

**Region Legal Service Office Hawaii
Legal Assistance Department
850 Willamette Street
Pearl Harbor, Hawaii 96860
(808) 473-4717**

DIVORCE AND SEPARATION INFORMATION

This handout answers frequently asked questions about separations, divorce, and the divorce process. The information contained in this handout is very general in nature; it may not answer your specific questions. Please review the information below in connection with your visit to our legal assistance attorneys so that you may have the fullest information available to help you with your family law problem.

Reading this handout is not a substitute for legal advice from a family law attorney and does not create an attorney-client relationship between you and any attorney in our legal assistance office. The information is general in nature. You should discuss the circumstances of your case with an attorney.

Divorce can be a messy, emotional, and expensive process- the very word “divorce” can cause fear and uncertainty. The first step to conquering this fear is to learn as much as possible about the process. A good lawyer can explain the procedures clearly, assist in establishing goals, and propose a strategy for achieving these goals. Set out below are some commonly asked questions and answers about alternatives to divorce, the divorce process, the issues involved in divorce, and post divorce legal rights and responsibilities.

ALTERNATIVES TO DIVORCE

Q. What should I do if I do not really know whether I want a divorce?

- A. You should seek counseling. A chaplain or a marriage counselor may be able to help you work through your marital problems. Counseling may clear the air and make communication about the problems possible. Even if you ultimately divorce, the process is simpler and less costly if you are communicating and cooperating with each other.

A good place to start at Naval Station Pearl Harbor is the Fleet and Family Support Center (474-1999) or the Naval Station Chaplain’s Office (473-3971).

Q. What is a separation agreement?

- A. A separation agreement is a written agreement between a husband and wife when they separate from each other in which they temporarily resolve such matters as custody, child support, alimony, and property division. It is not a legal separation, which is a court order arranging the terms under which the couple will live separately. In some states, separation agreements are invalid.

Hawaii law permits couples to enter into separation agreements. Legal separation is also available in Hawaii, but will not exceed a two year period.

Q. Do I need a separation agreement?

- A. No law requires you to execute a separation agreement, but it may be helpful in your situation. Some states require a physical separation for a period of time before a divorce may be granted. Generally, you do not need a separation agreement to get an “Early Return of Dependents.” A letter from a professional, such as a lawyer, chaplain, or marriage counselor, verifying your marital difficulties is sufficient. You should consult an attorney regarding your circumstances.

Hawaii does not require a period of physical separation or a separation agreement to be divorced.

Q. What are my rights if my spouse leaves me and I do not have a separation agreement or a court order governing our relationship?

Each branch of service has established its own support guidelines, and interprets them differently. Some of the services require support, and others have established voluntary guidelines. These guidelines only apply in the absence of an agreement or a court order. The guidelines for each branch are listed in the Resource and Referral Section of this handout. If you are living in military housing, you will be required to vacate housing within 30 days if your spouse is no longer living there.

In any case, you may get a temporary relief order from a court for child support, alimony, custody, visitation, and other relief depending on your circumstances. You also may cancel joint accounts to avoid exposing yourself to additional liability and prevent your spouse from wasting marital resources.

Q. Can I get an annulment?

An annulment essentially means you were never legally married. There are very few grounds for an annulment. Most states include bigamy, duress, fraud, impotence, kinship, lack of mental capacity, and being underage as grounds for annulment. Annulment has nothing to do with the length of marriage.

Hawaii allows annulment for close kinship, being underage, bigamy, lack of mental capacity, consent obtained by coercion, duress, or fraud, or the concealment of a loathsome disease.

Q. Can I prevent my spouse from divorcing me?

- A. No. You may ask the court to delay the divorce to give you and your spouse time to reconcile your differences. The court will eventually grant the divorce, though, if your spouse wants one.

THE DIVORCE PROCESS

Q. Where do I start?

- A. Getting educated is the first step. Often, an attorney can help with this. A great first place to start is your local military Legal Assistance Office. Military attorneys cannot go to court on your behalf, but they can help you assess your choices, options, and alternatives. Our office hosts a weekly divorce seminar on Tuesdays at 1300. The Legal Assistance Office at Schofield Barracks also hosts divorce briefings. The Family Court also holds monthly divorce law seminars. For Family Court seminars please call (808) 539-4767.

