

**Region Legal Service Office Hawaii
Legal Assistance Department
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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 Joint Base Pearl Harbor-Hickam is the Military and Family Support Center (474-1999), the Navy Chaplain’s Office (473-3971, or the Air Force Chaplain’s Office (449-1754).

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 and temporarily resolve such matters as custody, family support (child and/or spousal), 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 may be unenforceable.

Separation agreements are not as likely to be recognized and enforced in Hawaii as other types of contracts. Legal separation is 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. Hawaii does not. Generally, you do not need a separation agreement to get an “Early Return of Dependents.” What supporting documentation is required will depend on the servicemember’s command.

Hawaii does not require a period of physical separation or a separation agreement to be divorced. For approval of an “Early Return of Dependents,” most military commands in Hawaii now require a copy of a filed divorce complaint.

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.

You may get a temporary relief order from a court for child support, spousal support, custody, visitation, and other relief depending on your circumstances. You might also consider freezing joint bank and credit card accounts to avoid exposing yourself to additional liability and prevent your spouse from wasting marital resources.

Hawaii requires the commencement of a divorce or separation action before you can seek a temporary relief order.

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 if there has been no subsequent cohabitation, and the concealment of a loathsome disease.

Q. Can I prevent my spouse from divorcing me?

A. No. All states allow no-fault divorces. Your spouse needn't prove that you are at fault in order to get divorced. You may ask the court to delay the divorce to give you and your spouse time to reconcile your differences. But the court will eventually grant the divorce 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 and alternatives. If you decide to represent yourself in a divorce action, military attorneys can also assist you with the basic paperwork. Our office hosts a weekly divorce seminar on Mondays and Wednesdays at 0930 and Thursdays at 1400. The Legal Assistance Office at Schofield Barracks also hosts divorce briefings. The Honolulu Family Court holds monthly divorce law seminars. For Family Court seminars please call (808) 954-8290.

Q. Can my spouse and I visit Navy Legal together?

Unfortunately, no, because of a conflict of interest. Ethics rules prohibit our attorneys from seeing both parties to a divorce even when the spouses have agreed to all the divorce terms and consider the divorce to be amicable. An attorney-client relationship will be formed with the first spouse who visits with one of our attorneys.

Q. What is my next step?

If you wish to find a civilian divorce attorney, consider the following:

- Contact state and local bar associations. They usually have a referral service which will list qualified lawyers in a geographic area. *Hawaii's attorney referral service can be reached at 537-9140 or at <http://hawaiilawyerreferral.com>. For nationwide referral services, go to <http://apps.americanbar.org/legalservices/lris/directory/>*
- Ask a friend or relative who has been through a divorce for an attorney referral.
- Conduct an online search 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 divorce attorney will be bound by state ethics rules. In general, your attorney will have the duty to:

- Keep the information you provide 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. 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. 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 be. 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. Most divorce attorneys bill by the hour rather than charge a flat fee, and will require a retainer to start any work. 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 fees, you will have to pay court costs such as filing fees. Again, these will vary from state to state.

In Hawaii the filing fee for a divorce without children is \$215.00 and for a divorce with children \$265.00.

Q. Can I get a divorce without the help of an attorney?

- A. Yes, but it may not be in your interest to do so, especially if your spouse has an attorney and there are complicated issues involving children or the division of your property. A “pro se” divorce, one in which you represent yourself, is a good choice when the issues are not complicated, you and your spouse agree on every issue (i.e., divorce is uncontested), and your agreement is not unconscionable, unlawful, or against public policy. 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 “Self-Help” and click on “Court Forms,” then click on “First Circuit (Oahu)” — “Family Court”).

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

- A. That depends. The state in which you intend to file may require a separation period or a waiting 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.

In addition, you or your spouse must have resided in a state for a certain period of time to be eligible 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 advise you about the residency and other requirements of a particular state and the best place for you to file.

Hawaii does not require a separation or waiting period for you and your spouse. You may start a divorce in Hawaii by filing a divorce complaint in Family Court as soon as you move or transfer to Hawaii. However, before the divorce can be granted, you must have resided at least three months in the county where you file, and either you or your spouse must have resided at least six months in Hawaii.

It is possible to get an uncontested divorce in Hawaii in six months or less provided you have met the six-month residency requirement.

Q. What are the grounds for divorce?

- A. All 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. Can I file for divorce if I am pregnant or my child has been fathered by someone other than my spouse?

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. The courts presume that any child born to a married woman is her husband’s child although paternity can be challenged.

In Hawaii the husband’s presumed parentage of a child born during a marriage may be challenged in a disestablishment of paternity action after which the divorce may be finalized.

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

- A. Divorce starts when you file a complaint (or petition) requesting a divorce, the fair division of property and debts, alimony if needed, and custody and child support if there are children. Your spouse is entitled to receive notice, which usually means having a deputy sheriff or other process server hand your spouse a copy of the complaint. Your spouse then has an opportunity to file an answer. After the complaint and answer have been filed, both parties will be asked to file other documents such as financial declarations and property inventories. Also, each spouse has the right to seek information from the other that supports full disclosure pertaining to any divorce issue.

