



7<sup>th</sup> JMTC Legal Assistance Information

## Enforcing Child Support

Please note that this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultations with a Legal Assistance Attorney.

*INTRODUCTION: We prepared this handout with frequently asked questions on issues involving child support enforcement. It is, of course, very general in nature since no handout can anticipate and answer all your specific questions. We do ask, however, that you read over these questions and answers carefully 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.*

**1. Q. HELP!! I'M JUST SEPARATING FROM MY HUSBAND AND I NEED CHILD SUPPORT. CAN A MILITARY LEGAL ASSISTANCE ATTORNEY PREPARE A SEPARATION AGREEMENT OR GO TO COURT FOR ME?**

**A.** Most Army legal assistance attorneys will prepare a separation agreement for you, but very few are authorized to go to court for you. Instead, your military lawyer will help you obtain a private lawyer to represent you in court. In addition, each state has a Child Support Enforcement Agency (CSEA) which may be able to help you by locating the other parent, locating that parent's employers, finding out about the assets and income of the other parent, and by establishing and enforcing child support orders. In most states, CSEAs are listed under the "Human Services Agencies" heading in the local government section of the telephone directory. If there is no separate listing, the local bar association, department of social services, welfare department, legal aid organization or district attorney's office should be able to give you the number. For overseas help, make an appointment with your nearest legal assistance office for a referral.

**2. Q. I HAVE CUSTODY OF MY DAUGHTER AND MY EX-WIFE IS IN THE ARMY. IF SHE FAILS TO PAY CHILD SUPPORT, WHERE SHOULD I GO FOR HELP?**

**A.** The answer depends on a number of factors:

- If your situation is urgent, you should contact the soldier's commander first, as soon as the first payment is missed. Under Army Regulation 608-99, Army commanders must ensure that their soldiers comply with the support provisions of court orders and separation agreements. If there is no order or written agreement, then in most circumstances the soldier must still provide support based on the amount of BAH (Table 2) at the with-dependents rate appropriate for the soldier's rank.
- If the commander can't help you, or if the other parent is not in the military, then you should make an appointment with the legal assistance office to find out from an attorney there about your options in pursuing child support.
- If the other parent simply refuses to pay, then your last resort is to obtain a court order. If the parent is bound by a prior court order or separation agreement to pay a certain amount, you may ask the court to enforce the order (by contempt of court, garnishment, seizure of property, wage assignment, etc.) or the agreement (by breach of contract). Delinquent child support payments may also be reported on the delinquent parent's credit report.

If you have to go to court, you will almost certainly need a lawyer. You can hire a lawyer at your own expense, or you can use the services of the CSEA in your area (if you or the other parent is in the U.S.), which may be able to represent you in court for free or for a very low charge.

### **3. Q. CAN THE OTHER PARENT'S PAYCHECK BE GARNISHED FOR CHILD SUPPORT?**

**A.** Yes -- state laws (but not the laws of foreign countries) do allow garnishment or wage assignment to provide child support out of the other parent's paycheck. You will need, however, to get a court order from an American court that sets the amount of child support in order to then apply for involuntary allotment or garnishment. There is more about garnishment and involuntary allotment in the handout on those subjects.

### **4. Q. CAN CHILD SUPPORT BE PAID THROUGH THE COURT?**

**A.** Yes, in fact payment through the court or CSEA is the preferred method, because it makes record-keeping and enforcement much simpler. If child support is paid through such an office, the office may also help collect delinquent amounts, often at no cost to the recipient/payee.

### **5. Q. WHAT CAN THE COURT DO TO HELP ENFORCE MY CHILD SUPPORT ORDER?**

**A.** There are several remedies that the court can use. The judge can find the other parent

in contempt of court (which may be punished by confinement in jail or payment of a fine), order a seizure of assets (cars, bank accounts, other financial assets), assess attorney's fees, and order other remedies as applicable by law.

**6. Q. CAN OVERSEAS COURTS ENFORCE COURT ORDERS FOR SUPPORT?**

**A.** Yes, but only if the order itself was issued by that court or has been registered or filed with that court for enforcement. If, for example, a German court originally issued the support order, then that court can proceed to enforce it.

**7. Q. IF I HAVE OTHER QUESTIONS, WHAT SHOULD I DO?**

**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 with you to the interview a copy of any documents or court papers that might be helpful to your attorney. For contact information, office hours, and more information please see:

[http://www.hqjmtc.army.mil/Organization/Special\\_Personal\\_Staff/Staff\\_SJA/Staff\\_SJA\\_LegalAssistance.html](http://www.hqjmtc.army.mil/Organization/Special_Personal_Staff/Staff_SJA/Staff_SJA_LegalAssistance.html)