

LEGAL**REQUIREMENT**

10 U.S.C. 1408
42 U.S.C. 665
32 CFR Part 54
32 CFR Part 63
33 CFR Part 54
42 CFR Part 21

OVERVIEW

Pursuant to the Social Security Act, legal process may be brought against active duty members of the uniformed services for enforcement of child support or child/spousal support obligation. The law permits for the Involuntary Allotment (IA), of military pay to enforce a support obligation.

The Uniformed Services Former Spouses' Protection Act (USFSPA) permits the assignment of retired members military pay. Though primarily for spousal protection it contains a small child support provision which makes the collection of support obligation from military retired pay rather easy.

Uniformed services consist of the:

- Army
- Navy
- Air Force
- Marine Corps
- National Oceanic and Atmospheric Administration Corps (NOAA)
- Public Health Service (PHS)
- United States Coast Guard

**INVOLUNTARY
ALLOTMENT (IA)
REQUESTS**

This is an involuntary assignment of military pay to enforce a child support or child/spousal support obligation. IAs may only be used against active duty members.

Active Members

Allotment requests must meet the following requirements:

- the support obligation must have been established by a court or an administrative order.
- the support obligation may provide for either child support or child/spousal support.
- an arrearage equal to two months support must exist.

Included Income

Monies subject for allotment include:

- Basic pay,
- Basic Allowance for Quarters (BAQ),

- Basic Allowance for Subsistence (BAS),
- Special duty pay (i.e., flying, submarine, physician),
- Family separation.

Excluded Income

Monies excluded from allotment are:

- state taxes deducted,
- federal income taxes deducted,
- group life insurance,
- amounts owed to the United States.

Credit Protection

Involuntary allotments from the pay of the active duty service members are subject to the provisions of the Consumer Credit Protection Act (CCPA). CCPA limits the amount of the disposable income that can be withheld.

Limits on Allotments

Under CCPA there are limits on the amount of disposable income that can be withheld for support. Limits range from 50% to 65% of disposable income.

- 50% of the disposable income when the retiree or employee is supporting another spouse or dependent child.
- 55% of the disposable income when the retiree or employee is supporting another spouse or dependent child and is more than 12 weeks behind in payments.
- 60% of the disposable income when the retiree or employee is not supporting another spouse or dependent child.
- 65% of the disposable income when the retiree or employee is not supporting another spouse or dependent child and is more than 12 weeks behind in payments.

Arrearages

Arrearages are collectible only if the court order provides for payments of past-due support. The order must state the amount to be applied toward liquidating the arrearage.

Who May File

IV-D agents or attorney of a state, having an approved IV-D plan to recover child support obligation, or the court who has authority to issue a support order against the service member.

Friend of the Court (FOC) utilize this process to obtain support on behalf of IV-D clients.

Service Process

To request an IA, the FOC or IV-D agent notifies the designated official of the appropriate uniformed service of the member's delinquency in support payments.

**Notice
Requirements**

Certified copy of the underlying court or administrative order for support and any modifications must accompany the delinquency notice.

Exception: Public Health Service will accept a photocopy of the order.

The following specific information must be included in the delinquency notice:

- Full name of service member; date of birth, if known; social security number; duty station location; and, for military services, the service branch (Army, Navy, Air Force, Marine Corps).
- Written statement that member has failed to make payments in an amount equal to the support obligation for two or more months.
- Allotment is requested pursuant to 42 U.S.C. 665.
- Names and birth dates of persons for whom the allotment is requested, unless stated in the support order.
- Current monthly support obligation; the monthly amount for arrearages, if specified in the order; the amount of the allotment to be applied toward liquidation of the arrearage.
- Include supporting evidence if the support order is 12 or more weeks in arrears. (This affects the percent of income available for allotment).
- Name and address of obligee or FOC to whom allotment is to be paid.
- Termination date for the allotment and why (i.e., emancipation by age, spouse remarries.)
- Certification that FOC is authorized to enforce support orders under Title IV-D of the Social Security Act.
- Certification that FOC is authorized to collect child or child/spousal support.
- Signature of the FOC or his/her authorized representative.

**Additional
Requirements for
the Coast Guard**

The Coast Guard also requires the following information:

- An explanation how personal jurisdiction was obtained over the retiree or active member.
- Statement on the age of majority in the state law with appropriate legal citations.

Mailing Requirements	Send document by certified or registered mail, return receipt requested or personal service upon the designated official.
Where to Send Notices	A listing of designated officials is provided in the Exhibit.
Notice To Payer	<p>Designated official notifies the service member of the support delinquency and provides him/her with copies of documentation submitted by the FOC.</p> <p>The service member is entitled to consultation with a legal officer or specialist of the uniformed service on the support obligation and the consequences of noncompliance.</p>
Request Accepted	Payments commence on the first payday following legal consultation. If consultation is waived, payments commence thirty (30) days after the delinquency notice was presented to the service member.
Request Rejected	<p>Designated official of the uniformed service will inform the Friend of the Court when allotments will not be paid.</p> <p>Reasons for rejecting involuntary allotment request may be any of the following:</p> <ul style="list-style-type: none">• Service member provides substantial proof that the support order was amended, superseded, or set aside.• Service member provides proof that support payments are not delinquent.• Notice of delinquent support payments or accompanying document is inadequate.• Monies paid to the service member is insufficient to permit payment of allotment.• Service member has separated from active duty.
Notification Of Changes	FOC must notify the designated official of the uniformed service of changes that affect the allotment.
Types of Changes	<p>Order upon which allotment is based is modified, vacated, or aside.</p> <p>Allotment includes spousal support and the spouse remarries.</p> <p>Child's entitlement terminated due to death, adoption, emancipation, or attainment of the age of majority.</p>
Adjustments to Allotment	Uniform service modifies, discontinues, or terminates allotments upon receipt of notification from the FOC.

Retired Members	Garnishment or Withholding of retired pay is governed by Uniform Service Former Spouses' Act (USFSPA). (IAs may not be used against retired members.) Primarily, USFSPA is intended to divide and award a portion of military retirement pay to a spouse. However, it contains a small provision (10 U.S.C. 1408.) relegated to child support collection.
Request Requirements	<p>Allotment request must meet the requirements specified in 32 CFR Part 63.</p> <ul style="list-style-type: none">• an existing child or spousal support obligation• statement in the decree attesting that member's SSCRA rights have been protected• arrearage accrual need not exist
Who May File	Obligee or counsel submits the request to central military finance requesting direct payment.
Honored Request	<p>If a request is honored, payments are made directly to the obligee.</p> <p>Payments acquired via USFSPA are not forwarded through IV-D offices, even in AFDC cases.</p> <p>Up to 50% of disposable retired pay is withheld.</p>
VOLUNTARY ALLOTMENT (VA)	Convenience provided by the military finance centers. At the requests of members, bills are paid directly to creditors. A member can stop voluntary allotment at will.