The next step may be to find a civilian attorney:

- State and local bar associations usually have a referral service, which will list qualified lawyers in a geographic area. *The phone number for Hawaii's attorney referral service is 537-9140.*
- Ask a friend or relative who has been through a divorce if they would recommend their attorney
- Use the yellow pages to get a list of attorneys.

You may want to meet with more than one attorney; all lawyers are different and you want to choose one that best matches your own personality, goals, and price range. Many attorneys will offer a 30 minute initial consultation for a reduced rate.

When you first meet with your new attorney, make sure you go over all the important facts of your case and outline the goals you have. Do not be afraid to ask questions or point out things that you think are relevant- you may have a unique circumstance that a lawyer's normal intake process does not cover.

We have provided a list of Hawaiian bar referral telephone numbers to help you get started. Please see the Resource and Referral Section at the end of this handout.

Q. What can I expect from my attorney?

- A. Your civilian attorney will be bound by state ethics rules. In general, your attorney will have the duty to:
- Keep the information you give them confidential.
 - Let you make the major decisions in your case, such as accepting a compromise or going to court.
 - Remain open and honest about all aspects of your case, including the chances of success, the good and bad sides of your position, the time needed, and the fee required.
 - Release your file to you upon request and with reasonable notice.

You can ask your attorney to explain specifically a) what will be done in your case and b) how much it will cost. If you wish, you can ask the attorney to put this in writing.

Your attorney should never hide information from you, or make decisions without consulting you. You should remember that litigation is an inexact science; if your case goes to court, it may take longer and cost more than originally estimated. However, if you feel that your attorney is not responsive to your requests for information about your case, or has missed court dates or failed to follow your wishes, you should check with your state bar association about filing a complaint.

Q. Can my spouse and I file our own divorce without the help of an attorney?

- A. Yes, but it may not be in your best interests to do so. A “pro se” divorce, one in which you represent yourself, is usually possible if you and your spouse agree on every issue (i.e., divorce is uncontested), and you are able to communicate this agreement to the court. The agreement also must appear fair to the court. Some states have “pro se” divorce forms and instructions to make the process easier. You should consult an attorney before proceeding with this option.

Hawaii has a “pro se” divorce package for uncontested divorces. The instructions and forms are available at the family court located at 4675 Kapolei Parkway, Kapolei, Hawaii. They are also available on the internet at www.courts.state.hi.us (at the top of the webpage go to the pull-down menu “for Self-Help” and click on “Court Forms,” then click on “First Circuit (Oahu)” — “Family Court”).

Q. How much will a divorce cost me?

- A. Costs will vary from state to state and from lawyer to lawyer, but as a general rule, the more you and your spouse disagree on the issues involved, the more expensive the divorce will become. It is a good idea to get estimates from several attorneys. You should find out how much the retainer is and how much the hourly rate is. Ask friends or family who have been through the process, to make sure that you are not paying too much. In addition to attorney costs, you will have to pay court costs. Again, these will vary from state to state.

The filing fee for an uncontested divorce without children is \$200.00 in Hawaii. It is \$250.00 to file an uncontested divorce with children.

Q. How long will it take to get a divorce?

- A. That depends on the circumstances of your case. The state in which you have filed may require a separation period or have a congested court schedule. You and your spouse may not agree on several issues and become embroiled in a lengthy divorce process. Disagreement not only causes delays, but will increase your costs significantly.

It is possible to get an uncontested case in Hawaii in as little as two or three months.

Q. What are the grounds for divorce?

- A. Most states now have “no fault” divorces. The only requirement for a “no fault” divorce is that you and your spouse are no longer able to make the marriage work. The grounds for a “no fault” divorce are sometimes referred to as “irreconcilable differences” or an “irretrievable breakdown” of the marriage. “Fault” grounds generally include cruel treatment, adultery, and desertion, as well as others.

