

The Dirty Details of Divorce

by Lauren Pope

It is much more difficult to get divorced than it is to get married...

We've all heard it. The gossip... SGT Alpha's wife is sleeping with PVT Bravo. CPT Charlie kicked her husband out again. A1C Delta and his wife were seen screaming at each other at the Commissary yesterday...

But no, this article isn't about that kind of scandalous divorce scuttlebutt. Instead, we are going to talk about the dirty details of actually getting a divorce. Just when you've had enough of the drama, mention the "D" word and things get even worse. Be forewarned... ***it is much more difficult to get divorced than it is to get married.***

First, we have to talk about what Legal Assistance can and can't do for you. Army Legal Assistance Attorneys can prepare a separation agreement for you and, to a certain extent, can assist you with the divorce process. Army Legal Assistance Attorneys can counsel you on divorce, locate rules and requirements for your state, review already completed paperwork, and assist in finding a local attorney. Army Legal Assistance Attorneys cannot divorce you, cannot represent you in court regarding your divorce, and cannot prepare the documentation needed to obtain a divorce.

OK, with that taken care of, let's get down to business. Here are the basics of some of the most frequently asked-about topics:

Separation agreements: A separation agreement is a contract between a husband and a wife who have agreed to live apart. Sometimes



a separation agreement is prepared in anticipation of divorce, and sometimes the couple only intends to live apart for a brief period of time. A separation agreement can cover as many topics or as few topics as you and your spouse can agree upon. It is often helpful to address and agree upon topics such as child care, child & spousal support, debts, and property division up front rather than arguing each and every time something comes up during your separation. And, in some states, a separation agreement can make your divorce proceed more quickly and cheaply.

Attorneys: In many cases, it is best to hire a civilian attorney in the US to assist you with your divorce. A local attorney not only knows the law of the state, but also the local judges and their preferences. A local attorney can draft, file, and serve the required documents, appear in court on your behalf, and protect your interests. If the divorce is uncontested, you can usually find an attorney who will assist you for a fixed fee rather than an hourly rate. Always get a fee agreement up front and in writing, and don't forget to check whether the attorney has been disciplined before signing on the dotted line. Some states provide free help



for those wishing to go it alone, but most do not. Regardless, if you choose to represent yourself, you must comply with all procedural, local, and court rules or risk sanctions. Additionally, if a hearing is needed, you will need to appear and be prepared to defend your position.

Support: Army Regulation (AR) 608-99 requires all Soldiers to provide support to family members while separated. [Note: each branch of the service has different family support standards.] In the absence of a court order or separation agreement, AR 608-99 sets specific minimum amounts that must be paid monthly. Once there is a court order or other agreement, AR 608-99 requires compliance with the support obligations found in that document. A detailed handout on support obligations can be found on the shelves of the Kaiserslautern Legal Services Center's Legal Assistance waiting room (Room 106 of Bldg. 3210 on Kleber Kaserne), or can be downloaded using the link to the 21st TSC OSJA web site's legal assistance handouts at the bottom of this page (CAC card required). In addition to the Army regulation, each state has its own laws and guidelines for child and spousal support. It is wise to have a basic understanding of your state's law on support before filing for divorce.

Where to file: This can get quite tricky, especially while overseas. Simply because you were married in state X does not mean that you can get divorced in state X. In

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order for a court to be able to divorce you, it must have power over you and power over the matter. Each state has its own rules regarding when it has power over you. Some states require you to be physically in the state for a specified period immediately before you file. Some states only require that you be a resident and allow military legal residents stationed overseas to qualify. Some states have rules somewhere in between. Each state is different and therefore it would be best to consult with an attorney before you file, so you don't waste money filing in the wrong state. In some cases, a German divorce may also be an option. Our German attorney can advise you on German divorce requirements.

The so-called "Ten Year Rule": Contrary to popular belief, a spouse can be awarded a share of a service member's retirement pay regardless of how long the couple has been married. The state courts have the ability to divide retirement pay in any way they see fit. After 10 years of marriage, a former spouse can receive their portion of the retirement pay directly from DFAS, if it is properly requested. This is the only benefit that appears at the "10 year" mark. Before that, the former spouse must obtain their support directly from the service member.

And there you have it... a very brief overview of some of the most common divorce topics. It would be impossible to cover all the

dirty details here, so if you have additional questions or need further assistance, call DSN 483-8848 or CIV 0631-411-8848 to schedule an appointment to consult with an American or German Legal Assistance Attorney.

One final note... Legal Assistance Offices only advise one party when it comes to contentious issues such as divorce, separation, paternity, child custody, and nonsupport of dependents. Our rules of professional ethics preclude us from representing both parties on such matters. There may be situations in which we will have to refer you to another Legal Assistance Office (e.g., Mannheim, Baumholder, or Ramstein) for legal advice and/or representation.

In other news at this hour...

- *Captain Becky Evans, who served as Chief of Legal Assistance and Tax Attorney for the 2008 tax season, is now serving as a Trial Counsel. Her replacement, CPT Daniel Curley, arrives in August, and will begin seeing clients in September.*
- *The Kleber and Landstuhl Tax Assistance Centers are closed. They will reopen in January for the 2009 tax season. In the meantime, Lauren Pope continues to see tax clients on an appointment basis at the Kaiserslautern Legal Services Center. If you need tax assistance, call the Kaiserslautern Legal Assistance Office at DSN 483-8848 or CIV 0631-411-8848 and ask for an appointment with Ms. Pope.*
- *Our Senior Trial counsel, CPT Kevin McCarthy, was promoted to Major on July 10th, and is headed to the Graduate Course at The Judge Advocate General's School in Charlottesville, VA.*
- *Our Trial Defense Service NCOIC, SSG L'Tanja Mahone, was promoted to SFC on July 2nd.*



Kaiserslautern Legal Services Center Officer-in-Charge CPT John Kokoszka (left) and departing Claims Judge Advocate CPT Desirée Helmick show off her farewell gift, made out of a tire shredder, a softball, and two golf balls—the kind of things that routinely give rise to tort claims. See related story on pages 2 & 3.