

# **OFFICE OF THE STAFF JUDGE ADVOCATE 48<sup>TH</sup> FIGHTER WING, RAF LAKENHEATH, UK**



## **General Divorce Advice**

### **1. Can I get a divorce through the military?**

No, the military court system only has military justice (criminal) power. It cannot grant you a divorce.

### **2. Can I ask a JAG represent me during my divorce?**

No. A JAG cannot represent you in civilian court nor can he or she draw up legal documents for you. What the JAG can do is advise you. They can look over legal paperwork you may have and help you to understand what is going on. Additionally, the legal office can notarize any documents you may need notarized.

### **3. Should I hire a civilian attorney?**

This is your decision. But you should consider hiring an attorney even if you think your spouse and you can (and will) agree on all aspects of the settlement -- if only to smooth your way in court.

### **4. Can my spouse and I hire one lawyer if we agree on everything?**

Generally, an attorney will represent only one person in the divorce lawsuit, as the parties' interests conflict. For example, one may not believe he or she is responsible for debts of the marriage, or both may want custody of the children. But, it is possible to have just one party represented by a lawyer. In that case, an attorney will draw up paperwork to start the divorce and file it with the court. Copies will be sent to the unrepresented spouse and that spouse should consider having a JAG review the documents to highlight entitlements to military benefits that a civilian attorney may not have considered. Once reviewed, if the spouse agrees with the terms set

out in the divorce papers, they can be signed and sent back to the other spouse's attorney. The civilian attorney may then file the paper work with the divorce court.

### **5. What if my spouse and I cannot agree on the terms of the divorce?**

You should consider having a civilian attorney represent each of you. Remember, your spouse's attorney will have only his or her client's best interests at heart -- not yours. If you want someone to represent your interests, you'll need an attorney who is working for you.

### **6. How do I find a good lawyer?**

Word of mouth from friends or family in the area is a good way to check the reputation of lawyers. If that is not possible, the American Bar Association provides a Lawyer Referral Service. Likewise, your state of legal residence maintains a list of local bar associations. When called you will be given a few names of attorneys specializing in family law or any other area you need.

### **7. How much will a divorce cost me?**

There is no good answer to this question. Some lawyers charge a flat rate fee for divorces; some charge by the hour. The more complex your divorce, the more you can expect to pay.

### **8. Is there anything I can do to save money?**

Yes. You and your spouse can agree to some or all the terms of the divorce -- such as separating your property, expenses of alimony, child custody, etc. -- and reduce your agreement to writing. Both of you should sign this agreement. This document is not a legal property settlement but is one less thing you will have to pay a lawyer to do. The court, however, has the power to independently decide matters dealing with child custody and support.

### **9. Do I have to give my spouse any money while we are separated?**

The Air Force requires all airmen to provide adequate support to their dependents. There is no set amount of money to define "adequate" but you should use your common sense. If you have a spouse and two kids, twenty-five dollars a month is not reasonable. Furthermore, if you do not provide adequate support, once the divorce petition is filed the court has the power to retroactively require you to pay based on their calculations, using local child support guidelines. If you have questions, discuss the matter with your commander or first sergeant.

### **10. What about once we're divorced?**

Spousal support and Child Support amounts are set by the court. The Air Force will expect you to pay whatever the court orders you to pay.

### **11. Can my spouse and kids keep their I.D. cards?**

Until your divorce is final, your spouse and children are entitled to retain their ID cards. After the divorce, your spouse may no longer be entitled to an ID card (unless they are also a military member or otherwise entitled). Your children will remain military dependents as long as you remain in the military or until they reach an age where they no longer qualify as dependents.