



OFFICE OF THE STAFF JUDGE ADVOCATE
101ST AIRBORNE DIVISION (AIR ASSAULT) AND FORT CAMPBELL
CLIENT SERVICES
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INVOLUNTARY ALLOTMENT & GARNISHMENT

There are two procedures whereby the Defense and Finance Accounting Service (DFAS) can involuntarily withhold a service member's pay in order to satisfy court ordered child and/or spousal support. Involuntary allotment is a statutory proceeding that can be initiated when a service member is behind in an amount equal to at least two months in court-ordered payments of child or spousal support. Garnishment is a statutory proceeding by which a service member's property, usually part of his or her paycheck, is taken and applied to the payment of a debt, usually child and/or spousal support.

What pay is subject to these procedures. All pay can be garnished. Such pay includes military pay, hazardous duty pay, severance pay, sick pay, cash awards, pensions, retirement, etc. However, allowances such as basic housing, subsistence, and family separation allowance cannot be garnished. In contrast, pay subject to involuntary allotment includes pay AND allowances.

How much may be garnished or involuntarily allotted. The full ordered amount of child or spousal support will be deducted as long as the amount does not exceed the statutory limits, which is between 50 to 65 percent of the service member's disposable earnings depending on the circumstances.

How to start involuntary allotment or garnishment. To start an involuntary allotment, DFAS must receive notice from an authorized person, agent, or court that the service member is two or more months behind in support payments, along with a certified copy of the underlying court order establishing the support requirement. DFAS must provide notice to the service member and his commander. The allotment takes effect 30 days after the notice is given. To start a garnishment, you must first obtain a court order requiring the service member to pay support, as well as a garnishment order. Once the garnishment order is obtained from the local court, the order must be served on DFAS.

How to stop or change a garnishment or involuntary allotment. The only way a service member can stop, correct, or reduce a garnishment is to go to the court that issued it and file a motion. Generally, you will be required to demonstrate a change of circumstances since the last court order that required the garnishment in order for the court to stop or reduce the garnishment. Financial hardship due to a reduction in pay may be sufficient grounds for reducing a garnishment. Likewise, an involuntary allotment can only be adjusted or terminated by the authorized state official or court.

Commercial debts. Involuntary allotments for child support, or child support coupled with alimony, take precedence over those for creditors. However, creditors whose efforts to collect a debt have failed and have been awarded a civil judgment against you may seek enforcement of the judgment by applying for an involuntary allotment from your military pay. If approved, the allotment can pay up to 25% of your disposable pay per month.

Service member's options. Once the command counsels the service member on his obligation to satisfy just debts, the service member has 30 days to respond to the involuntary allotment application. The service member may consent to the allotment or he may contest it on any of the following grounds: the allotment does not comply with the SCRA (usually not available for child support obligations); the creditor's application is false; the debt and judgment have already been satisfied or set aside; bankruptcy prevents the allotment; or emergency or mission essential duty prevented the service member from appearing at the court proceeding resulting in the judgment, or prevents the service member from responding to the application for involuntary allotment.

For more information. Go to <http://www.dod.mil/dfas/militarypay/garnishment.html>. For additional assistance and advice, contact the Fort Campbell Client Services Office, located in building 2765 Tennessee Ave., across from the Military Courthouse, (270) 798-4432.