



Representing Veterans and Servicemembers in Family Law Matters

Military and Veteran's Law Section

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Fredericksburg, Texas



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OVERVIEW

- Jurisdiction and Service of Process
- SCRA: Stays & Defaults
- Child Support
- TSP & **Mid Carrer Service Bonus***
- Military Retirement in a Divorce
 - VA Disability
 - CRSC
 - Ch 61 Retirement
 - **CRDP***
 - Survivor Benefits Plan



***New “rules” to watch for as of 2025/2026**



Jurisdiction & Service of Process Over Servicemembers in Family Law Matters



Overview:

Jurisdiction & Service of Process



- Subject Matter Jurisdiction
- Personal Jurisdiction
- Texas Law on Jurisdiction
- Service of Process
- Alternate Service
- Process Overseas
- Other Things to Consider
- Useful Websites & Other Information
- Contact Information for All Services





Subject Matter Jurisdiction



In Rem - power over things
Court's Authority (matter of law)

Ties to State

—Residency

—Person/Property Located in the State



Person/Property in State

Not Waivable

Subject to *de novo* review





Personal Jurisdiction

- *In personam* -- Power over the individual
- Domicile/residence/minimum contacts
- Serve in the state or long arm statutes
- Waivable (by Petitioner and Respondent)
- Soldiers
 - DD Form 2058
 - LES
 - State registered to vote in
 - Driver's license
- Presumption – domicile remains where SM entered service (*Hagle v. Leeder*, 442 S.W.2d 908)



Jurisdiction

- Child Custody – UCCJEA – child’s “home state”
 - Not waivable
 - Overseas Children – “Sprechen Sie Deutsch?”
 - **“Emergency” Jurisdiction**
- Child Support – personal jurisdiction over obligor
 - **Multistate jurisdiction battle: TX order, dad in WA & mom and kids in KY**





Jurisdiction



- Military Retirement (USFSPA – 10 USC 1408)
 - Quasi-subject matter
 - Active v. Retired
 - Consent or challenge
 - **Overseas Divorces**





Service of Process



- No Special Rules for Soldiers in most states
- Serving on Post
- Know your states rules
- Soldiers in the US/US Territory/US Waters
 - Waiver of Service
 - Personal Service
 - Certified Mail





Service of Process Overseas

- 
- 
- 
- 
- Look at State Rules on Service of Process in Foreign Countries
 - Look at Foreign Country Rules on Service of Process
 - No service by Publication if Texas Case
 - No Certified Mail to Countries w/ Treaty
(DeJames v. Magnificence Carriers, Inc.
491 F. Supp. 1276 (D.N.J. 1980); affrmd 654 F.2d 280 (3d Cir. 1980);
cert denied, 454 U.S. 1085 (1981))
 - Alternate Methods only Approved by Treaty
 - Can be costly



Service of Process Overseas



- Hague Convention (all persons, not just soldiers)
- Must Follow if Country is a Signatory
- Central Authority
- Translation sometimes required
- Status of Forces Agreements
- ***Does not apply where the address of the person to be served with the document is not known***



Service of Process Overseas



- General Requirements
 - Fill out Form USM 94, Request For Service Abroad of Judicial or Extrajudicial Documents
<http://www.usmarshals.gov/forms/usm94.pdf>
 - Mail it, with service documents, to the foreign nation's Central Authority, except for Israel and Great Britain. For Israel and Great Britain, the clerk of court is supposed to mail the documents. Addresses and other information are available in the USCA and from the Department of Justice, Office of Foreign Litigation in Washington, D.C., at (202) 514- 7455 and google!
- For problems and for information on non-signatory nations, consult the Office of Citizens' Consular Services,
 - **U.S. & Canada:** 1-888-407-4747
 - **From Overseas:** +1 202-501-444

Other Things to Consider for Service of Process



- Alternate Service
 - Publication
 - Facebook
 - Text

- Voluntary Acceptance/Waiver of Service

- “Baiting” to get an appearance
 - If not served or no waiver, is someone just showing up OK? YES!!



Other Things to Consider



- Use of Chain of Command
 - Cannot ask them to serve, but can ask them for help (make soldier available)
 - Posse Comitatus Act: Title 18 USC Sec 138
- Call “JAG”
- IG Complaints
- Congressional Inquiries





Contact Information for All Services

Army

Office of the Judge Advocate General

Attn: DAJA-LA Room 2B517

2200 Army Pentagon

Washington, D.C. 20310

866-276-9524



Navy

Office of the Judge Advocate General

1322 Patterson Avenue, SE STE 3000

Washington Navy Yard, D.C. 20374-5066

(202) 685-7053



Marine Corps

Judge Advocate Division

3000 Marine Corps Pentagon, Room 4D558,

Washington, D.C. 20350-3000

(800) 627-4637



U.S Air Force

AFLSA/JACA

1420 Air Force Pentagon

Washington, D.C. 20330-1420

(703) 697-4379



Coast Guard

U.S. Coast Guard

2703 Martin Luther King Jr Ave SE

Washington, DC 20020

(206) 815-6997



*SCRA:
STAYS & DEFAULT
JUDGMENTS*



Servicemember's Civil Relief Act



“Protect those who have been obliged to drop their own affairs to take up the burdens of the nation.”

Boone v. Lightner 319 U.S. 561, 575 (1943)



“The Act should be read with an eye friendly to those who dropped their affairs to answer their country's call.”

Le Maistre v. Leffers, 333 U.S. 1, 6 (1948)





Servicemember's Civil Relief Act

Found at 50 USC App. §§501-596



§501 Short title; table of contents

§502 Purpose

The purposes of this Act are— (1) to provide for, strengthen, and expedite the national defense through protection extended by this Act to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and (2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.



