

GARNISHMENTS AND ALLOTMENTS



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Introduction

Several methods can be used to get child support and alimony owed by a military member or civilian employee. The method used depends on the circumstances of your situation, i.e. what type of support was ordered (i.e. alimony or child support), who owes the money and how late the payments are. Below is a summary of the two methods. Both require an outstanding court order which shows that support must be paid by the military member or civilian employee.

Garnishments

Federal law allows the garnishment of wages for members of the Air Force who are on active duty, are in the Reserve or Air National Guard. Garnishment of military pay is used when child support and alimony orders need to be enforced. The garnishment can also include administrative costs caused by the enforcement.

Under federal law, only 50% of the member's disposable income during a week may be taken for **child support and alimony** debt if the member is supporting a second family (i.e., remarried). However, if the member is not supporting another family, the maximum that can be taken is 60%. Keep in mind if you are 12 weeks late with payments, the number increases by 5%.

Garnishment for **commercial debts**, whether military or civilian employees, is limited to 25% of wages in Colorado and by federal law. Garnishment can only be taken from the member's disposable income. This means active duty pay such as base pay and some special and bonus pay entitlements. BAS, BAQ, VHA, and family separation allowances are not included.

Involuntary Allotments

The Air Force can institute an involuntary allotment against a military member's pay either through Federal Law or AFI 36-2906, *Personal Financial Responsibility*. However, this procedure can only be used against active duty military members. It can only be used to collect child support or alimony coupled with child support but not alimony alone. To be eligible for an involuntary allotment, the military member must be in arrearage an amount equal to or greater than two months support.

Involuntary allotments can also be taken to pay **civil debts**, including commercial debts. Again, this only applies to active duty pay. Once a package is forwarded from DFAS, a member has 90 days to respond. The member can either consent to the allotment, deny the claim, or claim military exigency prevented the member from paying on time. Only the member's commander can make that decision.

The pay subject to allotment is similar to that for garnishment except more of the member's compensation can be taken, i.e. BAQ, BAS are eligible. The same maximum applies, as do the same exclusions (such as federal income tax). However, the Finance Center can decline to act on the allotment upon request of the member if the member, through an affidavit and supporting documentation, shows either of the following: (1) The support payments aren't delinquent; or (2) The underlying support order has been set aside, modified or superseded.

Sources:

<http://www.dfas.mil/garnishment.html>
AFI 36-2906
C.R.S. § 13-54-104
42 U.S.C. §§ 659, 660, 665

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.