



COLLECTING SUPPORT: GARNISHMENT



The information provided in this document is meant for the sole use of Active Duty service members, retirees, their families, and those individuals eligible for legal assistance. The information is general in nature and meant only to provide a brief overview of various legal matters. Rights and responsibilities vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws are changed from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

Q. I AM OWED ALIMONY AND CHILD SUPPORT BY A MILITARY MEMBER AND I HAVE A COURT ORDER OF SUPPORT. CAN I GET THIS WITHHELD FROM HIS PAY?

A. Yes. The way to do this is by garnishment. Garnishment is when a person's property or money (usually a bank account or paycheck) is taken and applied to a debt, in this case child support and/or alimony.

Q. WHAT TYPES OF PAY CAN BE GARNISHED FOR CHILD SUPPORT AND/OR ALIMONY?

A. Most pay can be garnished, including base pay, hazardous duty pay, severance pay, sick pay, cash awards, retirement, etc. However, allowances such as BAQ, BAS or Family Separation are excluded.

Q. HOW DO I START A GARNISHMENT PROCEEDING FOR CHILD SUPPORT?

A. To start a garnishment proceeding in North Carolina, you must first have a court order requiring the government as the employer to withhold money and remit payments to satisfy the support obligation. You must go to court to obtain this garnishment order. Once the garnishment order is obtained from the local court, it must be served on the Defense Finance and Accounting Service ([DFAS](#)).

Q. WILL I NEED MORE INFORMATION TO ENSURE PROCESSING BY DFAS?

A. Yes. The withholding order need not name the specific government office in which the obligor is employed, but it must provide the obligor's full legal name, and social security number.

Q. HOW MUCH OF AN INDIVIDUAL'S PAY MAY THE COURT GARNISH?

A. There are state and federal limitations on the amount of pay that can be garnished. Unless a lower maximum garnishment limitation is provided by state law, the federal maximum amount ranges from 50% to 65% depending on the situation. North Carolina, however, sets the maximum **at 40% of the responsible parent's disposable earnings.**

Q. IF MY PAY IS GARNISHED, HOW CAN I STOP THE GARNISHMENT?

A. To stop garnishment, a military member must file a motion in court to stop or reduce it and will generally have to show that there has been a change in circumstances since the court imposed the garnishment.

Q. IF I HAVE OTHER QUESTIONS ABOUT INVOLUNTARY CHILD SUPPORT/ALIMONY, WHAT SHOULD I DO?

A. Please consult a legal assistance or private attorney of your choice as soon as possible. Your lawyer can answer the 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 in these matters.