§511 Definitions

§512 Jurisdiction and applicability of Act



§ 517. Waiver of rights pursuant to written agreement





Servicemember's Civil Relief Act



§521 Protection of servicemembers against default judgments

§522 Stay of proceedings when servicemember has notice



§523 Fines and penalties under contracts

§524 Stay or vacation of execution of judgments, attachments, and garnishments



§525 Duration and term of stays



§526 Statute of limitations



Servicemember's Civil Relief Act

DEFAULT JUDGMENTS



§ 521. Protection of servicemembers against default judgments

--Applies to any civil action or proceeding, including any child custody



--Cases where defendant **DOES NOT** *make an appearance.*

--If you are going to default **ANYONE** a Non-Military Affidavit MUST be filed!!



--Penalties for making or using false affidavits

--Reversal of default Judgment (90 days after release from AD)



****So then, can you ever default a Servicemember?**

--Appointment of Attorney ad Litem

--SM made an appearance in the case and has notice



Servicemember's Civil Relief Act



2 PROVISIONS FOR STAY OF PROCEEDINGS



§ 521(d) Stay of proceedings (under protection of servicemembers against default judgments): Counsel or Judge can ask for stay

§ 522. Stay of proceedings when servicemember *has notice*



Application: in military service, within 90 days of discharge, received notice

- 
- *Auto 90 days
 - *Can request any stage before final judgment
 - *Conditions for Stay (proper letter)
 - *Additional stays



CALCULATING CHILD SUPPORT FOR SERVICEMEMBERS

WHAT PAY AND ALLOWANCES ARE INCLUDED??

Know Your State Law – it varies

- Base Pay
- BAH
- BAH DIFF
- BAS
- COLA
- Clothing Allowance
- VA Disability
- Combat Related Special Compensation
- Military Retirement (regular and medical)
- Reserve Pay
- Civilian Pay
- Taxable v. Non Taxable
 - Pay v. Allowances
 - Pre-Tax Deductions





CHILD SUPPORT

SHOW ME THE MONEY!!!!



-Withholding Order

- Military pay, Retired pay, Social security, CRDP
- VA Disability Good luck! - Apportionment



-Military Support Regs – punitive!

- Army – Army Regulations (AR) 608-99, Family Support, Child Custody & Paternity
- Navy – Navy Military Personnel Manual art. 1754-030, para. 4
- Air Force – Secretary of the Air Force Instr. 36-2906, Personal Financial Responsibility, para. 3.1 – 3.3
- Marine Corps – Order P5800, 16a Marine Corps Manual for Legal Administration, Ch. 15, para. 15001
- Coast Guard – U.S. Coast Guard Commandant Instr. M1000.6A, ch. 8M





TSP & Mid Career Bonus Pay

An enhanced TSP...

Option 1

Legacy Era TSP

- **SM can open a TSP**
- **Uncle Sam contributes nothing**
- **TSP belongs to SM**

Option 2

Blended Era TSP

- **TSP will be “issued” to SM.**
- **Uncle Sam contributes 1% (after 60 days)**
- **Uncle Sam matches up to 3% (after 2 years)**
- **Uncle Sam matches ½ from 3 – 5%**
- **TSP belongs to SM after 2 years of service**

Mid-Career Bonus “Continuation Pay”



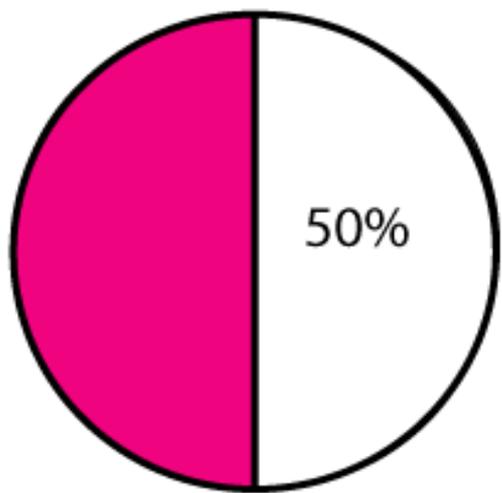
**X 2.5% of base pay =
minimum**

X up to 13% = maximum

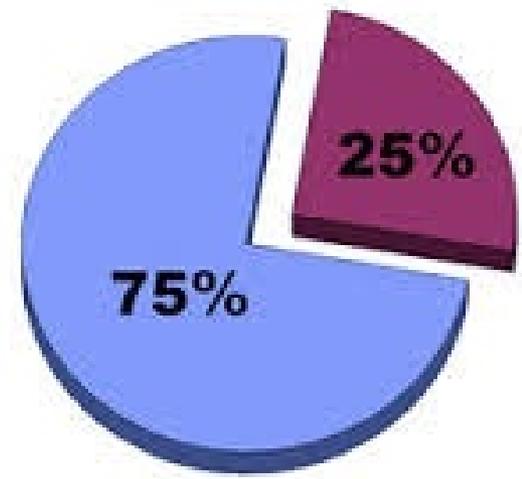


Mid-Career Bonus [“Continuation Pay”] Advance on Retired Pay

One-half



One-quarter



- 25% lump or 50% lump
- Reduced retirement
- Full retirement restored at age 67



Mid-Career Bonus [“Continuation Pay”] Advance on Retired Pay



- Law came into effect in 2018 so now SM are eligible to start electing this in 2026
- Is it divisible?
- Impact on Former Spouse
- Past Decrees versus future decrees
- Emerging area of the law - no known cases





*DIVIDING MILITARY
RETIRED PAY
IN A DIVORCE*



Dividing Military Retirement Pay



- The Basics Laws
- Types of Military Retirement Systems
- Types of Military Retirement Plans
- Pension Awards
 - Types
 - High 3 Year Base Pay
 - Frozen Benefit Rule
- Other Rules You Need to Know





Covering the Basic -- Laws to Know



Uniformed Services Former Spouse's Protection Act -
10 U.S.C. § 1408



Jurisdiction-- A state may only exercise jurisdiction over a servicemember's pension rights if:

- That state is his or her domicile, OR
- The SM consents to the exercise of the jurisdiction, OR
- The SM resides there (for reasons other than military assignment in that state or territory)





Know Your Retirement Plan!!



