



Teleconference
Domestic Violence in the Military II: Family Law Litigation
January 26, 2006: 1-3 pm EST

Presented by the

U. S. Department of Justice
Office on Violence Against Women
in partnership with

LAPTOP
Legal Assistance Providers' Technical Outreach Project

RESOURCES: Websites
Related to Military Family Law Issues

I. BASICS

a. JURISDICTION/DOMICILE

b. SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

Finding out if a person is in the military

<http://www.dod.mil/dfas/money/garnish/newsbullet.htm>

www.jagcnet.army.mil/TJAGLCS

click on *TJAGLCS publications*

click on *JA 260 Soldiers and Sailors Civil Relief Act* (Old law, but good resource)

http://www.defenselink.mil/news/Jan2004/n01072004_200401073.html

News Article on new law—Servicemembers Civil Relief Act

<http://www.jagcnet.army.mil/legal>

click on *Servicemembers Civil Relief Act*

<http://www.abanet.org/family/military/scrajudgesguidecklist.pdf>

Primer on SCRA. Intended as a benchbook for judges.

II. CUSTODY ISSUES

a. UCCJEA

www.jagcnet.army.mil/TJAGLCS

click on *TJAGLCS publications*

click on *50th Legal Assistance Course Deskbook—Family Law Volume*

click on *Chapter Q: UCCJEA in the military*

http://www.nccusl.org/nccusl/uniformact_factsheets/uniformacts-fs-uccjea.asp

A list of all states which have enacted the UCCJEA

b. Records for use in custody proceedings

- i. Leave and Earnings Statement shows leave used and leave available; time left in the military

<http://www.dod.mil/dfas/money/>

click on *military pay*

click on the service branch you are interested in

click on *Reading Your LES*

- ii. Family Care Plan—required to have spouse

<http://www.npc.navy.mil/CommandSupport/CommunitySupportProgramPolicies/familycareplan.htm>

Sample Navy Family Care Plans with links.

One of the links is the Department of Defense Instructions on Family Care Plans

III. MAXIMIZING BENEFITS FOR MILITARY FAMILIES

a. PENSION BENEFITS

- i. Uniform Former Spouses Protection Act

<http://www.dod.mil/dfas/money/garnish/>

Fact sheet and FAQ's from Defense Finance and Accounting Service on dividing pension as property. Includes sample language for orders, Department of Defense forms required for direct payment from DFAS.

<http://www.jagcnet.army.mil/legal>

click on *Family Law Matters*

click on *USFSPA*

- ii. Dividing Pension as Marital Property is a State Law Issue

<http://www.defenselink.mil/militarypay/retirement/ad/index.html>

Department of Defense website which talks about 3 kinds of calculations for military retirement based upon entry into the service.

<http://www.defenselink.mil/militarypay/retirement/calc/index.html>

Calculators to figure out retirement pay under the 3 different calculations

- iii. Waiver Military Pension to Receive VA Disability

<http://www.dod.mil/dfas/money/garnish/newsbullet.htm>

Concurrent Receipt of Military Pension and VA Disability—new program

iv. Combat Related Special Compensation

<http://www.dod.mil/dfas/money/>

click on *retired and annuitant pay*
click on *CRSC*

<http://www.dod.mil/prhome/mppcrsc.html>

information on CRSC

v. THRIFT SAVINGS PLAN

<http://www.defenselink.mil/militarypay/tsp/index.html>

Defense Department site explaining Thrift Savings Plan

<http://www.tsp.gov/forms/court.pdf>

The government manual for dividing a Thrift Savings Plan in a divorce.

b. SURVIVOR BENEFIT PLAN/ANNUITY

<http://www.dod.mil/dfas/money/retired/sbpindex.htm>

<http://www.dod.mil/dfas/money/>

click on *military pay*
click on the service branch you are interested in
click on *Health Care and Insurance*

<http://www.defenselink.mil/militarypay/survivor/sbp/index.html>

Department of Defense information on SBP

c. LIFE INSURANCE

<http://www.dod.mil/dfas/money/>

click on *military pay*
click on the service branch you are interested in
click on *Health Care and Insurance*

http://www.military.com/ResourcesAlmanac/ResourcesKeyIndex/0,14015,6-mil_status_active-1,00.html

Info on various military insurance programs

d. MEDICAL BENEFITS

<http://www.jagcnet.army.mil/legal>

click on *Family Law Matters*
click on *USFSPA*

http://www.ncbar.com/lamp/t_usfspa.htm

Handout on USFSPA written by Col. Mark Sullivan

http://www.ncbar.com/lamp/l_usfspa.htm

<http://www.dod.mil/dfas/money/>

click on *military pay*
click on the service branch you are interested in
click on *Health Care and Insurance*

<http://www.tricare.osd.mil/>

Military medical insurance when military facilities are not used. Called TRICARE.

http://www.military.com/Resources/Index/0,13926,5-mil_status_active-1,00.html

Website with many TRICARE links.

