2	\$ 7.20	\$ 578.70	\$ 752.10	\$ 275.40
E-1 >4	\$ 6.90	\$ 578.70	\$ 752.10	\$ 325.80
E-1 <4	\$ 6.90	\$ 578.70	\$ 752.10	\$ 325.80

*BAH RC/Transit rates are adjusted by the average change in housing costs; BAH-DIFF rates are adjusted by the amount of the basic pay raise.

APPENDIX C

FIRM NAMES ATTORNEY NAME(S)	CONTACT INFO	PRACTICE AREAS	JURISDICTIONS WHERE LICENSED	ACCEPTS PAYMENT PLANS?	SPECIAL REMARKS
RADCLIFF					
D. Johnson Law, PSC Dawn Johnson	611 Knox Blvd Radcliff, KY 40160 Phone: (270) 351-4747 Fax: (270) 351-9702 Email: dawn@johnsonlawpsc.com Web: www.johnsonlawpsc.com	Family Law Adoption Wills, Estates, Probate Bankruptcy	Kentucky US Supreme Court US Bankruptcy Court	YES	*Free initial visits Has worked w/servicemembers for over 20 years and is familiar with the various issues related to them.
Chris J. Gohmand	625 Knox Blvd Radcliff, KY 40160 Phone: (270) 352-3000 Fax: (270) 351-6800 Email: cgohmanlaw@aol.com Web: www.chrisgohmanlaw.com	Tort Law Family Law Adoption Wills, Estates, Probate Bankruptcy	Kentucky	YES	Free consultation
Miller & Durham Douglas E. Miller C. Wesley Durham Matthew E. Durham Kevin A. Groseclose	400 W. Lincoln Trail Blvd Radcliff, KY 40160 Phone: (270) 351-4383 Fax: (270) 351-4426 Email: miller.durham@mw.twcbc.com Web: milleranddurhamlaw.com	Criminal Law Tort Law Family Law Adoption Real Property Wills, Estates, Probate Landlord-Tenant Bankruptcy Workers' Comp/ SS Disability	Kentucky	YES	*Free initial visit 15% military discount

Musselwhite, Meinhart & Staples, PSC	385 W. Lincoln Trail Blvd Radcliff, KY 40160	Criminal Law Military Law Family Law Adoption Real Property Landlord-Tenant Wills, Estates, Probate Bankruptcy SS Disability	Kentucky	YES	*Free initial consultation
Paul Musselwhite Carol B. Meinhart Kimberly L. Staples James D. Hafley	Phone: (270) 351-6032 Fax: (270) 351-6069 Email: mmslaw@bbtel.com Web: mmslawonline.com				

Skeeters, Bennett, Wilson & Pike	550 W. Lincoln Trail Blvd Radcliff, KY 40160	Tort Law Family Law Adoption Real Property Wills, Estates, Probate	Kentucky (Hardin/Meade County) Federal Court	YES	*Free initial consultation *Bennett - former JAG
David T. Wilson II R. Terry Bennett Michael A. Pike Dustin C. Humphrey	Phone: (270) 351-4404 Fax: (270) 352-4626 Email: Dustin.Humphrey@sbw-law.com Web: sbw-law.com				

FIRM NAME(S) ATTORNEY NAME(S)	CONTACT INFO	PRACTICE AREAS	JURISDICTIONS WHERE LICENSED	ACCEPTS PAYMENT PLANS?	SPECIAL REMARKS
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ELIZABETHTOWN

Aldridge & Aldridge PSC	2411 Ring Road, Suite 102 Elizabethtown, KY 42701 Phone: (270) 765-2000 Fax: (270) 900-1368 Email: jeremy@aldridgeandaldridge.com Web: www.aldridgeandaldridge.com	Criminal Law Family Law Wills/Estates/Probate Adoption	Kentucky (Hardin/Larue County)	YES	*Free initial consultation
Jeremy Aldridge Carey Aldridge Margo Barnett Cassie Clagett					