1. Legacy or Blended



2. Active or Reserves/National Guard





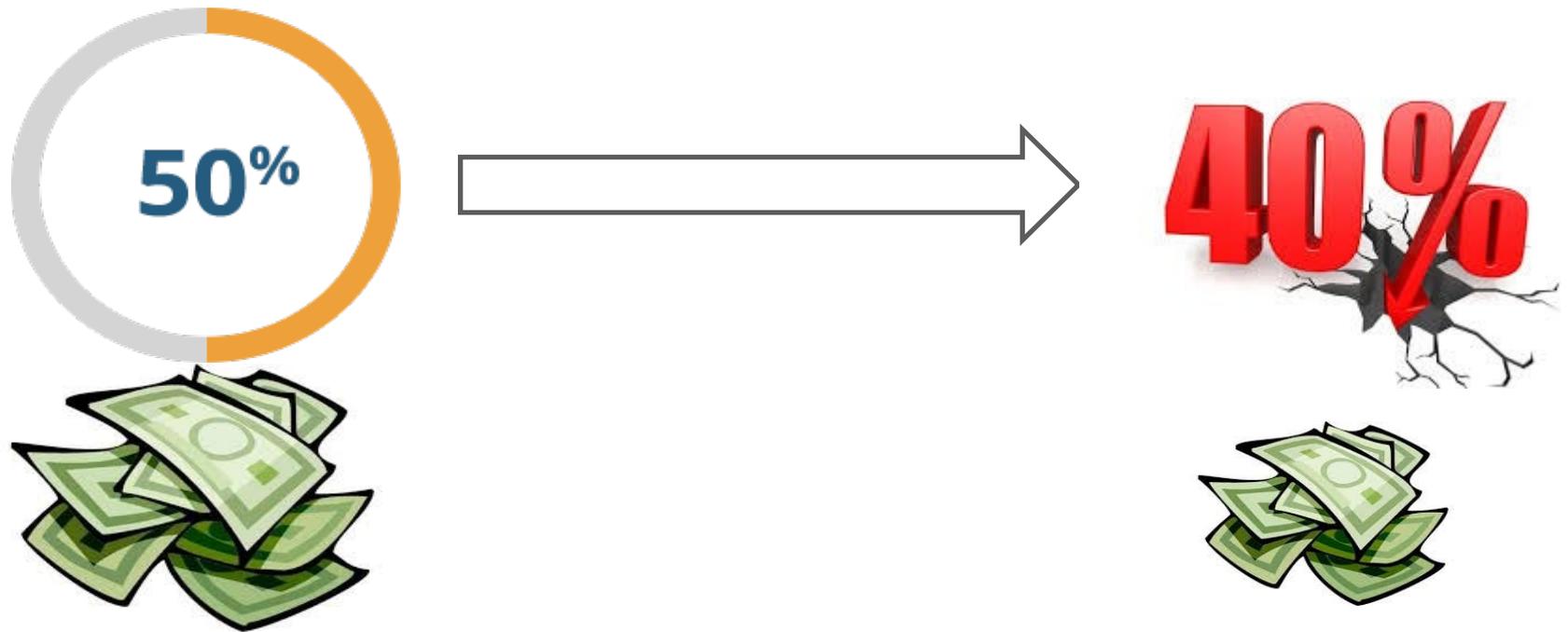
“Legacy”

- Multiplier of 2.5%
- For those with dates of service before 2018 they *should* be under the Legacy System.
- Some given choice of Legacy or Blended
- Ask your client

“Blended”

- Multiplier of 2.0%
- 2016 NDAA
- January 1, 2018 Start Date
- Military Compensation and Retirement Modernization Commission (MCRMC)

Difference in Legacy v. Blended: *A reduced defined benefit plan*



$0.025 \times \text{total years} \times \text{“HI-3 base pay”}$

$0.020 \times \text{total years} \times \text{“HI-3 base pay”}$



Defining the Benefit



ACTIVE DUTY:

Multiplier x years of service x HI-3

2.5% (or 2.0%) x years of service x HI-3

2.5% (or 2.0%) x 20 x \$4,000 =
\$2,000/mo.(or \$1600)



GUARD/RESERVE:

points ÷ 360 = equiv. years of svc

Use same equation as above





Total Reserve Retirement Points



- Need the Annual retirement points statement
- Use of discovery
- Request to DFAS/Personnel Center
- Release by SM/Court order





Military Pension Awards In Decree/Retirement Order



***Fixed Dollar Amount**

***Formula Clause**

***Percentage**

***Hypothetical**

Four Ways to Divide Pension



Frozen Benefit Rule



- Divorce before December 23, 2016?
- Receiving retired pay on date of divorce?



-If YES to either question, the FB rule does NOT apply.



Sec. 641, Nat. Defense Auth. Act 2017



Frozen Benefit Rule



- Benefit to be divided is frozen
- As of date of divorce
- Regardless of agreement of parties otherwise
- Ret'd pay centers locked into that ***Disposable Retired Pay***
- As if SM retired at divorce





Frozen Benefit Rule



Data required for to Calculate—

- # Months (points) marriage overlapping with military service**
 - # Months service (points) at time of divorce**
 - High 3-year base pay as of date of divorce**
- 
- 
- 



It's more than just a formula



RESERVISTS:

- Need to Know Points and how to read a points statement



MIX OF ACTIVE DUTY AND RESERVE DUTY:

- Must know how to convert points to AD time
- Add converted reserve time to AD



POSSIBILITY OF RESERVE INSTEAD OF ACTIVE DUTY (OR VICE VERSA)

- Language for active duty and reserve formulas
 - Clarification or improper post divorce modification
- 



Tips for Drafting Pension Orders



Format of Order



- DFAS does not requires specific format, only specific information



- DRO, MRPDO, language in decree, etc.