e. CHILD SUPPORT

<http://www.dod.mil/dfas/money/garnish/>

Facts Sheets and FAQ's from Defense Finance and Accounting Service

A Caseworker's Guide to: CHILD SUPPORT ENFORCEMENT AND MILITARY PERSONNEL [written: February 29, 2000]

<http://www.acf.dhhs.gov/programs/cse/ftc/militaryguide2000.htm#>

TABLE OF CONTENTS

[Preface](#)

[Locating Military Personnel](#)

[Service of Process & Obtaining Evidence from Military Personnel](#)

[Establishing Paternity](#)

[Determining the Support Obligation](#)

[Collecting Support from Military Personnel](#)

[The Soldiers' and Sailors' Relief Act](#)

[Summary](#)

APPENDICES

[Appendix A](#): Addresses for Worldwide Locator Services

[Appendix B](#): Sample Letter to Request Locate Services

[Appendix C](#): Sample Letter to Request Home Address

[Appendix D](#): Total Pay Chart

[Appendix E](#): BAH Table II

[Appendix F](#): Sample Letter to Request Pay Information

[Appendix G](#): Addresses for Serving Orders

[Appendix H](#): Sample Letter to Request Involuntary Allotment

[Appendix I](#): Additional Sources of Possible Assistance

www.jagcnet.army.mil/TJAGLCS

click on *TJAGLCS publications*

click on *50th Legal Assistance Course Deskbook—Family Law Volume*

click on *Chapter M: Family Support Obligations*

TABLE OF CONTENTS

- I. Introduction
- II. References & Websites
- III. Other Services' Support Requirements
- IV. Army Support Requirements: Ar 608-99
- V. Army Paternity Policy: Ar 608-99
- VI. Parental Kidnapping
- VII. Requests For Assistance From Government Officials Based On Court Orders
- VIII. Support Enforcement Through Garnishment
- IX. Support Enforcement Through State Wage Assignment Orders.
- X. Support Enforcement Through Involuntary Allotments
- XI. Support Enforcement Through The Uniformed Services Former Spouses' Protection Act: 10 U.S.C. § 1048
- XII. Garnishment, Involuntary Allotments, And USFSPA Compared
- XIII. Welfare Reform Act
- XIV. Conclusion

www.jagcnet.army.mil/TJAGLCS

click on *TJAGLCS publications*

click on *50th Legal Assistance Course Deskbook—Family Law Volume*

click on *Chapter C: Defense Finance & Accounting Svc Processing of Legal Actions*

<http://www.jagcnet.army.mil/legal>

click on Family Law Matters

click on Child and Family Support

This is a good overview of support issues and the military.

Link within this document that will pull up the Army Support Regulation 608-99

i. Understanding military pay

1. Base pay—understanding pay charts

http://www.defenselink.mil/militarypay/pay/bp/01_activeduty.html

Active Duty Pay Charts for 2006

<http://www.dod.mil/dfas/money/>

click on *military pay*

click on the service branch you are interested in

click on *base pay*

2. Special pay [professional pay, jump pay, flight pay, etc]

<http://www.dod.mil/dfas/money/>

click on *military pay*

click on the service branch you are interested in

click on *special pay*

3. Entitlements

a. Basic Allowance for Housing

<http://www.defenselink.mil/militarypay/pay/bah/index.html>

Department of Defense site explaining BAH

<https://secureapp2.hqda.pentagon.mil/perdiem/bah.html>

Calculate actual BAH based on rank and zip code

b. Separate Rations [BAS]

<http://www.defenselink.mil/militarypay/pay/bas/index.html>

BAS rates for 2006 for officers and enlisted

4. Taxability

<http://www.defenselink.mil/militarypay/pay/tax/index.html>

Department of Defense site explaining what is taxable

<http://www.defenselink.mil/militarypay/pay/calc/index.html>

Department of Defense Calculator which will calculate tax advantages to the Servicemember and convert the numbers to a civilian wage.

5. Leave and Earnings Statements—a wealth of information.

<http://www.dod.mil/dfas/money/>

click on *military pay*
click on the service branch you are interested in
click on *Reading Your LES*

f. SPOUSAL SUPPORT

<http://www.dod.mil/dfas/money/garnish/>

Facts Sheets and FAQ's from Defense Finance and Accounting Service

IV. DOMESTIC VIOLENCE AND THE MILITARY

www.jagcnet.army.mil/TJAGLCS

click on *TJAGLCS publications*
click on *50th Legal Assistance Course Deskbook—Family Law Volume*
click on *Chapter U: Service Response to Domestic Violence*
This publication contains many references to Department of Defense Manuals which concern the Family Advocacy Program; child abuse, spousal abuse, sexual abuse and emotional abuse.

<http://www.dtic.mil/domesticviolence/>

Defense Task Force on Domestic Violence website.