Burnett, Casey, Griffin, PLLC	240 W. Dixie Ave, Suite 4 Elizabethtown, KY 42701	Family Law Adoption Wills/Estates/Probate Bankruptcy Immigration	Kentucky - State Virginia	YES	*Free initial consultation *Free VA Applications
Mary Burnett Melody Casey-Aldridge Cynthia Griffin	Phone: (270) 769-4618 Fax: (877) 471-1309 Email: sheila@bcglawcenter.com Web: www.bcglawcenter.com				

Dowan Law Offices LeeAnna Dowan Hon-Gueta Noe Maegan Carek	108 E. Dixie Ave Elizabethtown, KY 42701 Phone: (270) 234-0760 Fax: (270) 234-0786 Website: downanlaw.com Email: lawoffice@downanlaw.com	Criminal Law Family Law Adoption	Kentucky	YES	*Free initial consultation
Kinkead Law Office Lori A. Kinkead	4677 N. Dixie Elizabethtown, KY 42701 Phone: (270) 872-4699 Fax: (800) 630-0300 Email: lkinkead@kinkeadlaw.com	Tort Law Family Law (divorce, custody) Adoption Wills, Estates, Probate Real Estate	Kentucky	NO	*Free initial consultation
FIRM NAMES	CONTACT INFO	PRACTICE AREAS	JURISDICTIONS WHERE LICENSED	ACCEPTS PAYMENT PLANS?	SPECIAL REMARKS
Nick L. Pearl	104 W. Dixie Elizabethtown, KY 42701 Phone: (270) 737-0000 Fax: (270) 312-0000 Email: angiepearl2004@yahoo.com	Criminal Law Tort Law Family Law Adoption Wills, Estates, Probate Fort Knox Mag Court	Kentucky (Hardin and Larue Counties only)	YES	*Free initial visits *Open Sat & Sunday: 0800-1000 Uncontested divorces only \$300 plus court costs
Smalley Law Office Roxann R. Smalley	114 E. Dixie Ave Elizabethtown, KY 42701 Phone: (270) 737-0064 Fax: (877) 422-0064 Email: smalleylaw@gmail.com Web: www.smalleylawoffice.com	Criminal Law Military Law Tort Law Family Law Adoption Real Property Landlord-Tenant Wills, Estates, Probate Tax Law Bankruptcy Employment Law Workers' Comp Social Sec Disability	Kentucky Eastern District of KY Western District of KY	NO	*5 minutes free initial consultation over the phone

Thompson & Shreve Thomas P. Shreve Greg Thompson	200 S. Main St Elizabethtown, KY 42701 Phone (270) 737-1125 Fax: (270) 769-6801 Website: www.etownlawyers.com Email: info@etownlawyers.com	Criminal Law Tort Law Personal Injury Bankruptcy Uncontested divorces Wills, Estates, Probate	Kentucky Federal Court - KY Mag Court - Ft Knox US Bankruptcy	YES	*Free initial consultation *Retired COL USAR *Military Discount Focus on bankruptcy, debt problems, auto accidents, criminal/traffic offenses
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BRANDENBURG

Douglas P. Vowels	619 High St., Suite 1 Brandenburg, KY 40108 Phone: (270) 422-5803 Fax: (270) 422-5804 Email: dpvatty@bbtel.com	Criminal Law Tort Law Family Law Adoption Real Property Wills, Estates, Probate	Kentucky		*Free initial consultation
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FIRM NAMES ATTORNEY NAME(S)	CONTACT INFO	PRACTICE AREAS	JURISDICTIONS WHERE LICENSED	ACCEPTS PAYMENT PLANS?	SPECIAL REMARKS
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LOUISVILLE