- Not a “QDRO”





Magic Language for Orders



ACTIVE DUTY (Not Retired Yet):



“The former spouse is awarded 32% of the disposable military retired pay the servicemember would have received had the servicemember retired as an O-3 with 15 years of creditable service and with a high three year base of \$3232.00 on the date of divorce.”





Magic Language for Orders



RESERVISTS/NATIONAL GUARD:

“The former spouse is awarded 50% of the disposable military retired pay the servicemember would have received had the servicemember become eligible to receive military retired pay as an E-7 with a high three-year base pay of \$3232.00 and with 2623 reserve retirement points on the date of divorce.”





Magic Language for Orders



**Active Duty Retired OR Reservist in
Pay status:**



***“The former spouse is awarded 45% of
the disposable military retired pay the
member.”***



DO NOT STATE AS OF THE DATE OF DIVORCE



Other Misc. Language in a DRO/MRPDO/MPDO



- Factual Data
- Date it starts- MSA? Rule 11? DOD? DFAS Acceptance?
- Constructive Trustee
- Income to Former Spouse (Taxes)
- Application for Direct Pay (DD Form 2293)
- RAS Turn over
- SBP
- New process to “register” order with DFAS through the askDFAS portal!!





High-3



- The “**high-3**” is highest average **basic pay** earned during any **3** consecutive years (36 months) of service.



- AKA “high 36 month” Retired Pay Base”



- Use LESs, Pay Tables, “Audit” from DFAS





10/10 Rule

10/10 RULE: 10 YEARS OF MARRIAGE
OVERLAPPING 10 YEARS OF MILITARY SERVICE



DIRECT PAYMENTS



What to Know About Multiple Domestic Support Obligations



1. One obligation, max withholding is **50%** of disposable retired pay. 10 U.S.C. § 1408(e)(1).
2. Two or more obligations, max withholding is **65%** of disposable retired pay. 10 U.S.C. § 1408(e)(4)(B).
3. DFAS pays **first-come, first-served**. 10 U.S.C. § 1408(e)(4)(A).
4. Thought for the day: look for **alternate sources** for child support withholding, so you don't "top out" at the 65% cap.



Applies to orders involving military retirement pay, spousal support or child support



***Other Matters that Effect
Division of Military Retirement ~***

“DISABILTY PAY”



Electing Disability Pay



- VA Disability under 50%
- VA Disability 50% or more & CRDP
- CRSC
- CRDP
- CH 61 Retirements





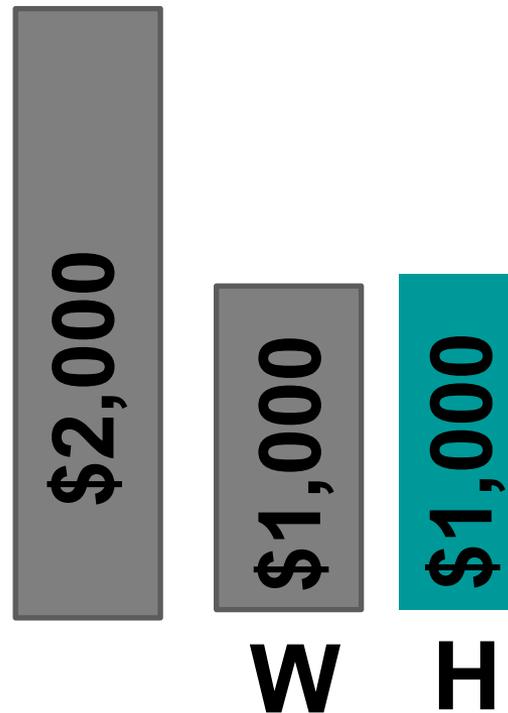
VA Waiver means...



- Share of the F.S. is also reduced
- Without court approval
- Without consent of the F.S.

Before Any Waiver . . .