Hawaii allows couples to divorce based on an “irretrievable breakdown” of the marriage.

Q. Where should I file for divorce?

You or your spouse must have resided in a state for a certain period of time before you can file for divorce in that state. If your spouse has never lived in the state in which you filed, you may not be able to get a “complete” divorce. That is, the court will only be able to grant a divorce, but will not be able to decide property division or alimony because it lacks “personal jurisdiction,” which gives the court the power to order your spouse to do certain things. An attorney will be able to properly advise you about the requirements of a particular state and the best place for you to file.

Hawaii requires you to reside in the state for at least six months and in the county where you file for three months before you can file for divorce.

Q. Can I file for divorce if I am pregnant?

Yes. Pregnancy does not bar you from filing for a divorce and seeking temporary spousal support or child support for any existing children. However, the divorce cannot be completed until the child is born. A court will not order child support for an unborn child. Paternity and child support will be established after the child is born. Generally, the courts presume that any child born to a married woman is her husband’s child. That presumption may be challenged in court during a paternity hearing.

Q. What is involved in “going to court”?

- A. “Litigation”; “contested case”; “going to court”- these are all different ways of saying the same thing. When you contest a case, it means that you are unable to come to an agreement with the other party in a dispute, and you are asking a judge to decide an issue for you. Litigation starts with the filing of a complaint or petition, which states your version of the facts of the case, and what you want the judge to do. When the complaint is filed at the court, the other party (i.e. your spouse in a divorce case) receives a copy of the complaint, and has an opportunity to present their version of the facts in writing (the “answer”). Once the case has started, both parties will likely be asked to file other documents, such as

financial declarations and property inventories. In addition, both parties will file their proposed child custody plans.

Contested divorce cases can take a long time to resolve. While the case is pending, a judge will often make temporary rulings to establish who should have the children, who should pay for spousal or child support, who should hold the house or car, etc., while the case is being resolved.

A full trial on a particular matter, such as child custody, can involve costly procedures such as hiring a guardian ad litem (a court appointed guardian who represents the best interests of the children) to interview both parents and do home studies; interviews with psychologists for the children and parents; even testimony from friends and relatives about the fitness of a particular parent may be required.

A trial is just an end point in a long process that includes getting the client ready (preparing for hearings, reviewing documents that may be introduced as evidence), getting witnesses ready, drafting exhibits for introduction, negotiating with the other party's lawyer, and setting the case on the court's calendar for weeks, or even months, in the future. Lawyers also prepare written briefs for the trial, which summarize and explain points of law that may be involved in the case.

On the day of the trial, the judge will usually "call the calendar" which means that he or she will announce the names of the cases which are on the court's calendar for that day. There are often many cases set for the same day, and the judge may reschedule ("continue") cases that the court cannot get to in a day. If a case is heard on its originally scheduled day, the judge may make a decision on the spot, or may take days or weeks to consider the case. Often the attorneys in the case will be responsible for drafting a decree, or judgment, for the judge to sign, which will involve meetings between the attorneys, more negotiations, and may further delay matters.

Q. Is there any alternative to going to court?

- A. If you can't come to an agreement with the other party, there are three alternatives short of going to court: counseling, mediation, and arbitration. These options are all forms of "alternative dispute resolution" (called "ADR" for short) and are usually less expensive and less time consuming than litigation. All three of these options involve the intervention of a neutral third party. If a majority of issues can be resolved through ADR, any eventual trial will be shorter and less expensive. Many states now require that a divorcing couple go through some form of ADR before going to trial.

Counseling is the mildest form of ADR, and involves sitting down with a trained counselor who will help both parties talk through the issues to try to narrow down the areas of dispute. This counselor helps the divorcing couple put aside any anger or resentment, and concentrate on material issues- Who wants to keep up mortgage payments on the house? Who wants the old car? Many divorcing couples who think they cannot agree on *anything* are amazed to

find that they have only a few areas of real dispute. The goal of counseling is to help both parties agree on a compromise settlement.

