

that makes it essential to obtain information from the alleged father to protect the physical health of either the prospective mother or the unborn child.

(c) If the member has been separated with no further military status or retired, the unit commander advises the claimant:

(1) Of the date of discharge. Indicate that you are unable to assist because the individual is no longer under Air Force jurisdiction. Also, advise that the Air Force assumes no responsibility for the whereabouts of individuals no longer under its jurisdiction.

(2) In addition, the last known address of the former member may be furnished the requester under the same conditions as set forth for members not on active duty under paragraph (b) of this section.

§ 818.18 Certificate of compliance.

See 32 CFR part 43a.10.

§ 818.19 Standards of fairness.

See 32 CFR part 43a.9.

§ 818.20 Garnishment of pay of Air Force members and employees only for child support or alimony obligations.

(a) This section is for general guidance. For more specific information, refer to the United States Code (42 U.S.C. 659, 661, 662; 15 U.S.C. 1673), the Code of Federal Regulations (5 CFR part 581), and applicable State law.

(b) Federal law authorizes legal process against the United States Air Force only for the enforcement of child support and alimony obligations of members and employees in accordance with State law. This includes active duty, Reserve, Air National Guard (ANG), and retired military members, and civilian employees of the United States Air Force. See 42 U.S.C. 659.

(c) Legal process is defined as any writ, order, summons, or other similar process in the nature of garnishment directed to the US Air Force which is issued by:

(1) A court of competent jurisdiction within any State, territory, or possession of the United States;

(2) A court of competent jurisdiction in any foreign country with which the

United States has entered into an agreement that requires the United States to honor such process; or

(3) An authorized official pursuant to an order of such court of competent jurisdiction or pursuant to State or local law. See 42 U.S.C. 659, 662.

(d) Child support is the legal obligation of an individual to provide periodic payments of funds for the support and maintenance of a child, subject to, and in accordance with, State law.

(e) Alimony is defined as the obligation of an individual to provide periodic payments for the support and maintenance of the spouse (or former spouse) including separate maintenance, alimony pendente lite, maintenance, and spousal support. The definition of alimony expressly excludes payments or transfers of property made in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses. See 42 U.S.C. 662 (b) and (c).

(f) Attorney's fees, interest, and court costs are within the definition of child support and alimony when, and to the extent, they are recoverable pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

(g) State law is to be followed when processing garnishment requests (as to jurisdiction and competency of courts, procedures, exemptions, and the operation of garnishment or similar process). However, State law as it applies to service of process and exemptions from garnishment and similar process may be affected by Federal law. See 42 U.S.C. 659(b) and 15 U.S.C. 1673(b).

(h) Unless an otherwise lesser amount is specified by State law, Federal law provides a limit of 50 percent on the amount that is subject to garnishment for a person supporting a second family (a spouse or dependent child), and 60 percent for a person who is not. The percentages are increased by an additional 5 percent in each situation if there are outstanding arrearages more than 12 weeks old.

(i) A Federal employee's pay subject to garnishment includes wages, salary bonuses, incentive pay, retired pay, or disability retirement pay. (The United

States will exclude debts owed to the United States; Federal, State and local income tax withholding; Social Security withholdings (FICA); deductions for health insurance premiums; normal retirement contributions; normal government life insurance premiums; fines and forfeitures ordered by court-martial; Retired Serviceman's Family Protection Plan; and Survivor Benefit Plan.) See 42 U.S.C. 662(g) and 5 CFR 581.105.

(j) Process directed to the Commander, AFMPC/JA, must demonstrate, either on its face or by accompanying documentation, that collection is sought only for child support or alimony or both. The process must also show the social security number and whether the member is retired, Reserve, ANG, active duty, or civilian employee. (If the employee is a civilian, the name of the base where the civilian is employed should also be provided.)

(k) In order to process the request efficiently, these documents should be provided:

(1) If the process does not reflect that it has been brought to enforce an obligation of support, a certified copy of the order, judgment, or decree that originally established the obligation to support (5 CFR 581.202(c));

(2) A copy of any pleading requesting reduction of delinquent amounts to a judgment amount, and a copy of any order resulting therefrom;

(3) Any pleading, affidavit, or application requesting garnishment process; and

(4) The supporting execution, if any.

Documentation will vary depending on State law.

(l) The law directs the Federal government to answer garnishment or similar process within 30 days (or within such longer period as may be prescribed by applicable State law) after date of service. See 42 U.S.C. 659(d).

(m) Service of legal process must be accomplished by certified or registered mail, return receipt requested, or by personal service. Any documents served in any other manner will be returned without action. The following agents have been designated to accept legal process within the Air Force:

(1) Active duty, reserve, Air National Guard (ANG), and retired military members, and civilian employees of appropriated fund activities: Commander, Air Force Accounting and Finance Center, Attention: JA, Denver CO 80279-5000; (303) 370-7524.

(2) Nonappropriated fund civilian employees of base exchanges: Army and Air Force Exchange Service, Attention: GC-G, Dallas TX 75222-3956; (214) 320-2641.

(3) Civilian employees of all other Air Force nonappropriated fund activities: AFMPC/JA, Attention: NAF Law Division, Randolph AFB TX 78150-6001; (512) 652-6691.

(n) See 5 CFR part 581, appendix A.

§ 818.21 Statutory allotments.

(a) On 3 September 1982, the President signed into law section 172(a) of Pub. L. 97-248 (codified at 42 U.S.C. 665, effective 1 October 1982) which allows mandatory allotments from an active duty member's pay and allowances to satisfy child or child and spousal support obligations. (Alimony or spousal support alone does not qualify under this law).

(b) A spouse or former spouse may obtain an allotment for child support or child and spousal support in cases where payments are in arrears for at least 2 months.

(c) This act provides that no more than 50 percent of a member's pay and allowances are subject to be allotted from a member who is supporting a second family and no more than 60 percent from a member who is not. The percentages are increased by 5 percent in each situation where there are outstanding arrearages which are 12 or more weeks past due. Pay and allowances and exclusions are defined in the DOD regulations.

(d) After the Air Force member is notified and given an opportunity to be counseled, the allotment will be established in the next available month following 30 days after notice is made on the Air Force member. The payments will be made at the end of the month in which the allotment was established.

(e) An allotment, pursuant to this statute, may be accomplished by furnishing the Air Force Accounting and Finance Center a written notice from a