

DIVORCING SOMEONE IN THE MILITARY

Introduction:

- The law protects a spouse on active duty in the military and sometimes hearings are postponed or suspended until the service member can participate. The purpose of the law is to enable service members to devote full attention to their duties.
- If the ability of the service member to either defend or pursue a court matter is "materially affected" by his or her military service, the court is required to wait. Thus if a spouse cannot attend a hearing due to military service, and the outcome will depend on his participation, the hearing may be postponed. Under normal circumstances, however, temporary decisions regarding parental rights and responsibilities and child support will be decided in the absence of the service member spouse in order to protect the best interest of the children involved.
- Reservists and members of the National Guard are also protected by this law while on active duty.
- When one spouse to a divorce action is in the military, the service member's residence is unchanged during active duty unless the service member takes active steps to change it.

Hearings without the Presence of the Military Spouse.

- Default Judgments - Before a court can enter a default judgment (for failure to respond to a lawsuit or failure to appear at trial) against a military member, the court must appoint an attorney to represent the defendant's interests. Often the final divorce is delayed until the service member can get a leave and come to court.

Child Support and Spouses in the Military.

- All military personnel have an obligation to support their children. Even **without** a court order, you may contact the commanding officer of your military spouse to help arrange for voluntary payments. If you do not know where your spouse is, the military has locator services which you can call as follows:
 - United States Army: (703) 325-3732
 - United States Navy: (901) 874-3388
 - United States Coast Guard: (202) 267-1340
 - United States Air Force: (210) 565-2660
 - United States Marine Corps: (703) 784-3942
 - National Personnel Records: (314)-538-4282
- Income of a spouse in the military for the purposes of child support includes basic pay, basic allowance for quarters, housing allowance and dependents allowance.

- Military pay may be wage withheld. Federal law provides a limit of fifty percent on the amount that is subject to withholding for a person supporting a second family (spouse or dependent child) and sixty percent for a person who is not.

For an Order of Garnishment for all branches of the service, contact:

Defense Finance & Accounting Service
Cleveland Center
Garnishment Operations Directorate
Code L
PO Box 998002
Cleveland, Ohio 44199-8002

You may also check the website at the US Office of Child Support Enforcement:
www.acf.dhhs.gov/programs/cse/fct/militaryguide2000.htm

**You can obtain helpful information, as well as court forms at:
www.VermontJudiciary.org.**