Mediation is the next form of ADR, and is a bit more formal than counseling. This process involves a mediator, who is trained to help parties find common ground and solutions. There are usually procedural rules (agreed upon in advance by both parties) to help the mediator keep control of the proceedings. Again, the goal of mediation is to help both parties reach a settlement on as many issues as possible.

Arbitration is the most formal version of ADR, and is the most like a trial with the arbitrator acting as a sort of judge. Like mediation, the parties agree on the rules of the proceeding in advance; unlike mediation, the parties agree to be bound by what the arbitrator decides. In cases where the parties are unlikely to come to any agreement on their own, this process takes the decision out of the hands of the parties, but is less expensive and less formal than a full-blown trial.

With few exceptions (such as spousal abuse), Hawaii requires a couple to engage in mediation before a case may be set for trial. Please see the Resource and Referral Section for contact information.

Q. Can my spouse divorce me without my knowledge?

A. All states require the party seeking the divorce to prove the other party was notified of the divorce proceeding. If the party seeking the divorce does not know where the other party is living, a court may allow notification by publication in a newspaper. If your spouse lies about notification and is awarded a divorce, you will be able to get the divorce set aside.

Q. What if my spouse and I cannot agree on a divorce and I need a decision on something now?

A. Once a divorce case has been filed, either party can file a Motion for Pre-Decree Relief, in which they ask the court to make temporary orders. Such orders are common for temporarily deciding child custody, child support and who will be able to use marital assets. After you file the motion, you and your spouse will get a hearing date where you can make your arguments in front of a judge.

THE ISSUES INVOLVED IN DIVORCE

Q. What issues are involved in a separation or divorce?

A. The break-up of a marriage often involves six issues: termination of the marriage, property division, allocation of debts, spousal support (or alimony), child custody/visitation, and child support. Each of these issues can be resolved by mutual agreement or contested in court.

Q. How is property divided if my spouse and I cannot agree?

- A. In community property states, all property acquired during the marriage is marital property and belongs to both spouses equally. Statutes in these states require the court to divide the property exactly in half between the two parties. In equitable distribution states, a court is not required to divide property exactly in half. It can consider a variety of factors, including the length of the marriage, sources of income and needs of each party, and the custodial arrangement of children.

Hawaii recognizes Marital Separate Property (property, for example, covered by a premarital or postmarital agreement) and Marital Partnership Property (essentially everything else), in which the general rule is that each spouse gets a credit for date-of-marriage personal net worth and a credit for gifts and inheritances received during the marriage; everything else is divided 50-50. However, the Hawaii Family Court has the discretion to divide Marital Partnership Property in a “just and equitable” manner. The division need not be equal. In deciding whether to deviate, the Family Court will consider the respective merits of the parties, the relative abilities of the parties, the condition in which each party will be left by the divorce, and all other circumstances of the case. The fact that a partner was “bad” or financially irresponsible, or that the marriage was short, is not a reason for deviation. The court may not divide Marital Separate Property. You and your spouse should decide how you want to divide your property.

Q. Is a spouse entitled to a service member’s military retirement pay?

- A. The Uniformed Services Former Spouses Protection Act has authorized state courts to divide military retirement pay, much like a civilian pension. States differ on how they divide retired pay, but courts generally use the following formula:

$$\frac{1}{2} \times \frac{\text{Months of overlap of marriage and service}}{\text{Total months of service}} \times 100 = \%$$

If the marriage lasted for 10 or more years while the military member was on active duty, the spouse is entitled to receive direct payments of his or her portion from DFAS.
Military retired pay is divisible under Hawaii law.

Q. If we do not agree, how will debts be divided?

- A. Debts are divided in a similar fashion to property (See above). Each party is responsible for half the marital debt, unless the court finds this unfair under the circumstances. Marital debt usually includes any debt incurred during the marriage by either you or your spouse. It generally does not matter who is named as the debtor. It is important to remember that you are ultimately responsible to pay the creditor if you are named as a debtor on an account, even if the court orders your spouse to pay the bill. The court order only governs the relationship between you and your spouse; it does not release you from responsibility to the third party creditor. You should cancel all joint accounts or change them to individual accounts to protect yourself.

