



## #1 Free Legal Website

FindLaw.com is the leading and largest online resource for legal information. For basic legal issues to more complex ones, you'll find thousands of helpful articles, a legal community to get answers to your specific questions, an attorney directory, blogs, news, DIY forms, and much more.

### **Military Divorce**

While military divorces are no more complicated than civilian divorces, there are special rules and requirements that apply to U.S. service members and their spouses when they divorce. These differences may affect matters of compliance, service of process, residency or filing requirements, and division of military pensions.

Below is an overview of military divorce laws affecting U.S. service men and women who are contemplating or getting a divorce.

#### **Military Divorce Laws**

Military divorce is governed by both state and federal laws. For example, federal laws may affect where divorcing couples end up in court or how military pensions are divided, whereas state laws may affect how alimony and spousal support may be issued.

Active-duty service members are generally protected from divorce proceedings in most cases. Under the Servicemembers Civil Relief Act (SCRA), U.S. service men and women cannot be sued or begin divorce proceedings while on active duty or for 60 days following active duty (at the discretion of the court). This is so military service members may devote their time and energy to defending the Nation.

#### **Jurisdiction**

Before a court can grant a divorce to military members or spouses, it must have "jurisdiction" or the authority to hear the case. For civilians, jurisdiction is generally the place where the person lives. However, for military personnel, jurisdiction may be the place where the person holds legal residence, even if the service member is stationed somewhere else.

#### **Service of Process**

Service of process on military spouses from whom divorce is sought depends on where the spouse is located and whether on active duty - especially if the spouse is overseas or deployed.

A spouse wishing to serve a summons and petition for divorce upon a service member may request the military authority to do so, if the military spouse consents to service. Otherwise, a court may appoint someone to serve the necessary papers, except where the spouse is at sea.

#### **Residency and Filing Requirements**

States will often reduce or eliminate the residency requirement in military divorces. Several states, for example, will allow military members or spouses to file for divorce in the state where the military member is stationed, despite whether the military member or spouse actual residents.

Other states allow military members or spouses to file for divorce in the state where either spouse resides or the state where the service member has legal residency.

#### **Military Pensions and Benefits**

Like civilian retirement benefits, military pensions are subject to division between spouses in the event of divorce. Under the Uniformed Services Former Spouses' Protection Act (USFSPA), state courts may treat military retirement pay as either sole or community property depending on the state. While the USFSPA does not provide a formula for dividing the amount of retired pay, the amount is generally determined and awarded under the specific state laws.

Further, payment of the former spouse's share of military retirement is paid directly by the Defense Finance and Accounting Service (DFAS) to the former spouse if there was at least 10 years of marriage that overlapped with 10 years of

military service (known as the ten-year rule).

Regardless of the length of marriage, however, a court may still authorize direct payment to a military spouse who has been married for less than 10 years as an offset, except payment would come from the retiring spouse rather than from the DFAS.

In addition to pension benefits, spouses of former military personnel are also eligible for full medical, commissary and exchange privileges when:

- The couple was married for 20 years or more
- The service member has performed at least 20 years of creditable service toward retirement pay
- There was at least a 20 year overlap of marriage and military service

**Spousal and Child Support** The military has special rules concerning spousal maintenance (alimony) and child support. These rules are designed to ensure a service member's family support obligations beyond a divorce or separation.

A court may enforce spousal and child support obligations in a number of ways including by:

- Court-order
- Garnishment
- Voluntary or Involuntary Allotment

A court may also require the providing spouse to maintain life insurance that would cover child or alimony support payments for a specific period.

### **Getting Legal Help**

Because military divorce requires special knowledge of laws that do not apply to civilian divorce, it may be wise to speak with an experienced divorce lawyer who handles military divorce cases.

# FINDLAW.COM EMPOWERS PEOPLE WITH TRUSTED, TIMELY AND INTELLIGENT LEGAL INFORMATION

**BLOGS** – FindLaw Blogs present timely news that has real-life implications, deliver important information and discuss law-related entertainment.

**FINDLAW ANSWERS** – A vibrant, interactive online community where everyday people can ask legal questions and get real-time answers from legal professionals and others with similar experiences.

**NEWS & NEWSLETTERS** – Updated throughout the day and night and covering a wide range of legal topics, FindLaw.com's News page presents current legal news, keeping people informed and educated.

**FIND A LAWYER** – An easy-to-search database of more than one million lawyers and law firms. It provides detailed information, enabling people to contact a qualified lawyer when they are ready.



**DO-IT-YOURSELF FORMS & CONTRACTS** – FindLaw.com provides accurate legal documents for common legal matters. Choose from a library of easy-to-use, low-cost, accurate legal forms for everyday legal issues.

**FINDLAW VIDEO** – On FindLaw.com, you'll find an online directory of more than 1,500 short videos dedicated exclusively to legal topics and attorney and law firm profiles.

## Connect With Us

FindLaw.com has an entire social media team dedicated to providing our users with as many options as possible to join, participate in, and learn from the FindLaw community. Some of the social key channels are the following:



[FindLaw for Consumers on Facebook](#)

Making the law easy to access with interactive legal updates aimed at starting conversations, informing followers of their legal rights and providing a forum for questions and resources



[@FindLawConsumer on Twitter](#)

Tweeting interesting, entertaining and informative legal news everyday

HAVE A LEGAL QUESTION?  
NEED TO FIND AN AFFORDABLE,  
QUALIFIED ATTORNEY?

Protect yourself, your family or  
your business with a legal plan  
or form from LegalStreet

[www.LEGALSTREET.com](http://www.LEGALSTREET.com)

Copyright © 2013 FindLaw, a Thomson Reuters business. All rights reserved. The information contained in this article is for informational purposes only and does not constitute legal advice. The use and distribution of this article is subject to the Creative Commons BY-NC-ND license, which can be viewed at <http://creativecommons.org/licenses/by-nc-nd/3.0/>. You must attribute the article by providing the title of the article, FindLaw copyright notice and link to the original work. You may not use the article for commercial purposes and you may not alter or transform this article in any way.

**FindLaw**<sup>®</sup>  
A Thomson Reuters Business