Kaitlin Smith Dean	214 South Eighth St., Suite 201 Louisville, KY 40202 Phone: (502) 694-0513 (office) Phone: (316) 409-5163 (cell) Fax: (502) 581-1675 Email: kaitlin@ksdeanlaw.com Web: www.ksdeanlaw.com	Criminal Law Military Law Tort Law Family Law Adoption Real Property Landlord-Tenant Wills/Estates/Probate Employment Law Worker's Comp/Soc Se Immigration	Kentucky Missouri	YES	*Free initial consultation Military Discount Louisville & Surrounding Counties
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Barrow Brown, PLLC John Plymire Charles D. Brown, Jr. Hugh W. Barrow	239 South Fifth St., Suite 600 Louisville, KY 40223 Phone: (502) 589-9353 Fax: (502) 244-8383	Family Law	Kentucky Indiana	YES	*Free initial consultation Former JAG Attorney Current USAR JAG
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<p>Furman & Nilsen, PLLC</p> <p>C. Dean Furman Jr. D. Sean Nilsen</p>	<p>2527 Nelson Miller Parkway Suite 101 Louisville, KY 40223</p> <p>Phone: (502) 245-8883 Fax: (502) 244-8383 Email: dean@lawdean.com Website: www.lawdean.com</p>	<p>Tort Law Real Property (disputes, not closing) Consumer Protection</p>	<p>Kentucky Indiana</p>	<p>YES</p>	<p>*Free initial consultation</p>
<p>Howell & Kidd Attorneys</p> <p>W. Bronson Howell Courtney Howell-Kidd</p>	<p>4010 Dupont Circle, Ste L-30 Louisville, KY 40207</p> <p>Phone: (502) 893-3030 Fax: (502) 893-0082 Website: www.howellandkidd.com Email: courtneyhowellandkidd.com</p>	<p>Military Law Family Law Adoption Wills, Estates, Probate Immigration</p>	<p>Kentucky District of Columbia</p>	<p>YES</p>	<p>*Free initial consultation *Weekend Appointments</p>
<p>Mark L. Miller</p>	<p>600 W. Main St., Ste 300 Louisville, KY 40202</p> <p>Phone: (502) 589-6190 Fax: (502) 584-1744 Web: www.louisvillefederaldefense.com Email: mmiller@600mainlaw.com</p>	<p>Criminal Law Tort Law Worker's Comp/SSD</p>	<p>Kentucky</p>	<p>YES</p>	<p>*Free initial consultation *Military discount *Former JAG attorney *Extensive experience in state and federal courts</p>
<p>Ricketts Law Offices, PLLC</p> <p>Charles E. Ricketts Jr. A. Carl Platt John F. Bennett Christopher D. Bush</p>	<p>4055 Shelbyville Road Louisville, KY 40207</p> <p>Phone (502) 896-2303 Fax: (502) 896-2362 Email: jricketts@rickettslawoffices.com Web: www.rickettslawoffices.com</p>	<p>Criminal Law Military Law Tort Law Family Law Adoption Landlord/Tenant Wills/Estates/Probate Consumer Protection</p>	<p>Kentucky U.S. Dist Ct (WD Ky) US Dist Ct (SDIN) 6th Cir Court of Appeals Court of Appeals for the Armed Forces US Supreme Court</p>	<p>YES</p>	<p>1/2 hr free initial consultation 10% Military Discount Former JAG attorney Current USAR attorney</p>

Diana L. Skaggs and Partners, PLLC

Diana L. Skaggs
Michelle Eisenmenger
Mapes
Elizabeth M. Howell

623 W. Main Street
Louisville, KY 40202

Phone (502) 562-0050
or (502) 582-3523
Email: inquiry@louisvilledivorce.com
Web: louisvilledivorce.com

Family Law
Adoption

Kentucky
Indiana
6th Circuit Court of
Appeals

NO

**FIRM
NAMES ATTORNEY
NAME(S)**

CONTACT INFO

PRACTICE AREAS

**JURISDICTIONS WHERE
LICENSED**

ACCEPTS PAYMENT PLANS?