A divorce may be “uncontested” or “contested”. An uncontested divorce means that you and your spouse have reached an agreement on all issues and both of you have signed a divorce decree which you will submit to the court for approval. In simple divorces where there are no children and spouses have already divided their property, the divorce may be uncontested from the outset. In states such as Hawaii, these cases can be processed without the need for a court hearing.

In other instances, spouses may disagree at the beginning but in time reach an agreement. These cases begin as contested and may require one or more court hearings before the spouses eventually reach an agreement. Mediation can assist in these types of cases. A mediator is a trained individual who listens to each spouse with the goal of helping the parties come to an agreement. If an agreement is reached, it is put in writing by the mediator, signed by the parties, and then provided to the court. If an agreement cannot be reached, the court will set the case for trial.

In a minority of cases spouses cannot reach an agreement. These contested cases can take a year or longer to resolve. Temporary court orders may be needed to establish temporary spousal support, child custody, child support, and possession and control of the marital residence, vehicles, and other property. Where there are children, child custody disputes may involve costly procedures such as payment of a court-ordered child custody study. Eventually, these cases go to trial where a judge decides the outcome.

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. Hawaii requires parents, including stepparents, with minor children to attend a court-hosted half-day program called Kids First.

Q. Will I have an advantage over my spouse if I file the divorce complaint?

- A. Filing for divorce will NOT place you in a better position for alimony, division of property, or child custody and support. The advantage to filing is that you will have more control over processing the paperwork, ensuring that documents are filed in a timely fashion and the divorce is finalized without unnecessary delays. If you and your spouse live in different states, being the first to file in your state of residence could be more convenient and give you other advantages. If this is your situation, please consult with an attorney.

Q. Can my spouse divorce me without my knowledge?

- A. All states require the spouse seeking the divorce to prove the other spouse was notified of the divorce proceeding. If the individual seeking the divorce does not know the other spouse’s whereabouts, a court may allow notice by publication in a newspaper. If your spouse is granted a divorce without first giving you notice, you may ask the court to have 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 complaint has been filed, either party may ask the court for temporary orders involving spousal support, child custody, child support, possession and occupancy of the marital residence, control of personal property, and other needed relief.

In Hawaii one asks for a temporary order by filing a Motion for Pre-Decree Relief. A court hearing is generally scheduled about a month out.

THE ISSUES INVOLVED IN DIVORCE

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

- A. The breakup of a marriage involves five issues: termination of the marriage, division of property and debts, spousal support (or alimony), and, if applicable, child custody/visitation and child support. With perhaps the exception of child support, these issues can be resolved by mutual agreement or, if the spouses cannot agree, by a trial judge.

Hawaii requires parents to follow the Hawaii Child Support Guidelines in calculating support.

Q. How are property and debts 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.

Debts are divided in a similar fashion to property. 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 or freeze all joint accounts (bank or credit cards) or change them to individual accounts to protect yourself. Additionally, you should consult an attorney for advice on how minimize your risk of liability when dividing debts in a divorce.

Family Court encourages couples to divide their property and debts as they think best. If a couple cannot agree, a trial judge will decide applying the divorce laws of Hawaii. Hawaii follows a partnership model for property (and debt) distribution. Under the partnership

model each spouse is given a credit for the value of property owned by the spouse at the date of marriage. Considered to be a capital contribution to the marital partnership, the property (or its value) is returned to the spouse upon divorce. Property accumulated during the marriage is generally to be shared equally regardless of whether it is community, joint or separate and regardless of the contributions by the spouses during the marriage. Partnership property consists not only of property acquired during the marriage but appreciation on property brought to the marriage by either spouse. The exception is “Marital Separate Property” which includes property covered by a valid premarital agreement or marital agreement and gifts and inheritances during the marriage which have been kept and maintained separately from other property. Hawaii is an equitable distribution state. For this reason, if under the partnership model the division of property would result in an unjust outcome, the Family Court has the discretion to divide marital partnership property in a “just and equitable” manner.

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 as a marital asset, much like a civilian pension. And, if the marriage lasted for 10 or more years while the military member was on active duty, the “10/10/10” spouse is entitled to receive direct payments of his or her portion from DFAS. If the 10-Year Rule is not met, then the military member must provide the former spouse his or her share directly, which could be done by setting up an allotment or automatic payment.

States differ on how they divide retired pay of *military retirees*, but courts generally use the following formula:

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

States must follow federal law when dividing the retired pay of *active-duty personnel*. Disposable retired pay is limited to the amount of basic pay payable to the member for the member’s pay grade and years of service *at the time of the court order* (and increased by the cost-of-living amounts granted to military retirees from the time of the divorce to the date the member retires). The formula would be:

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

For DFAS to calculate the disposable retired pay amount of an *active-duty member*, a court order must provide certain variables. For instance, if the member entered military service as

of September 8, 1980 and a court order became final after December 23, 2016, DFAS must be given:

1. A fixed amount, a percentage, a formula or a hypothetical that the former spouse is awarded;
2. The member's High-3 dollar amount (average base pay for preceding three years) at the time of divorce;
3. The member's years of creditable service at the time of divorce; or in the case of a reservist, the member's creditable reserve points at the time of divorce.