Q. Is alimony or spousal support automatically granted?

- A. No. Most states do not award alimony automatically. If one spouse can demonstrate a need for support due to an inability to work, a need to complete education, or another specific rehabilitative purpose, a court may award alimony for a limited time. A court also may grant alimony depending on how the property and debt is distributed.

In Hawaii, there are four types of alimony: (1) transitional alimony, (2) rehabilitative alimony, (3) permanent alimony, and (4) lump-sum alimony. As a rule, alimony is usually not awarded by the Family Court.

Q. Should I ask for joint custody of my children?

Many states have separated custody into two distinct areas: legal and physical custody. Legal custody gives the parent the right to make decisions affecting the child's health, education and welfare. Physical custody determines where a child will reside and who will exercise supervision. Sole legal custody means one parent makes the decisions affecting the child's life and simply advises the other parent. Sole physical custody means the child lives with one parent except during visitation times. Visitation for the non-custodial parent may be detailed and include a specific visitation schedule or may be non-specific (expressed as "reasonable" visitation). Joint legal custody requires you and your spouse to communicate and reach decisions together. Joint physical custody presupposes that you and your spouse continue to reside in the same geographic area, since the child will live half of the time with each parent. You should discuss the different types of custody with an attorney to determine what will work in your situation.

Hawaii uses the terms legal and physical custody. In addition to sole and joint physical custody, Hawaii has an extended visitation arrangement where visitation by the non-custodial parent is more than 143 days a year.

Q. Can I obtain custody of my children even though I am a military member assigned to a deployable unit?

- A. Yes. This factor alone will not automatically bar you from being awarded custody of your children. The best interest of the child is the paramount concern in a custody dispute. You can improve your chances in a custody dispute by providing a comprehensive child care plan to the court, which includes appointing a responsible person to watch the children while you are deployed. You should consult an attorney to assist you with your custody case.

Q. How much child support will be awarded?

- A. Child support is paid by the non-custodial parent to the parent having physical custody of the child. Most states have guidelines that establish child support. The amount of support is generally calculated using your income and your spouse's income. You may agree to pay more child support than the guidelines require, but you will not be allowed to pay less except in rare circumstances. You should consult an attorney regarding the applicable guidelines.

The Hawaii Child Support Guidelines are available at the family court located at 4675 Kapolei Parkway, Kapolei, Hawaii. They are also available on the internet at www.courts.state.hi.us (at the top of the webpage go to the pull-down menu "Self-help" and click on "Court Forms," then click on First Circuit (Oahu)—"Family Court," then click on "Child Support Guidelines). Child support is normally paid directly to the Hawaii Child Support Enforcement Agency, which will forward it to the custodial parent.

Q. Does the fact that my spouse committed adultery, spouse abuse or other criminal conduct have any impact on my divorce?

A. It's possible. The court may consider this type of behavior in custody cases if it affects the children. Again, the court is trying to determine what is in the best interest of the children.

POST DIVORCE LEGAL RIGHTS AND RESPONSIBILITIES

Q. How do I get military ID cards for my children?

A. The sponsor must complete the paperwork (DD 1172) and have the children's photographs taken at Personnel Support Detachment. If the sponsor and the children do not live in the same location, the sponsor should forward the DD 1172 to the custodial parent, who must then go to the nearest military base to get the cards issued.

Q. What military benefits will the non-military spouse get after the divorce?

A. The military categorizes former spouses into three groups and provides different privileges depending on the category:

20/20/20 former spouse - The military member has completed 20 years of creditable service, the spouse has been married to the military member for 20 years, and the period of marriage overlaps the period of creditable service by *at least 20 years*.

20/20/15 former spouse - The military member has completed 20 years of creditable service, the spouse has been married to the military member for 20 years, and the period of marriage overlaps the period of creditable service by *at least 15 years*.

All other former spouses - Any spouse that does not fall into one of the other categories.

