

military divorce

taking command

Divorce is already complicated—custody, child support, marital assets and debt, etc. Dividing one's life with another is not easy. Add further complication to the situation, such as active duty military status, and you enter a whole other realm. The military offers its members and their families additional benefits and burdens, and those matters need to be addressed.

Unlike any other agency, the military pays special attention to their servicemembers (the term "servicemember" includes all branches of the military) and their members' families. A military member must provide financial support to the family if they are geographically or physically separated while the servicemember is on active duty in the military. The military has special provisions for temporary support. In the absence of a court order or on a temporary basis, a servicemember must provide a portion of the basic housing allowance (calculated based on the number of dependents) to their family if the family is not residing in government housing. This amount may exceed the amount of child support calculated through Florida child support guidelines and includes a share for the spouse. It is against military regulation



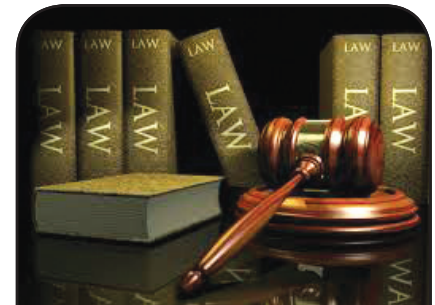
to fail to provide for the support of one's family. The ramification for failing to support one's family can have a severe negative impact on the servicemember's career.

Temporary geographic separation is nothing new to military families. However, once the separation becomes permanent, new challenges may arise. Servicemembers are given thirty (30) days of leave per year, plus time off for federal and training holidays. Majority timesharing parents (Florida no longer utilizes the term "custodial" or "primary residential" parent) need to be cognizant of these times and prepare that the non-majority timesharing parent will likely be awarded a significant portion of this time to exercise timesharing. Those with majority timesharing should be prepared and willing to allow additional timesharing before and after a deployment. Communication between the deployed servicemember and the children should be readily exercised through telephone and video communication such as Skype, Tango, FaceTime, etc. Failure to grant timesharing or allow regular, uninterrupted communication between a military member serving in a combat zone and the children can be grounds for a modification and change in custody.

Military retirement is often the biggest asset in a military divorce. A spouse may be entitled to one-half of the military pension based on the amount of years the marriage overlaps with the servicemember's active duty service. For Reserve and National Guard members, the division is one-half of the military pension based on the amount of points accumulated during the marriage. After a ten-year overlap, retirement is paid directly to the spouse. Also, a spouse may elect to purchase coverage through the military under the Survivor Benefit Plan (SBP) to continue to receive this benefit in the event the retired servicemember dies before the spouse. In addition, spouses married to a servicemember for at least twenty (20) years during twenty (20) years of service may receive medical benefits for life.

There are protections from lawsuits for servicemembers serving on active duty under the Servicemembers Civil Relief Act (SCRA). Service overseas creates a whole other dimension to the case. A servicemember may be protected from responding to a lawsuit while they are serving on active duty depending on when and where they are serving. In many cases, a default judgment can be set aside in cases where a default was entered into against a servicemember for failing to respond.

To determine and initiate these benefits can be complex. It is best to contact the military legal assistance office from the base where the servicemember is assigned or an attorney with military experience.



FAMILY LAW ATTORNEY

LAW OFFICE OF AMANDA SALCIDO

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