

# COLORADO CHILD CUSTODY AND SUPPORT AND SPOUSAL MAINTENANCE



**PETERSON AFB  
LEGAL OFFICE**  
135 Dover St, Suite 1055  
Peterson AFB, CO 80914-1148  
(719) 556-4871  
DSN 834-4871



The focus of this briefing paper is on Colorado law. While much of this information is generally applicable, if you are contemplating divorce in another state you should consult an attorney from that state.

## Child Custody & Support

- Colorado has done away with the notion that either parent has “custody.” Rather, Colorado courts now divide the parenting responsibilities between the two parties. You must submit a parenting plan to the court. If you and your spouse cannot agree on a plan, each party should submit his or her own plan to the court. In the absence of a parenting plan submitted by each party, the court will decide the matter for that party. The court’s plan may not be what you want, but if you do not submit a parenting plan you won’t have any choice in the matter.

- If there are children of the marriage, both parties will be **REQUIRED** to attend a parenting class held at the courthouse. Information on the Parenting class can be found on the Colorado Courts Self-Help website at [www.courts.state.co.us](http://www.courts.state.co.us).

- The amount that you or your spouse will have to pay in child support is governed by statute. An attorney with a specialty in family law can tell you within a reasonable range what a judge would be likely to award in child support. There are also calculators available on the Colorado Courts Self-help website.

- Once a court order has been entered, if your spouse fails to make the court-ordered payments you may be able to have the ordered amount deducted directly from his or her military paycheck. Contact your legal office for help in this matter. You and your spouse can also agree to use Child Support Enforcement when you initially file your paperwork.

- Absent a court order, the military still requires that a member provide “fair and adequate support” to his or her dependents. Talk to your first sergeant to help determine what is fair and adequate support. Failure to provide necessary support may subject a member to disciplinary or administrative action. The Navy and Army have guidelines for determining fair and adequate support but in the Air Force it’s generally determined on a case by case basis pending a final order from a state court.

- The preference in Colorado is for parents to share parenting time of children equally (50/50), unless such an arrangement would not be in the child/children’s best interests. Child support is in part dependent on parenting time, as well as the incomes of the parties and the children’s expenses.

## Spousal Maintenance

- In Colorado, what is more commonly known as alimony is called **spousal maintenance**. Spousal maintenance is generally awarded only for marriages over five years and is **NOT** automatic. Although maintenance is negotiable, the general

guideline is that, if awarded, the receiving spouse will be eligible to payment for half the duration of the marriage, or until he or she remarries, whichever comes first. Typically, the lower earning spouse will be entitled to maintenance as calculated by subtracting 50 percent of his or her income from 40 percent of the higher earning spouse’s income. Spousal maintenance may be waived in the divorce pleadings and if it is waived, the waiver is irrevocable and the waiving party can never return to court to seek maintenance. Where one party does not work, the court will sometimes impute income to that party, meaning it will assume that the person could make minimum wage and work 40 hours per week, and that number will serve as the non-working party’s income. Although Colorado has a spousal maintenance statute, unlike child support the court will not necessarily set aside an agreement that does not fall fully within the parameters of the statute unless it is unconscionable. Factors that may be considered by the court include: the duration of the marriage, each party’s need, the standard of living enjoyed during the marriage, each party’s ability to pay, the age and health of each party, and each party’s relative contribution to the marriage. Spousal maintenance is calculated before child support, and is taxable to the recipient as income, and tax deductible to the party paying.

- Spousal maintenance can be a very useful negotiation tool but can also become a very complex issue; if you have a situation where there might be a large award of maintenance, it may be a worthwhile investment to seek the advice of a domestic law attorney in private practice.

*The information provided in this document is meant for the sole use of Active Duty service members, retirees, and their families. 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 facts and circumstances in each case. Laws can vary across states, services, and civilian jurisdictions. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.*