<http://www.bwjp.org/resources.htm>

Battered Women's Justice Project: *The Military Response to Violence*
click on *Articles*
submit info about you
click on *Military*

<http://www.defenselink.mil/fapmip/tools.htm>

Family Advocacy Program Commander's Guide
Great links to useful documents
Intended for command response to domestic violence

<http://www.ncdsv.org/index.html>

National Center on Domestic and Sexual Violence is an excellent resource for information about the military's response to domestic and sexual violence.

<http://www.abanet.org/family/military/MilitaryFamilyLawIssues.pdf>

ABA Seminar held in September 2005 materials

DIVORCE AND FAMILY LAW OVERVIEW.....	2
<i>Howard I. Lipsey, Associate Justice, Rhode Island Family Court</i>	
I. Introduction.....	2
II. The Domicile Concept.....	3
III. The Jurisdictional Jungle in Domestic Cases.....	5
IV. Divisible or Bifurcated Divorce.....	9
V. Foreign Divorce.....	11
Attachment: Should I Get A Divorce Overseas?.....	14
Attachment: Counseling On Foreign Divorce.....	21
FAMILY LAW AND THE SERVICEMEMBERS CIVIL RELIEF ACT.....	25
<i>Col. Mark Sullivan, USAR (Ret.)</i>	
I. Introduction.....	
II. Overview of the New Statute.....	25
III. Stay of Proceedings.....	27
IV. Stay or Vacation of Execution of Judgments, Attachments and Garnishments.....	30
V. Request for Anticipatory Relief.....	30
VI. Using the SCRA Stay Request in Family Law Cases.....	30
VII. Internet SCRA Resources.....	32
Attachment: Summary of SCRA.....	34
Attachment: Sample Motion.....	38
Attachment: Flow Chart for Opposing "Additional Stay".....	40
Attachment: SCRA: A Judge's Checklist.....	42

Attachment: Legal Considerations—the Tactical and the Practical.....	44
MILITARY RETIRED PAY AND THE SURVIVOR BENEFIT PLAN.....	52
Military Retired Pay—Roadblocks to Division.....	52
No Jurisdiction—What Next?.....	53
Other State Co-Counsel.....	54
Protecting the ServiceMember if he is the Respondent.....	54
The “Ten Year Rule.”.....	55
A Neat Secret about the Ten Year Rule.....	55
“Disposable” Retired Pay and Strange Acronyms.....	56
Before and After.....	57
The Survivor Benefit Plan.....	58
Attachment: Election of Former Spouse for SBP Coverage Form.....	62
Attachment: Cover Letter form.....	63
DOMESTIC VIOLENCE	
<i>Col. Mark Sullivan, USAR (Ret.)</i>	
Introduction.....	65
Civil and Criminal Remedies under State Law.....	65
Military Options.....	68
Military Remedies: Family Advocacy Option.....	69
Military Remedies and Command Responses.....	72
The Firearm Possession Problem.....	74
Lautenberg checklist.....	78
Transitional Compensation.....	78
Military Pension Division.....	83
UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT.....	86
Part I: What’s New About the UCCJEA?.....	88
A. Types of Proceedings.....	88
B. International Jurisdiction.....	90
C. Jurisdictional Prerequisites Tightened.....	90
D. Judicial Communication.....	92
E. Enforcement.....	94
Part II: What are the New Tools?.....	94
A. Continuing Exclusive Jurisdiction.....	94
B. Emergencies/Temporary Orders.....	97
C. Declining Jurisdiction.....	99
D. Interjurisdictional Discovery Tools.....	102
E. Registration and Enforcement of Orders.....	103
Part II: Dangers and Pitfalls.....	106
A. Domestic Violence.....	106
B. International Litigation.....	107
C. Forum Non Conveniens.....	108
Attachment: Family Care Plan Checklist.....	110
Attachment: State-By-State UCCJEA comparison of statutes.....	113
Attachment: Provisions for Custody Agreements of Orders.....	117
Attachment: UCCJEA Power Point.....	120
Attachment: Parental Consent Form.....	133
UIFSA: UNIFORM INTERSTATE FAMILY SUPPORT ACT.....	136
<i>Joseph W. Booth</i>	
PowerPoint Presentation.....	
CHILD SUPPORT AND THE MILITARY.....	188
<i>Col. Mark Sullivan, USAR (Ret.)</i>	
Introduction.....	188
Paternity Issues.....	189
Paternity and Estoppel.....	189
Tissue Tests.....	191
Trial and Proof.....	192
Welfare Reform Act.....	192
Military Paternity Regulations.....	193
Family Support.....	194
Child Support: Monetary Amount.....	194
Military Guidelines When There is No Order.....	194
Air Force Rules.....	195
Marine Corp Rules.....	195
Navy Rules.....	196
Coast Guard Rules.....	197
Army Rules.....	197
Court Orders and Interim Support.....	199
Remedies and Methods of Payment.....	200
The Non-Support Complaint Letter.....	201
Mobilization and Support.....	201
Expediting the Hearing for the Servicemember.....	203
Calculating Child Support.....	205
The Value of the Leave and Earnings Statement.....	206
What is Income?.....	207