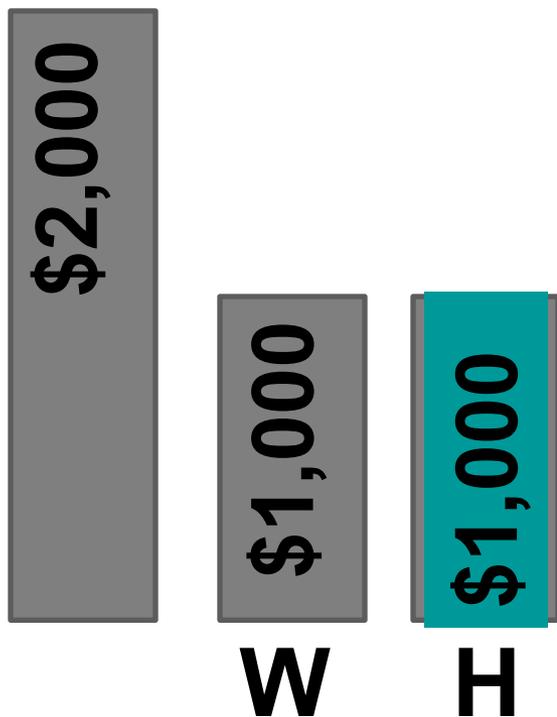
50 - 50 Division



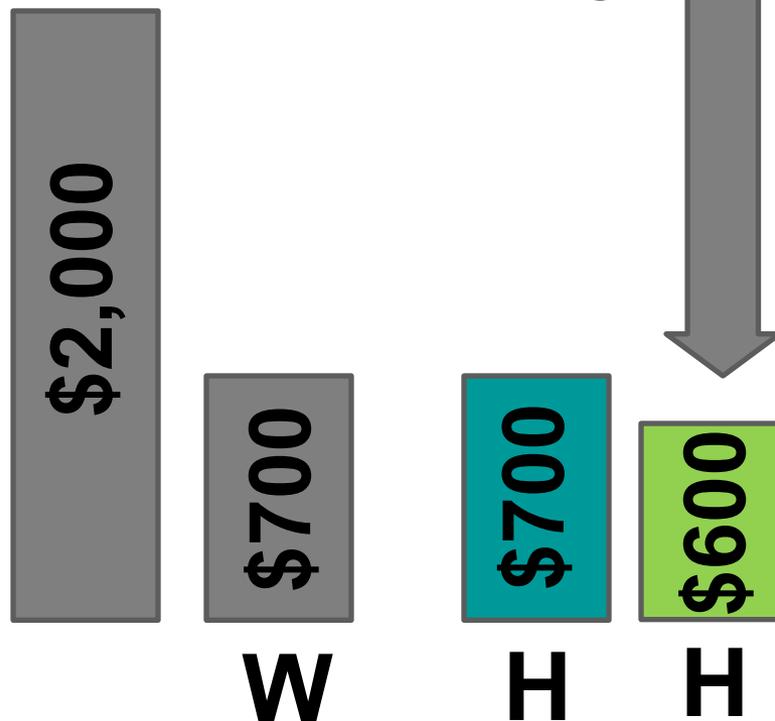
VA Waiver means . . .

Tax-Free VA Dis. Compensation

50 – 50 Division



With 40% VA Rating





CRSC

Combat Related Special Compensation Pay

- **What is it?**

- 10% VA disability or more that is combat related
- SM must apply for and elect
- SM can't get CRDP and CRSC
- CRSC non-taxable
- Effect on SM is VA + either CRDP (Ret'd Pay) or CRSC
- SM must annually make election of CRDP or CRSC

- Is it covered by the USFSPA? DMRP?
- How does it affect FS's share of DMRP?
- Can it be used by the SM to defeat FS's right to receive her share of DMRP?

10 USC § 1413a



CRDP

Concurrent Receipt of Disability Pay



What is it?

- Replaces/restores retired pay waived by SM to receive VA disability compensation
- 50% VA disability rating or more
- 20 years of Service



How does it affect FS's share of DRP?

- Automatic if SM receiving \geq 50% VA disability



Effect on USFSPA direct payments to FS?

- Replaces waived VA; increases FS entitlement



10 USC § 1414



CH 61 Retirement

- Medical Discharge (MEB/PEB/IDES)
- Can occur with any number of years of services
- Disability makes Servicemember unfit for duty
- USFSPA - definition of disposable retired pay excludes any disability pay
- ***BUT***



*****2025 Developments for CH 61 and CRDP Cases***

- Prior to June 2025 DFAS rejected FS claim if CH 61 and CRDP
- June 2025 DOHA Appeal Claim Decision
- Effect: CRDP is divisible
- How will it work??



Restoring the Balance for the Former Spouse

Can it be done?



What About Indemnification to Protect the Former Spouse From Election of CRSC & VA Disability?



Involuntary Indemnification



HOWELL V. HOWELL U.S. SUPREME COURT 137 S.Ct. 1400 (2017)



- Issue = court ordered indemnification for “VA waiver” without consent of SM/Retiree
- Arizona State Courts allowed and upheld court mandated indemnification
- US Supreme Court overruled





Indemnification Laws



--USFSPA 10 USC 1408 (Uniformed Services Former Spouses' Protection Act): exempts VA disability from division - *not a part of disposable retired pay*



--Mansell 490 US 581 (1989): case bars division of waived military retirement pay as marital property upon divorce



--Howell: court mandated indemnification is barred





HOWELL PROGENY CASES



Slides after this presentation about several cases post-Howell that deal with a variety of issues related to the election of disability pay and the frozen benefit rule.



If you know of any others, that are of significance in your state, please let us know so we can add them!!





What Current Indemnification Laws Don't Address



- **Contractual indemnification clause
(*agreement*)**

"If H makes any election which reduces W's awarded of the military pension, he will promptly indemnify her as to any losses she suffers in consequence thereof as if the election had not been made."

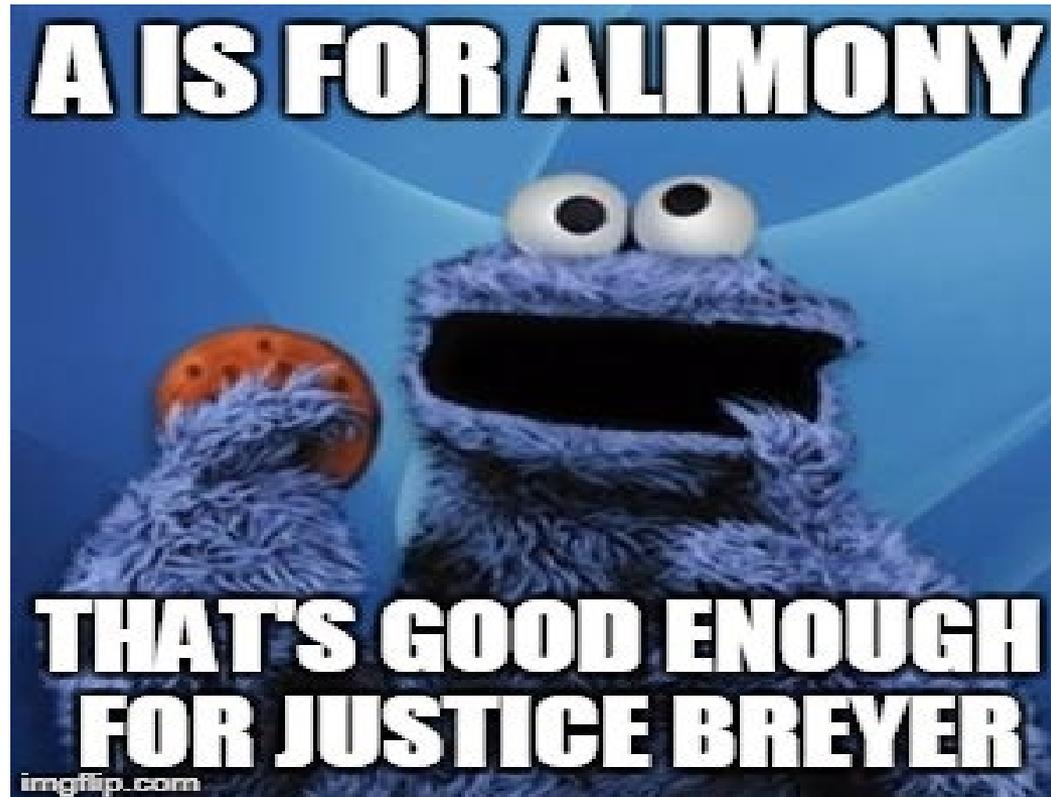
-Rudolph Case (3rd COA Texas)



- **Other Remedies**
 - Present value set-off against other property
 - Unequal division of property



Alternatives for the Judge





ARE WE DONE YET?



