

Common Questions & Answers on support, nonsupport, and enforcement:

Q. How do I establish a child support order?

A. The process will vary from state to state. Some states use the courts to establish child support orders. Other states will have administrative procedures to establish child support orders. Contacting your local child support enforcement office is a good place to start. They will either provide you with free assistance in establishing a child support order, or they will only charge a minimal fee of around \$25. You can also contact a private attorney to bring an action in court to establish a child support order. Use of a private attorney will cost you more. If you are seeking spousal support, you will have to use an attorney.

Q. Can a military attorney file the court documents for me?

A. Normally, only a civilian attorney can represent you in civilian court. A Legal Assistance Attorney can help you find local civilian counsel, refer you to the local child support enforcement office, and may prepare documents that you may file in court yourself.

Q. How do I know how much support I need?

A. The custodial parent should prepare a monthly budget. Your local Community Services can assist you with this at no charge. You should also look at your state child support guidelines discussed below.

Q. How does a court determine the amount of support payments?

A. State courts set this amount by using guidelines based on both the custodial and non-custodial parents' income. Visit the [Federal Office of Child Support Enforcement Links to States](#) to find links to State enforcement programs. A court will also consider the number of children involved. Generally, a court can raise or lower guideline amounts of child support for an appropriate reason.

Q. When the child is visiting the non-custodial parent, can the non-custodial parent reduce the support payments?

A. Only when the court order or written agreement states that this is permissible. Most child support guidelines factor in the visitation schedule when determining the child support calculation.

Q. When do support payments stop?

A. They will stop when a court orders it stopped. State laws vary as to when a child is emancipated. Under many rules, support will continue until a court decree is issued, you and the child's other parent enter a written agreement establishing an end date of the support, or the child reaches 18 (unless the child is married or is an active-duty service member). However, some states will set a different age for emancipation; you must look to your specific state law.

Q. What if the custodial parent requires more support in the future or the non-custodial parent is unable to make the ordered payments?

A. If the support is established in an agreement, the parties may agree to modify the support obligation. If a court order establishes support, then either party can petition the court to modify the amount ordered. Usually, the person requesting a change must show a substantial change in circumstances to successfully modify the support amount.

Q. How do I collect child support if a soldier refuses to pay?

A. There are two methods of collecting unpaid child support: Garnishment and Involuntary Allotment. Visit the [DFAS](#) Web site for information these procedures.

Q. What is garnishment?

A. Garnishment means going to court to get direct payments of support from a person's employer deducted from his paycheck each month (just like taxes and Social Security). All pay (i.e., basic pay, hazardous duty pay, severance pay, sick pay, cash awards, pensions, retirement) after taxes is garnishable. However, allowances, such as BAH (Basic Allowance for Housing), BAS (Basic Allowance for Subsistence) and Family Separation Allowances cannot be garnished. Garnishment may be used to enforce a soldier's obligation to pay child support (and/or alimony, too, if state law allows it).

Q. Can I use garnishment in all states?

A. Yes. All states allow garnishment of pay or property to enforce a soldier's obligation to pay child support.

Q. Can I use garnishment to collect child support ordered by a foreign court?

A. Foreign court orders will be more difficult. Usually, you will have to convert the foreign court order into a domestic (U.S.) court order. For example, if you have a German court order and the soldier returns to the U.S., the German court order must be obtained and forwarded to the U.S. court in the state where the soldier is living. The U.S. courts will decide whether there is sufficient evidence upon which to hold the soldier liable for payment of support. Some states allow the German prosecutor to file the action on its own, while other states require the mother's written consent. If the court accepts the German court's decision, it will essentially convert the German support order into a U.S. support order and will require the garnishment of the soldier's wages.

Q. How do I start a garnishment proceeding for child support against a soldier?

A. You must first have a court order requiring the soldier to pay child support. Second, you will probably need to hire a civilian attorney (or visit the child support enforcement agency (CSEA)) to obtain a garnishment order from the local court. Once you have a garnishment order, serve it on the Defense Finance and Accounting Service (DFAS). The order should name DFAS as the garnishee and should contain enough identifying information to process the order. This identifying information about the individual owing child support (the other parent)

is requested: full name, date of birth, Social Security number, military component (Army, Air Force, etc.), official duty station or worksite, and status of the other parent (active-duty military, civilian, Civil Service, etc.).

Q. How much military pay may be garnished?

A. There are state and federal limitations on the amount of pay that can be garnished. Unless a lower maximum garnishment limitation is provided by state law, the maximum amount subject to garnishment will not exceed 50 percent of the disposable pay if the soldier is remarried and supporting a spouse and/or dependent child; or 60 percent if the soldier is single. An additional 5 percent will apply to each maximum limit if the order states that the soldier is behind 12 weeks or more in support payments.

Q. Can a soldier stop the garnishment?

A. The only way a soldier can stop the garnishment is to go to the court that issued it and ask the court to remove or reduce it. You must be notified if he or she tries to do this so that you can object.

Q. Can DFAS withhold money from a soldier's paycheck without garnishment?

A. Yes, by Involuntary Allotment. Involuntary Allotment can be started if the soldier is at least two months behind in court-ordered child support and/or alimony payments, but only if the payments were payable through a state official, such as a clerk of court or CSEA.

Q. How can I request an involuntary allotment?

A. To start an involuntary allotment, send DFAS a certified copy of the court order and written notice from an authorized person, agency, or court that the soldier is at least two months behind in the support payments. DFAS must provide notice to the soldier and the soldier's commander. The soldier may consult with a lawyer about the support obligation and the failure to make payments under the obligation. The allotment will take effect 30 days after notice to the affected soldier, regardless of whether the soldier consulted a lawyer. If the order so provides, the amount may include arrearages as well as the amounts for current support.

Q. What is the highest amount of the involuntary allotment?

A. The amount of the allotment shall not exceed 60% of the soldier's salary unless the soldier is more than 3 months behind, in which case it can be 65%. The allotment may be discontinued or adjusted, but only upon notice from the authorized state official, and not by the soldier alone.

Q. What should I do if I receive notice of a child support order?

A. See a legal assistance attorney or private attorney as soon as possible. Your lawyer can answer many questions and help you to make a fair and intelligent decision about your choices, options, and alternatives. Our legal assistance

office stands ready, willing, and able to help you. Bring a copy of any documents or court papers that you have.

Q. What do I do if a court has ordered a reduction in payments but the Army is still withholding the former amount?

A. Send a copy of the court order to [DFAS](#) [POC for Involuntary Allotment Modifications]. Legal Assistance will help you forward the document to the appropriate office and determine if the document is sufficient.