If the award language in the court order is missing any of the required variables, DFAS will not be able to approve the order and the court will have to clarify the award.

Military retired pay is divisible under Hawaii law.

Q. Is alimony or spousal support automatically granted?

- A. No. Most states do not award alimony automatically. The purpose of alimony is to prevent major inequalities by ensuring that neither spouse is penniless when the marriage ends. It is NOT a means to punish one spouse because of bad behavior such as an affair. If one spouse can demonstrate a need for support, a court may award alimony. Alimony may be temporary or permanent. It may entail payments over a period of time or a lump-sum payment. How to set alimony varies from state to state. Every state has a law dictating what factors must be considered. Some use formulas, others do not.

In Hawaii, there are two types of temporary alimony: (1) transitional alimony to assist a lower-earning spouse with the adjustment to a less expensive lifestyle, and (2) rehabilitative alimony to assist a spouse who needs time and financial assistance to complete education or training before becoming appropriately employed. Permanent alimony is generally awarded only to a spouse with very poor employment prospects due to ill health or advanced age. There are no set formulas by which to predict the amount or duration of the award. Judges have a great deal of discretion along with a long list of factors to consider. The most relevant factual circumstances are: (1) the payee's need determined by the marital standard of living, and ability to meet his or her need without alimony; (2) the payor's need determined by the marital standard of living, and ability to pay alimony while meeting his or her own need.

Q. What if I want to leave Hawaii with my children?

Because Hawaii is deemed an OCONUS region, the military will pay for the family's transportation and shipment of household goods to their originating home on the Mainland or elsewhere through a process called Early Return of Dependents – or ERD. The servicemember is expected to submit the ERD package to his or her command. In support of the package the Navy and most other services now require proof that a divorce action has

been started by submittal of a copy of a filed divorce complaint. When a divorce is filed in Hawaii, an automatic restraining order is issued preventing the removal of children from Hawaii while the divorce is pending. To circumvent the restraining order, you and your spouse must agree in writing or you must obtain a court order which allows the children to relocate. In the event you leave Hawaii without filing for divorce in this state or *getting the written consent of the other parent*, you may face another difficulty. Being charged for “parental kidnapping” is remote. However, your spouse could file for divorce and obtain a court order requiring the return of the children to Hawaii pending the outcome of the divorce action.

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 such as schooling, religious upbringing, and medical care. It also allows one parent to obtain a passport for the child without the consent of 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 noncustodial parent is more than 143 but less than 180 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. Does the fact that my spouse has engaged in adultery, spouse abuse or other criminal conduct have any impact on who will get custody of the children?

A. Possibly. The court may consider this type of behavior in deciding custody and visitation if it affects the children. Again, the court is trying to determine what is in the best interest of the children.

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 as a general rule you will not be allowed to pay less. You should consult an attorney regarding the applicable guidelines.

Hawaii child support is calculated based on the combined gross monthly income of the parents. "Gross monthly" income is defined as income before any deductions from ALL sources including base pay, BAH, BAS, Cola, and any other pay or allowance (with the possible exception of temporary income of a short finite duration). BAH paid by allotment for Government Family Housing is counted as gross monthly income.

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.

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, exchange, and other base privileges to the same extent and on the same basis as a surviving spouse of a military retiree. A former spouse's privileges are suspended upon remarriage, but "revive" when the subsequent marriage is terminated in any manner. No other former spouses are eligible for commissary, exchange, and base 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 (not 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 402017472 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) 448-0066

ARMY

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

MARINE

Kaneohe MCAS Legal Service Center
Box 63802
Kaneohe Bay, Hawaii 96863
(808) 257-6738

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
(808) 692-8265
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
Kapolei Judiciary Complex
4675 Kapolei Parkway
Kapolei, Hawaii 96707-3272
Information: (808) 954-8290
Forms: Legal Documents (808) 954-8310
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, Hawaii 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)

Domestic Violence Action
Center
(808) 531-3771

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

MILITARY FAMILY SUPPORT

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.

AIR FORCE

If the support requirements are not established by court order or a written financial support agreement, service members must provide adequate financial support to family members in accordance with Air Force Instruction 36-2906, Chapter 4.1. Paragraph 4.1.3. states that while the family members are residing in government family housing, the member is not required to provide additional financial support. If the family unit is not residing in government family housing, the member will provide financial support in an amount equal to the member’s Non-Locality Basic Allowance for Housing—With Dependents. Consult a legal assistance attorney for more information.

ARMY

In the absence of a court order or written financial support 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.

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 required in the absence of a written support agreement or court order:

TOTAL NUMBER OF FAMILY MEMBERS ENTITLED TO SUPPORT (not including the Marine)	SHARE OF MONTHLY BAH/OHA PER REQUESTING FAMILY MEMBER
1	1/2
2	1/3
3	1/4
4	1/5
5	1/6
6 or more	1/7 or etc.

See Vol. 9 of MCO 5800.16, Legal Support and Administration Manual for more information or consult with a legal assistance attorney.