Did We Forget Something?





Survivor Benefit Plan



Don't forget the survivor benefits !!!





Survivor Benefit Plan



- 10 USC 144
- SBP = Survivor Annuity





Survivor Benefit Plan



- Paid to the non-military spouse if SM/retiree dies 1st



- Must be ELECTED and registered with retired pay center within deadline



Survivor Benefit Plan

- Benefit = 55% of base amount
- Base = \$300 up to FULL ret'd pay





Survivor Benefit Plan



- Court can order SBP coverage, even against desires of retiree



- Without it, military retirement pension payments to former spouse end at the retiree's death





Survivor Benefit Plan

How Much Does It Cost?

- Active Duty Retired: 6.5% of “base amt” for “spouse/former spouse coverage”
 - \$3000 of military retirement costs \$195
- Guard/Reserve - up to about 10% of base amount





SBP – Who Pays?



- Who's gonna pay for this puppy?



- Mrs. Jane Doe, b/c it benefits her alone?



- COL John Doe, b/c his own death benefit is **FREE?**





SBP – Who Pays?



COST-SHIFTING TO FORMER SPOUSE



-FS reimburses SM each month



-Reduced Award to FS





The Three "R" Rule



- REQUIREMENT



- REQUEST



- REGISTRATION





The Three "R" Rule



Requirement = COURT ORDER



“John Doe will elect Jane Doe as former-spouse beneficiary for the Survivor Benefit Plan, with his full retired pay as the base amt.”





The Three "R" Rule



Request = ELECTION



- 2656-10 (REQUIRED)



- 2656-1 (OPTIONAL) - Deemed Election





The Three "R" Rule



Registration - send to ret'd pay center:



- the form +
- cert. copy of divorce decree +
- cert. copy of order for SBP





The Three "R" Rule



WITHIN THE DEADLINE



One-year deadline

- From divorce if SM makes the election
- From date of SBP order if FS sends “deemed election”





The Three "R" Rule - Deadline



MALPRACTICE TRAP



**Failure to timely register means
FS will not be covered upon SM
preceding FS in death**





Who you gonna call?



Dawn M. Laubach

210-222-1225

laubachlegal@hotmail.com

www.laubachlaw.com





THANK YOU!!

*Applying for Direct Pay and SBP
for a Former Spouse through the
new DFAS Portal*

Go to:

<https://corpweb1.dfas.mil/askDFAS/custMain.do?mid=5160>

Ensure it says Garnishment Law Directorate to ensure you are at the right page! Press submit a ticket



Defense Finance and Accounting Service
Providing payment services of the U.S. Department of Defense
1-888-332-7411

GARNISHMENT LAW DIRECTORATE -- ONLINE CUSTOMER SERVICE

FAQs **Submit A Ticket** Help Exit

Providing responsive, professional finance and accounting services for the people who defend America means delivering timely useful information. Our website allows customers the ability to request support or provide feedback. Every individual is unique, but they often face similar issues. Browse our frequently asked questions database before submitting a question for best results.

Search (FAQs) from Garnishment Law Directorate:
Category:
Subcategory:

No.	Category	Subcategory	Frequently Asked Question	Viewed	Viewer Rating
O1005	Garnishment	Garnishment Inquiry	Child Support and Alimony	41,015	★★★★★
O1002	Garnishment	Garnishment Inquiry	Child Support and Alimony Payments	20,215	★★★★★
O1009	Garnishment	Garnishment Inquiry	How to Stop Child Support	17,223	★★★★★
O1023	Garnishment	Garnishment Inquiry	Uniformed Services Former Spouses Protection Act-Pay Information	15,655	★★★★★
O1027	Garnishment	Garnishment Inquiry	Uniformed Services Former Spouses Protection Act	13,822	★★★★★
O1001	Garnishment	Garnishment Inquiry	Child Support and Alimony	12,755	★★★★★
O1016	Garnishment	Garnishment Inquiry	Uniformed Services Former Spouses Protection Act	12,327	★★★★★
O1026	Garnishment	Garnishment Inquiry	Uniformed Services Former Spouses Protection Act	11,488	★★★★★
O1056	Garnishment	Garnishment Inquiry	Forms	10,888	★★★★★



Defense Finance and Accounting Service

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myPay



GARNISHMENT LAW

FAQs Submit A Ticket

Step 1: Category selected
Step 2: Select a Subcategory

Categories

Garnishment



AskDFAS
www.dfas.mil
FOIA
Legal

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You are entering an Official U.S. Government System

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- The Privacy Act of 1974 covers the information you provide to AskDFAS. To receive a copy of the Privacy Act Statement for the actions you enter into the system, please see your supervisor.
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- **Disclosure:** Disclosure is voluntary.

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m

- ✓ Step 1: Category selected is: **Garnishment**
- Step 2: Select a Subcategory by clicking the >> button next to the subcategory name.