SPECIAL REMARKS

Military World-Wide

**Dishman Military
Advocates, PLLC**

C. Brent Dishman

PO Box 14495
Oklahoma City, OK 73013

Phone: (405) 204-6082
Email:
Brent@DishmanMilitaryAdvocates.com
Web:
www.dishmandmilitaryadvocates.com

Criminal Law
Military Law

Oklahoma
All Military Jurisdictions
and Courts-Martial

YES

*Free initial
consultation
*USAF JAG
Reserves

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APPENDIX D

APPLICATION FOR FORMER SPOUSE PAYMENTS FROM RETIRED PAY <i>(Please read Instructions on back and the Privacy Act Statement before completing this form.)</i>	OMB No. 0730-0008 OMB approval expires Jan 31, 2011
The public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Washington Headquarters Services, Executive Service Directorate, Information Management Division, 1155 Defense Pentagon, Washington, DC 20301-1155 (0704-0008). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.	FOR OFFICIAL USE
PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO THE APPROPRIATE SERVICE ADDRESS LISTED ON BACK.	
PRIVACY ACT STATEMENT	
AUTHORITY: Title 10 USC 1406; DoD 7000.14, Vol. 7B, Chapter 29; and EO 9397.	
PRINCIPAL PURPOSE(S): To request direct payment through a Uniformed Service designated agent of court ordered child support, alimony, or division of property to a former spouse from the retired pay of a Uniformed Service member.	
ROUTINE USE(S): In addition to those disclosures generally permitted under 5 U.S.C. Section 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. Section 552a(b)(3) as follows: Records are provided to the Internal Revenue Service for normal wage and tax withholding purposes. The "Blanket Routine Uses" published at the beginning of the DoD compilation of systems of records notices also apply.	
DISCLOSURE: Voluntary; however, failure to provide requested information may delay or make impossible processing this direct payment request.	
1. APPLICANT IDENTIFICATION	2. SERVICE MEMBER IDENTIFICATION
a. NAME (As appears on court order) (Last, First, Middle Initial)	a. NAME (Last, First, Middle Initial)
b. CURRENT NAME (Last, First, Middle Initial)	b. BRANCH OF SERVICE
c. SOCIAL SECURITY NUMBER	c. SOCIAL SECURITY NUMBER
d. TELEPHONE NUMBER (Include Area Code)	d. TELEPHONE NUMBER (Include Area Code) (if known)
e. EMAIL ADDRESS	e. EMAIL ADDRESS (if known)
f. ADDRESS (Street, City, State, ZIP Code)	f. ADDRESS (Street, City, State, ZIP Code) (if known)
3. REQUEST STATEMENT	
I request direct payment from the retired pay for one or more of the following categories of the above named Uniformed Service member based on the enclosed court order. I acknowledge that the payment priority will be (1) division of property; (2) child support; and (3) alimony unless I designate otherwise in Item 4.e.	
I request payment of:	
(1) A division of property in the amount of \$ _____, or _____ percent of disposable retired pay per month.	
(2) Child support in the amount of \$ _____ per month.	
(3) Alimony, spousal support or maintenance in the amount of \$ _____, or _____ percent of disposable retired pay per month.	
I certify that any request for current child and/or spousal support is not being collected under any other wage withholding or garnishment procedure authorized by statute. Furthermore, I certify that the court order has not been amended, superseded or set aside and is not subject to appeal. As a condition precedent to payment, I agree to refund all overpayments and that they are otherwise recoverable and subject to involuntary collection from me or my estate, and I will notify the appropriate agent (as listed on back) if the operative court order, upon which payment is based, is vacated, modified, or set aside. I also agree to notify the appropriate agent (as listed on back) of a change in eligibility for payments. This includes notice of my remarriage, if under the terms of the court order or the laws of the jurisdiction where it was issued, remarriage causes the payments to be reduced or terminated; or notice of a change in eligibility for child support payments by reason of the death, emancipation, adoption, or attainment of majority of a child whose support is provided through direct payments from retired pay. I hereby acknowledge that any payment to me must be paid from disposable retired pay as defined by the statute and implementing regulations.	