Commissary and exchange privileges. A 20/20/20 former spouse is entitled to commissary and exchange privileges to the same extent and on the same basis as a surviving spouse of a military retiree. A former spouse's full commissary and exchange privileges are suspended upon remarriage, but "revive" when the subsequent marriage is terminated in any manner. No other former spouses are eligible for commissary and exchange privileges.

Medical Benefits. There are three categories of health care:

Full military health care program. A 20/20/20 former spouse (and a 20/20/15 former spouse whose divorce was final before 1 April 1985) will continue to be eligible for military medical and dental benefits. These benefits are extinguished upon subsequent marriage and the privileges will not "revive" if the subsequent marriage is terminated by any cause other than annulment.

Transitional health care. An unremarried 20/20/15 former spouse with no employer-sponsored health insurance is entitled to FULL military medical care only for a transitional period of one year after the date of divorce. After the first year, the 20/20/15 former spouse is eligible to enroll in a DOD civilian health group care plan. A second year of military health care may be available for pre-existing health problems that are not covered by a civilian health care plan. To qualify for the second year of limited coverage, the spouse must have enrolled in the DOD-negotiated health insurance plan.

Health insurance plan that has been negotiated by DOD. Any person who was formerly entitled to military health care and lost that entitlement is eligible. Health insurance for former spouses who lose entitlement to military health care is covered by the Continued Health Care Benefit Program (CHCBP). CHCBP is a premium-based, temporary transitional health care program that provides health care coverage via standard TRICARE for up to 36 months. Application for CHCBP must be made within 60 days of loss of eligibility for military health care. The premium is increased annually on October 1st. For more information on CHCBP write to CHCBP, P.O. Box 740072, Louisville, KY 40201-7472 or call 1-800-444-5445.

Legal assistance. Former spouses are entitled to legal assistance if they are 20/20/20 unremarried former spouses. A former spouse's legal assistance privileges are suspended upon remarriage, but "revive" when the subsequent marriage is terminated in any manner. No other former spouses are eligible for legal assistance.

Q. Will my children still be entitled to military benefits?

- A. Yes, provided they have a military ID card. Children are eligible for military medical benefits and legal assistance until they are 21 (or 23 if a full time student). They also are eligible for commissary, exchange, and MWR privileges if they meet certain criteria (for example, dependent on military sponsor for more than 50% of his or her support).

RESOURCE AND REFERRAL SECTION

MILITARY LEGAL ASSISTANCE PROVIDERS LOCATED IN HAWAII

AIRFORCE

Hickam AFB, Legal Service Office
15 ABW.JA, Bldg. 502
Sixth Street
Hickam AFB, Hawaii 96853
(808) 449-1737

MARINE

Kaneohe MCAS Legal Service Center
Box 63802
Kaneohe Bay, Hawaii 96863
(808) 257-0074

ARMY

Schofield Barracks Legal
Service Center OSJA 25th
Infantry Division and USA RHAW
Schofield Barracks, Hawaii 96857
(808) 655-8607

NAVY

Naval Legal Service Office
850 Willamette Street
Pearl Harbor, Hawaii 96860
(808) 473-4717

HAWAII STATE AGENCIES

Child Support Enforcement Agency
601 Kamokila Boulevard, Suite 251
Kapolei, Hawaii 96707
Telephone No. (808) 692-7060
Toll Free (888) 317-9081
www.state.hi.us/csea
Walk-in Hours: 9:00 a.m. to 3:00 p.m.

Family Court - First Judicial Circuit
Ka'ahumanu Hale
777 Punchbowl Street
Honolulu, Hawaii 96813
Information: (808) 539-4767
Forms: (808) 539-4496
TRO Hotline: (808) 538-5959
www.courts.state.hi.us
Hours: 7:45 a.m. to 4:30 p.m.