Forms and Document Submission - to submit application forms and supporting court order documentation to the Garnishment Law Directorate

Categories	Subcategories
> Garnishment	> Court Order Request
	> Form and Document Submission
	> Garnishment Inquiry



AskDFAS Welcome Center
www.dfas.mil
FOIA and Privacy Act
Legislative Affairs

Blue Book
Web Policies
USA.gov
Defense Sector CIP

EEO/No Fear Act
Accessibility/Section 508



GARNISHMENT LAW DIRECTORATE -- ONLINE CUSTOMER SERVICE

[FAQs](#) [Submit A Ticket](#)

[Help](#) [Exit](#)

Fill in your name and information so you get the email showing it is being processed

Put the servicemembers name and SSN as the member/employee

Your Information

[Change Category/Sub-Category selection](#)

Category: Garnishment
 Sub-Category: Form and Document Submission

Name: First*: Middle*: Last*:

To ensure spam blocker does not block receipt of responses regarding your ticket, please add dfas.cleveland-oh.zte.mbx.web-askdfas@mail.mil to your safe senders email list before submitting your ticket.

Email*: Re-enter Email*:

Additional Email: If you would like this information and responses sent to additional email addresses, enter them here. Separate multiple addresses with the semi-colon (;)

Passcode*: Create a passcode for this ticket to view information and responses. Passcodes must be a minimum of 15 characters and contain at least one lowercase letter, one uppercase letter, one number, and one special character. Passcodes cannot contain your name or email address. Safeguard your passcode for future use.

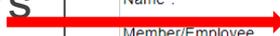
Name of Form*:

Complete the fields below and use the Attachment Section to upload your completed and signed form.
 -Please read before attaching your documentation below.
 Ensure each uploaded document is legible and complete before submitting.
 Please consolidate your documentation within the fewest attachments possible.
 If you are submitting photographs of your documentation, do not upload each one as a separate attachment. Please combine them into one document and then upload the full document below.
 The attachment limitation for this ticket is 8. Please do not submit multiple tickets for the same request.
 Following the above guidance will help to ensure your request is received and processed in the timeliest manner.
 To review what documentation is required with your form, visit www.dfas.mil/garnishment/.

Member/Employee Name*:
 Please provide the member/employee name.

Member/Employee SSN*:
 Your request will ONLY be processed if you have entered a valid social security number in 111993333 format.

Question*:



Question*:

Document Package ?

No file chosen

Combine your documents and forms into one file and upload the file to your ticket. If you have chosen to include a file, you must click the Upload File button before pressing the submit button to make sure they get included.

Submits your item to the Garnishment Law Directorate.

Cancels your inquiry and returns you back to the FAQ Page.

PRIVACY ACT STATEMENT: Disclosure of your contact and other information is voluntary. It is solicited for the sole purpose of responding to your inquiry or request. If it is not provided, we may not be able to respond.

Whether you are uploading the Mil Ret Order, decree and DD Form 2293 for direct pay and/or making the SBP deemed election with the DD Form 2656-10, you need to combine all documents into one pdf for uploading. We send a cover letter with documents. You do not need to upload Mil Ret and SBP docs separately.

Sample Conformation of submission

Online submission received and ticket number assigned

GARNISHMENT LAW DIRECTORATE -- ONLINE CUSTOMER SERVICE

Your submission was received and will be assigned for immediate response. Response times vary based on the volume and complexity of the item submitted.
Print out the following as a record of your submission.

Test Loc

Your Information

Ticket Number: 20240822 [REDACTED]
Access Link: [https://corpweb1.dfas.mil/askDFAS/tk?c=8a830d15-fc8f-42f9-af4c-\[REDACTED\]](https://corpweb1.dfas.mil/askDFAS/tk?c=8a830d15-fc8f-42f9-af4c-[REDACTED])
Category: Garnishment
Sub Category: Form and Document Submission
First: Dawn
Middle: M.
Last: Laubach
Email: laubachlegal@hotmail.com
Additional Email: laubachlegal@hotmail.com
Name of Form: Military Retirement Benefits - [REDACTED]
Member/Employee Name: [REDACTED]
Member/Employee SSN: Withheld for your protection.
Question: Thank you!

File Name	Status
Ltr_Docs to DFAS for Mil Ret Processing - [REDACTED]-combined.pdf	Attachment Uploaded

Important Ticket Information

In order to view future correspondence on your ticket, you will need to use the link provided as well as the passcode you created for this ticket. Please write down or remember this information.

Your Ticket Number
20240822 [REDACTED]

Your Access Link
[https://corpweb1.dfas.mil/askDFAS/c=8a830d15-fc8f-42f9-af4c-\[REDACTED\]](https://corpweb1.dfas.mil/askDFAS/c=8a830d15-fc8f-42f9-af4c-[REDACTED])



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EEO/No Fear Act
Accessibility/Section 508

Automatic Email Receipt of Upload

Sent directly from
DFAS paralegal
who is processing
documents

Garnishment Law Directorate received your inquiry. #20240822 [REDACTED].

Garnishment Law Directorate <dfas.cleveland-oh.zte.mbx.web-askdfas@mail.mil>

Thu 8/22/2024 11:57 AM

To: laubachlegal@hotmail.com <laubachlegal@hotmail.com>; laubachlegal@hotmail.com <laubachlegal@hotmail.com>

Dear Customer,

Thank you for your submission to Garnishment Law Directorate.

Your Garnishment Law Directorate ticket number is: 20240822 [REDACTED]. Please reference this number in any communication about your inquiry.

You will receive a response to your inquiry in a separate email within the next 5-7 business days.

Response times vary based on current volume and complexity of the item submitted.

If you wish to inquire about the status of your ticket, you may contact the Cleveland Customer Care Center at 1-888-332-7411, option 6.

We look forward to serving you,
Garnishment Law Directorate Customer Service

This e-mail is generated from an unattended email server. Replies will not be addressed. Do not Reply to this email.