4. I HAVE ENCLOSED ALL PERTINENT DOCUMENTATION TO INCLUDE: (X as applicable)	
a. A copy of the operative court order and other accompanying documents that provide for payment of child support, alimony or a division of retired pay as property, containing a certification dated by the clerk of the court within 90 days preceding the date the application is received by the designated agent.	
b. Evidence of the date(s) of my marriage to the member if the application is for the direct payment of a division of the member's disposable retired pay as property.	
c. If payment request includes child support, give name(s) and birth date(s) of child(ren):	
(1) NAME OF CHILD (Last, First, Middle Initial)	(2) DATE OF BIRTH (YYYYMMDD)
d. If applying under Title 10 U.S.C. 1408(h), Dependent Victims of Abuse provision, in addition to 4.a. above, enclose both a copy of the member's court martial order and the member's statement of service.	
e. Other information (please identify) or remarks.	
5a. APPLICANT'S SIGNATURE	5b. DATE SIGNED (YYYYMMDD)
INSTRUCTIONS FOR COMPLETION OF DD FORM 2293	
<p>GENERAL. These instructions govern an application for direct payment from retired pay of a Uniformed Service member in response to court ordered child support, alimony, or a division of property, under the authority of 10 USC 1408.</p> <p>SERVICE OF APPLICATION. You may serve the application by mail on the appropriate Uniformed Service designated agent. The Uniformed Services' designated agents are:</p> <p>(1) ARMY, NAVY, AIR FORCE, AND MARINE CORPS: Attn: DFAS-HGA/CL, Assistant General Counsel for Garnishment Operations, P.O. Box 998002, Cleveland, OH 44199-8002. Application may also be served by fax to 877-622-5930 (toll-free) or (216) 522-6960.</p> <p>(2) COAST GUARD: Commanding Officer (1GL), United States Coast Guard, Personnel Service Center, 444 S.E. Quincy Street, Topeka, KS 66683-3591. Application may also be served by fax to 785-339-3788.</p> <p>(3) PUBLIC HEALTH SERVICE: Attn: Retired Pay Section, CB, Division of Commissioned Personnel, PUBLIC HEALTH SERVICE, Room 4-50, 5600 Fishers Lane, Rockville, MD 20857-0001.</p> <p>(4) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION: Same as U.S. Coast Guard.</p> <p>IMPORTANT NOTE: Making a false statement or claim against the United States Government is punishable. The penalty for willfully making a false claim or false statement is a maximum fine of \$10,000 or maximum imprisonment of 5 years or both (18 USC 267 and 1001).</p>	
<p>ITEM 1.</p> <p>a. Enter full name as it appears on the court order. Applicant's signature required; the form may not be signed by a member or attorney.</p> <p>b. Enter current name if different than it appears on court order.</p> <p>c. Enter Social Security Number.</p> <p>d. Enter telephone number.</p> <p>e. Enter email address, if applicable.</p> <p>f. Enter current address. Failure to apprise DFAS of address changes may result in the suspension of payments.</p> <p>ITEM 2.</p> <p>a. Enter member's full name as it appears on the court order.</p> <p>b. Enter member's branch of service.</p> <p>c. Enter member's Social Security Number.</p> <p>d. Enter member's telephone number, if known.</p> <p>e. Enter member's email address, if known.</p> <p>f. Enter member's current address, if known.</p>	<p>ITEM 3. Read the Request Statement carefully.</p> <p>ITEM 4. A certified copy of a court order can be obtained from the court that issued the court order. Other documents include, but are not limited to, final divorce decree, property settlement order, and any appellate court orders. If the court order does not state that the former spouse was married to the member for ten years or more while the member performed ten years creditable service and the request is for payment of a division of property, the applicant must provide evidence to substantiate the ten years' marriage condition. Additional evidence must show that the ten years' requirement has been met, including: Uniformed Service orders, marriage certificate, and other documents that establish the period of marriage. Other information or documents included with the request should be clearly identified by the document's title and date. Remarks may be provided to clarify specific points.</p>

DD FORM 2293 (BACK), FEB 2008