NON-PROFIT LEGAL ORGANIZATIONS (Eligibility for services based on income)

Legal Aid Society of Hawaii
924 Bethel Street
Honolulu, Hawai'i 96813
Honolulu: (808) 536-4302
Waianae: (808)696-6322
Windward: (808)239-5707
www.legalaidhawaii.org

Volunteer Legal Services Hawaii
100 Honuakaha Building
545 Queen Street
Honolulu, Hawaii 96813
(808) 528-7046
www.vlsh.org

MEDIATION:

Mediation Center of the Pacific
680 Iwilei Road, Suite 530
Honolulu, Hawaii 96817
(808) 521-6767

Marine Corps Base Hawaii Legal Services
Center Divorce Mediation
(808) 257-6738

DOMESTIC ABUSE ASSISTANCE

National Domestic Abuse HOTLINE
(800) 799-SAFE (7233)

Hawaii State Coalition Against
Domestic Violence
716 Umi Street
Honolulu, Hawaii 96819
(808) 832-9316

Domestic Violence Action Center
(808) 531-3771

Joint Military Family Abuse Shelter
P.O. Box 29217
Honolulu, Hawaii 96820
(808) 533-7125

MILITARY FAMILY SUPPORT

ARMY

In the absence of a court order or agreement, service members are required to provide support in accordance with the detailed provisions of Chapter 2 of AR 608-99. Paragraph 2-6 states that while the soldier's family members are residing in government family housing, the soldier is not required to provide additional financial support. When the supported family members move out of government housing, the soldier is required to provide financial support in an amount equal to the soldier's BAH Type II—With Dependents. Consult a legal assistance attorney for more information.

AIR FORCE

Service members must provide adequate financial support to family members. See Air Force Instruction 36-2906 or the DoD Financial Management Regulation, Vol 7A, Chap 26. Section 26-406, or consult a legal assistance attorney. If the support requirements are not established by court order or legal separation agreement, a member must provide support in an amount that is not less than the BAH-DIFF rate applicable to the member's grade.

COAST GUARD

When there is no court order or agreed upon level of support, the following scale is used:

RELATIONSHIPS AND NUMBER OF DEPENDENTS	SUPPORT
Spouse only	BAH difference plus 20 percent of basic pay
Spouse and one minor or handicapped child	BAH difference plus 25 percent of basic pay
Spouse and two or more minor or handicapped children	BAH difference plus 30 percent of basic pay
One minor or handicapped child	16.7 percent (1/6) of basic pay
Two minor or handicapped children	25 percent (1/4) of basic pay
Three or more minor or handicapped children	33 percent (1/3) of basic pay

For this scale, BAH difference is defined as the difference between the Basic Allowance for Housing with dependents rate and the Basic Allowance for Housing without dependents rate as calculated for the member. See COMDTINST M1000.6A, Chapter 8 for more information or consult a legal assistance attorney.

MARINES

The following support amounts are suggested, in the absence of an agreement or court order:

TOTAL NUMBER OF FAMILY MEMBERS ENTITLED TO SUPPORT	MINIMUM AMOUNT OF MONTHLY SUPPORT PER REQUESTING FAMILY MEMBER	SHARE OF MONTHLY BAH/OHA PER REQUESTING FAMILY MEMBER
1	\$350	1/2
2	\$286	1/3
3	\$233	1/4
4	\$200	1/5
5	\$174	1/6
6 or more	\$152	1/7 or etc.

See Chapter 15 of LEGADMINMAN for more information or consult with a legal assistance attorney.

NAVY

In the absence of a court order or agreement, the following support amounts are suggested:

RELATIONSHIPS AND NUMBER OF DEPENDENTS	SUPPORT
Spouse Only	1/3 Gross Pay
Spouse and One Minor Child	1/2 Gross Pay
Spouse and Two or More Minor Children	3/5 Gross Pay
One Minor Child	1/6 Gross Pay
Two Minor Children	1/4 Gross Pay
Three Minor Children	1/3 Gross Pay

“Gross pay” includes basic pay and basic allowance for housing, but not basic allowance for subsistence, hazardous duty pay, sea or foreign duty pay, incentive pay, or other pay entitlements. These are only guidelines. See MILPERSMAN 1754-030 for more information, or consult with a legal assistance attorney.