

RETIREMENT PAY:

For divorces granted in the U.S. (not in Italy), the nonmilitary ex-spouse is normally entitled to request a portion of the disposable retired pay (DRP) that the military member "earned" while married to that spouse and on active duty. For example, if the ex-spouse was married to an active duty military member for 10 years and the military member retires after 20 years, the non-military spouse may ask the court for up to a maximum of 50% of total monthly retirement pay minus SBP premiums. An award of retirement pay must be stated specifically in the divorce decree.

To receive direct payment (an allotment) of this pay, the two ex-spouses must have been married for at least 10 years while on active duty, and a written request, certified copy of the decree, and DD Form 2293 must be sent to DFAS-HGA/CL, Assistant General Counsel for Garnishment Operations, P.O. Box 998002, Cleveland, OH 44199-8002. If there will be no claim for retirement pay, it must be stated in the divorce decree. If you or your spouse separate from the military prior to retirement eligibility, this section will not apply to you.

Hours of Operation

Legal Assistance
By Appointment Only

Will Appointments

Please complete Will worksheet BEFORE you make a will appointment! Stop by or call our office for more information.

Italian Legal Assistance
By Appointment Only

Powers of Attorney & Notaries
Walk-in, Mon-Fri 0745 - 1630

You can complete power of attorney & will worksheets, and read information at <https://aflegalassistance.law.af.mil>

31 FW/JA
Unit 6140 Box 115
APO, AE 09604-0115
Building 1403, Aviano AB
DSN 632-7843 or commercial
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Divorce While Overseas



31ST FW LEGAL OFFICE

Current as of April 2022

DIVORCE WHILE OVERSEAS

If you are contemplating divorce while assigned overseas, here are some things you should think about:

WHERE?

The first question to consider is where to file for the divorce. Not every court has the power (jurisdiction) to grant a divorce. The court must be in a place where you have some personal connection. Usually, either spouse may sue for divorce in either his or her state of legal residence.

HOW?

While it is possible in some places to handle your own divorce, you are strongly encouraged to hire a civilian attorney, particularly if there are contested issues such as child or spousal support, property division, or child custody. **Military lawyers cannot represent you in a divorce proceeding and cannot assist with filing papers.**

If you do not know a lawyer in your area, you can obtain a list of names of lawyers in your location through the State Bar Association Lawyer Referral Service. The legal office can provide referral service phone numbers and addresses. Many lawyers who specialize in divorce offer a fixed price for an uncontested,

uncomplicated divorce. In addition, the initial phone consultation is often free.

If your state allows self-representation, it may require you to handle everything in person (in which case, you need to consider the cost of flying home and the leave that will be required) or may allow you to act through a Power of Attorney. Check with your county courthouse to determine the rules in your area. Powers of Attorney are available at the legal office.

WHEN?

Most states no longer require a period of physical separation before you can get divorced, although many states have a waiting period after the divorce is filed before the action becomes final. Often, no separation agreement is required and you can file while still living together. If you are a military member serving overseas and receive notice of divorce proceedings against you in the U.S., you may be able to postpone the proceedings by invoking the protection of the Service members Civil Relief Act (SCRA). Additionally, there are specific requirements for having U.S. legal documents served on you here in Italy. For more information, see the handout on SCRA and consult a legal assistance attorney if you have questions.

RELATED RESOURCES...

- SCRA Pamphlet
- <http://www.divorcenet.com>