



Contact Legal Assistance

For legal assistance generally, make an appointment with the 412 TW/JA legal office

Walk-ins available for powers of attorney and notaries Monday—Thursday 9am-3pm

Phone: 661-277-4310

Email: 412tw.ja.workflow@us.af.mil

Address: Trailer at 1 S. Rosamond Blvd.,
Edwards AFB, 93524



Divorce

Edwards Air Force Base
412 TW/JA





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Child Benefits Always Remain

Regardless of custody or location of residence, a service member's child retains full military benefits (Tricare, base access, etc.) until they reach age 21, marry, or reach age 23 if a full-time student.

Collecting Support Payments

While commanders cannot order service members to make support payments, they can initiate administrative actions against them for failure to meet financial obligations.

Former spouses may collect unpaid payments in three ways:

- Involuntary allotments: These are paid directly from a member's paycheck and filed via DD Form 2653 directly with Defense Finance and Accounting Service (DFAS). These can be requested with respect to child support or child support + alimony only.
- Wage garnishment: These are also filed with DFAS, do not require child support, but need a court order requiring DFAS to withhold funds.
- Direct payments: These are applicable only to retired pay, cannot exceed 50% of retired pay, and filed with DFAS, DD Form 2293.

Call DFAS to collect payments: 1-866-859-1845



Post-Divorce Military Benefits

What happens to military benefits when a couple divorces? The Uniformed Services Former Spouses' Protection Act (USFSPA) protects former spouses' access to some military benefits in the event of a divorce. Here is an overview:

Basic Allowance for Housing (BAH):

A divorced spouse may still collect BAH at the dependent rate if the divorce decree calls for child support. The allowance must be used to properly support dependents or it will be terminated.

On-base Housing:

A divorced, non-military spouse may retain on-base housing if he or she has physical custody of children.

Retirement pay:

States courts may treat retirement pay as joint property to be divided between a military member and a former spouse. Only the monthly retirement pay *minus deductions* (income tax, Survivor Benefit Plan, disability pay, etc.) is divided. There is a special formula used to calculate retirement pay division, based on the length of time the member was married to the spouse while serving in military.

Medical care:

Medical benefits may be retained by a former spouse under the 10/10, 20/20/20, and 20/20/15 rules governing years of service and marriage overlap. See us for more details. Spouses must not remarry or be covered under another plan.



Getting a Divorce



Where Can I File for Divorce?

The laws governing divorce differ by each state. The first step in understanding the divorce process is knowing which state's laws apply. It is a myth that a couple files for divorce in the state in which they married. Rather, the law of the state where you *live* controls. If you and your spouse live in different states, where to file for divorce becomes a strategic calculation.



What Does Divorce Entail?

A divorce incorporates many aspects of your life apart from simply separation from your spouse. Getting a divorce means determining custody of children, accounting for child support and alimony (financial support of a spouse), and equitable division of the marital assets. Federal laws may also protect a divorced spouse's military benefits.



How Can Legal Assistance Help You?

Whether you are seeking a divorce or responding to a divorce notice, legal assistance can help you. From understanding different situations to guiding you on what to do, we can make a difficult process more understandable and easy.



The Process of a Divorce

The first step for a spouse seeking a divorce is to file a divorce petition. This petition contains the legal justification for divorce as well as a statement of residency in the state, usually a required minimum of three to twelve months.

The divorce petition must be filed with the court, stamped, and then served on the other spouse. You must provide proof of service to the court. Service must be completed by someone 18 years or older, and of sound mind.

The spouse upon whom the petition is served is known as the respondent, and must file a response with the court within a specified time, or otherwise face a "default" judgement. A judge may grant temporary separation and child custody orders if in the best interests of the child.

The couple may then negotiate a settlement to agree on matters of custody, financial support, and asset division. The court may provide a mediator. If no settlement can be reached, the couple may go to trial to argue their claims before a judge or jury. A judge will then sign the divorce judgement, finalizing the divorce.

While you do not always need a lawyer for divorce, it is recommended you retain one if your spouse has one, or if there's a history of substance abuse, child abuse, sexual abuse, or domestic violence.



Marital Assets

How is Property Divided?

In a divorce, only the marital property is equitably divided. Separate property remains with the original owner.

Separate property includes the following:

- Property owned by a spouse before marriage
- Property acquired during marriage in one spouse's name and not used for the other's benefit
- Property both spouses agree to in writing is separate
- Gifts or inheritance received by one spouse during marriage
- Pensions that vested before marriage
- Certain personal injury awards

Marital property may be divided two different ways, according to community property rules or common law rules.

Community property states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin) divide marital property equally, ie. 50%.

The rest of the states, following common law rules, divide property fairly, according to the facts and circumstances of each case.

Only marital property is divided upon divorce
