



ASA DIX LEGAL BRIEF

A PREVENTIVE LAW SERVICE OF THE JOINT READINESS CENTER LEGAL SECTION
UNITED STATES ARMY SUPPORT ACTIVITY DIX
KEEPING YOU INFORMED ON YOUR PERSONAL LEGAL NEEDS

GARNISHMENTS AND INVOLUNTARY ALLOTMENTS

Q: MAY SPOUSAL SUPPORT AND/OR CHILD SUPPORT BE WITHHELD FROM A SERVICEMEMBER'S PAY IN ORDER TO ENFORCE A COURT ORDER FOR SUPPORT? Yes.

There are two procedures, garnishment and involuntary allotment, whereby the Defense and Finance Accounting Service (DFAS) can involuntarily withhold a service member's pay in order to satisfy court ordered child and/or spousal support.

Q: WHAT IS GARNISHMENT? Garnishment is a statutory proceeding (42 United States Code (U.S.C.) section 659) by which a service member's property, usually part of his or her paycheck, is taken and applied to the payment of a debt, usually child and/or spousal support.

Q: WHAT IS AN INVOLUNTARY ALLOTMENT? An involuntary allotment is a statutory proceeding (42 U.S.C. section 665) that can be initiated when a service member is behind in an amount equal to at least two months in court-ordered payments of child or spousal support.

Q: WHAT PAY IS SUBJECT TO GARNISHMENT AND INVOLUNTARY ALLOTMENT? All pay can be garnished. Such pay includes military pay, hazardous duty pay, severance pay, sick pay, cash awards, pensions, retirement, etc. However, allowances such as basic housing, subsistence, and family separation allowance cannot be garnished. In contrast, pay subject to involuntary allotment includes pay AND allowances.

Q: HOW DO I START A GARNISHMENT PROCEEDING FOR SUPPORT? To start a garnishment proceeding, you must first obtain a court order requiring the soldier to pay support, as well as a garnishment order. Once the garnishment order is obtained from the local court, the order must be served on DFAS.

Q: HOW DO I START AN INVOLUNTARY ALLOTMENT? To start an involuntary allotment, DFAS must receive notice from an authorized person, agent or court that the service member is two or more months behind in support payments, along with a certified copy of the underlying court order establishing the support requirement. Notice can be given by a child support enforcement agency, department of social services or the court, and it must be in the form of a court order, letter, statement, certificate or other document issued by the agency, department or court. DFAS must provide notice to the service member and his or her commander. The commander sends the service member to a Judge Advocate for consultation to discuss the legal and other factors involved with respect to the support obligation and the failure to make payments under the obligation. The allotment takes effect 30 days after the notice is given.

Q: WHAT INFORMATION IS NECESSARY TO ENSURE PROCESSING BY DFAS? Sufficient identifying information must accompany the legal papers. The following identifying information about the individual owing support should be provided if known: full name, date of birth, Social Security number,

governmental entity for which the soldier works, official duty station, and status of the service member. If you need a current address for military personnel, submit a Federal Parent Locate Request through your state child support office. You may also contact the Inspector General's Office at the nearest military installation to see if the service member can be located through the World Wide Locator Service.

Q: HOW MUCH OF AN INDIVIDUAL'S PAY MAY THE COURT GARNISH OR INVOLUNTARILY WITHHOLD? The full ordered amount of child or spousal support will be deducted as long as the amount does not exceed the limits set by 15 U.S.C. section 1673, which is between 50 to 65 percent of the service member's disposable earnings depending on the circumstances. 50% of disposable earnings can be deducted if the obligor provides proof that he or she is providing more than half the support of dependents other than those for whom the support is to be deducted, and if there is no accrued arrearage. 55% of disposable earnings can be deducted if the obligor is providing more than half the support of dependents other than those for whom the support is to be deducted, but there is an arrearage. 60% of disposable earnings can be deducted if the obligor does not prove he or she supports other dependents. 65% of disposable earnings can be deducted if the obligor does not prove he or she supports other dependents, but there is an arrearage.

Q: HOW CAN I STOP A GARNISHMENT OR INVOLUNTARY ALLOTMENT? The only way a service member can stop, correct, or reduce a garnishment is to go to the court that issued it and file a motion to stop, correct, or reduce the garnishment. Generally, you will be required to demonstrate a change of circumstances since the last court order that required the garnishment in order for the court to stop or reduce the garnishment. Financial hardship due to a reduction in pay may be sufficient grounds for reducing a garnishment. Likewise, an involuntary allotment can only be adjusted or terminated by the authorized state official or court and not by the soldier.

Q: WHERE CAN I OBTAIN MORE INFORMATION ABOUT INCOME WITHHOLDING? To obtain additional information about garnishment or involuntary allotments, you may contact the DFAS income withholding customer service number at 1-888-332-7411 or go to the DFAS website at <http://www.dod.mil/dfas/militarypay/garnishment.html>.

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