Howell Progeny Cases

HOWELL PROGENY CASES

<u>State</u>	<u>Court</u>	<u>Case</u>	<u>Reasoning</u>
Alabama	Alabama Court of Appeals	Brown v. Brown, 260 So.3d 851 (2018)	TDRL waived for VA Disability
Alabama	Alabama Court of Appeals	Colafrancesco v. Colafrancesco, 2022 Ala. Civ. App. LEXIS 14 (2022)	A "trial court could not even consider a veteran's disability benefits received in lieu of military retirement benefits when awarding alimony." citing <i>Ex Parte Billeck</i> , 777 So.2d 105 (Ala. 2000)
Alaska	Alaska Supreme Court	Jones v. Jones, 2022 Alas. LEXIS 25 (2022)	Servicemember agreed to it, and Howell does not "preclude one spouse from agreeing to indemnify the other as part of a negotiated property settlement"
Alaska	Alaska Supreme Court	Gross v. Wilson, 424 P.3d 390 (2018)	Servicemember agreed to pay 50% of VA disability in 2014;
Alaska	Alaska Supreme Court	Jordan v. Jordan, 480 P.3d 626 (2021)	Superior Court erred in offsetting nondivisible disability pay 'to the dollar and to the penny' in the property division to wife
Arizona	Arizona Court of Appeals	Chaidez v. Grant, 2022 Ariz. App. Lexis 45	
California	California Court of Appeals	In re Marriage of Cassinelli, 20 Cal. App. 5th 1267 (2018)	Trial court ordered alimony to make up for lost retired pay; Appellate court held, "because the judgment dividing the community property was long since final, the trial court could not give [the former spouse] any remedy for the loss of her community property interest in the retired pay."
Colorado	Court of Appeals	In re Marriage of Tozer, 410 P.3d 835 (2017)	"The <i>Howell</i> takeaway is clear. Military retirement disability benefits may not be divided as marital property, and orders crafted under a state court's equitable authority to account for the portion of retirement pay lost due to a veteran's post-decree election of disability benefits are preempted."
Georgia	Court of Appeals	Phillips v. Phillips, 347 Ga. App. 524 (2018)	Note - Court ordered indemnification in July 2015 decree; Husband appealed in June 2017 (delay was order on atty fees)

Indiana	Court of Appeals	Edwards v. Edwards, 132 N.E.3d 391 (2019)	Court previously, in 2015, held servicemember in contempt for not paying 50% of pension when he had waived for CRSC. Servicemember moved to set aside in 2018 based on Howell; Court ruled res judicata (specifically claim preclusion)
Iowa	Iowa Court of Appeals	In re Marriage of Erlandson, 2022 Iowa App. LEXIS 104 (2022) (not yet final)	Trial court retained jurisdiction to modify divorce decree in the event of waiver of military retirement. Appellate Court found that you could not modify property division (res judicata) and not a change in circumstances to warrant modification of alimony
Kansas	Kansas Court of Appeals	In re Babin, 56 Kan App. 2d 709 (2019)	Parties had mediated agreement dividing both retired pay and disability; Servicemember then appealed - Court of Appeals agreed with Servicemember
Maryland	Court of Special Appeals	Hurt v. Jones-Hurt, 233 Md. App. 610 (2017)	"the veteran's ability under federal law to waive retirement pay for disability benefits, at whatever time his disability status might change, overrides (preempts!) any state law agreement he might have made, or state court judgment to which he was a party, relating to his military retirement benefits, and the parties and state court should have factored this possibility when valuing the parties' marital property."
Michigan	Supreme Court of Michigan	Foster v. Foster, 949 N.W.2d 102 (2020)	Agreement for indemnification; Wife later moves to enforce. Court held that the agreement was unenforceable, but remanded on the issue of whether this was an improper collateral attack against the judgment
Minnesota	Minnesota court of appeals	Berberich v. Mattson, 903 N.W.2d 233,	Consent order in 2014 for SM to pay W 40% of "military disability" which is VA payments in this case; W attempted enforcement in 2016, trial ct ordered SM to pay, H appealed; Minnesota court of appeals found it unenforceable in light of Howell and preemption, even if res judicata or contractual agreement

Ohio	10th District of Ohio Court of Appeals	Jennings v. Jennings, 2017-Ohio-8974 (Ct. App.)	SM argued Howell and 38 USC 5301(a)(1) prohibit use of VA disability benefits in determining spousal supp't; COA disagreed saying trial ct. did not err when considering VA disability benefits for income for spousal supp't. Interestingly, SM also argued Ct abused its discretion by awarding attorney fees b/c H was "correct on the law" re VA disability
Nevada	Nevada Court of Appeals	Martin v. Martin, 2021 Nev. App. Unpub. LEXIS 664	Indemnification provision is invalid, even if agreed to
New Mexico	N.M. Supreme Court	Russ v. Russ, 485 P.3d 222 (2021)	<i>Howell</i> applies retroactively (overturned N.M. Court of Appeals court which said that <i>Howell</i> did not apply retroactively)
Tennessee	Tennessee Court of Appeals	Vlach v. Vlach, 556 S.W.3d 219 (2017)	Parties agreed to indemnification; Court of Appeals held no indemnification clause is proper
Texas	Texas Court of Appeals	Rudolph v. Jamieson, 2018 Tex. App. LEXIS 3983 (2018)	"Errors other than lack of jurisdiction, such as 'a court's actio contrary to a statute or statutory equivalent,' merely render the judgment voidable [rather than void] so that it may be 'corrected through the ordinary appellate process.' Having failed to do so, he cannot now collaterally attack the trial court's division of property, even if it is allegedly unlawful."
Virginia	VA Court of Appeals	Yourko v. Yourko, 866 S.E. 2d 588	Note: Servicemember had agreed to indemnification
Washington	WA Court of Appeals	In re Marriage of Weiser, 14 Wn. App. 2d 884 (2020)	Parties divorced in 2011; Agreement had indemnification clause; Wife moved to enforce in 2017; Court enforced the agreement based on res judicata; "Howell only applies to property divisions imposed by the court."
Washington	Washington Court of Appeals	In re Marriage fo Kaufman, 17 Wn. App. 2d 497 (2021)	"Res judicate prevented [husband] from collaterally challenging the validity of the dissolution decree in response to [wife's] motion to enforce."