



FORT LEONARD WOOD MANEUVER SUPPORT CENTER OF EXCELLENCE  
OFFICE OF THE STAFF JUDGE ADVOCATE  
Legal Assistance Office



## THE MILITARY DIVORCE PROCESS IN MISSOURI

The following fact sheet applies to uncontested divorces as well as common questions Soldiers have when going through the divorce process, such as spousal support, child custody, Tricare benefits, retirements, as well as pre/post nuptial agreements.

Keep in mind, if you and your spouse don't agree on even one thing, your divorce become a contested divorce and it is highly recommended by this office that you hire a private attorney that specializes in divorce.

The first step in beginning a divorce is determining whether Missouri Courts can grant you your divorce. For courts to have the power to grant your divorce, you must have lived in Missouri for the past 90 days.

To begin the paperwork for an uncontested divorce, you will need to visit the Missouri Courts website at <https://www.courts.mo.gov> and complete the requirements for the Litigant Awareness Program, which is just a short educational video. You will then need to download the documents relevant to the dissolution of your marriage, including child custody and support worksheets if you have children.

Once you and your spouse have completed, signed, and notarized the applicable paper forms, the next step is to file your paperwork with the Clerk of Court. If you are filing in Pulaski County, the clerk is located at 301 Route 66, Waynesville, MO 65583 and the filing fee is currently between \$100 and \$200. Service by the sheriff on the respondent (your spouse) will be an additional fee. If you cannot afford the filing fee, you may be able to file an in forma pauperis application (motion to proceed as a poor person).

Once you have your complaint and your spouse's response or default (failure to respond), the judge's office will then review the file and set a court hearing, typically 30 days from the date all of the paperwork was filed.

At the hearing, both parties may be present, but only the petitioner (the person asking for the divorce) is required to attend. The judge will either grant your divorce, potentially with specific terms, or will instruct you to make changes to your paperwork. When the judge signs your judgment and decree of dissolution of marriage and the clerk of court files it, your divorce is then final and you must abide by any terms in the order or could face contempt of court. Any contempt of court actions or subsequent modification actions pertaining to the terms of the divorce will likely need to be handled by a private civilian attorney.



## **Difference Between a Divorce and Legal Separation**

An action for legal separation may be an alternative to a dissolution of marriage in that it preserves the marriage itself while determining all the same issues raised in a dissolution of marriage. Many clients believe that they are legally separated at the time of the filing of a petition for dissolution of marriage, which is incorrect. To be legally separated a court must enter a judgment of legal separation. Reasons to seek a legal separation include religion, moral convictions, personal beliefs or to continue dependent health insurance coverage. Keep in mind the following regarding a legal separation

1. A judgment for legal separation may be converted to a dissolution of marriage after 90 days if requested by one of the parties.
  - a. The purpose of the 90 days is to allow a “cooling off” period for the parties and time to acquire perspective on their problems and maybe resolve them.
2. A judgment for legal separation may be set aside if both parties request it.
3. The conversion of a legal separation to a dissolution of marriage won't let you argue things over again. What you agree on is final. This includes:
  - a. division of property;
  - b. maintenance;
  - c. child custody; and
  - d. child support.
4. The judgment for legal separation is a final judgment.
5. Legal separation is a defense to a UCMJ charge of adultery.

## **Difference Between a Divorce and Annulment**

Annulment is when your marriage is voided for a reason. As a result, there is no need for a divorce. The following are grounds for an annulments under § 451.020, 030, and 040 R.S.M:

1. Familial relation;
2. Lack of capacity (mental incompetence, senility, impotence);
3. Bigamy;
4. No marriage license
  - a. A license for a marriage shall be obtained from the officer authorized to issue the same, and no marriage contracted shall be recognized as valid unless the license has been previously obtained, and unless the marriage is solemnized by a person authorized by law to solemnize marriages.
5. Duress or fraud
6. Marriage where both parties are under sixteen years of age or the marriage where one party is over the age of 21 and the other under 18.



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Missouri Pro Se Divorce Forms Checklist

Petitioner

- Filing Information Sheet
- Petition for Dissolution of Marriage
- Certificate of Dissolution of Marriage
- Statement of Income and Expenses
- Statement of Property and Debt and Proposed Separation Agreement
- Judgment and Decree of Dissolution of Marriage
- Parenting Plan (If applicable)
- Notice of Hearing

Respondent

- Respondent's Answer to Petition for Dissolution of Marriage
- Statement of Income and Expenses (If applicable)
- Statement of Property and Debt and Proposed Separation Agreement (If applicable)

If applicable

- In Forma Pauperis Application



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## AR 608-99 Spousal Support

When a service member or a spouse begins the process of divorce, it's common for one of the parties to move out of the family home. In these cases, the non-service member spouse is entitled to the service member's BAH.

There are several instances in which a Soldier is not required to provide support under AR 608-99

1. If there exists a prior financial support agreement
  - a. Soldiers will comply with the financial support provisions of all state courts.
  - b. Foreign court orders must be complied with if recognized by the United States.
2. While the Soldier's Family members are residing in government family housing, the Soldier is not required to provide additional financial support.
  - a. However, the Soldier is still required to pay Enhanced Interim Support for Spouses.
  - b. Government quarters are not the same as on-post quarters managed by a private contractor. If the amount of rent due to the contractor is equal to or greater than the BAH RC/T-WITH amount, then the Soldier has no obligations. However, if the rent amount is less, then the Soldier must pay the difference.
  - c. A Soldier's obligation to pay BAH RC/T-WITH to the Family members will begin on the date that the Family members vacate government Family housing. The obligation to make this support payment begins even if the Soldier has not cleared government Family housing and is not entitled to draw BAH-WITH.
3. In the absence of a written financial support agreement or a court order containing a financial support provision, a Soldier is not required to provide financial support to a spouse on active duty in one of the military services.
  - a. However, Soldiers still need to provide support to their children if the child lives with the Service Member spouse, unless the Soldier also has custody of a child.

To begin Spousal Support, a spouse needs to contact the Soldier's chain of command.

### How Much is the BAH You Owe?

The amount that a Soldier must pay the non-service member spouse is pulled from the Non-Locality BAH with Dependents Rate. See the attached table on the next page to calculate what the monthly payment is. This may be higher or lower than the BAH a Soldier receives. Look at your rank and check to see what the BAH RC/T w/



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Dependents Rate is. That amount is the monthly amount that is due to you non-service member spouse every month.

If you and your spouse ceased living together in the middle of the month, the amount owed is a pro-rata amount. Simply take the amount owed and divide it by the number of days.

Keep in mind, the BAH amount is due as soon as you cease living together with your spouse.



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<b>2021 Non-Locality BAH Rates</b>				
<b>Effective 1 January 2021</b>				
Pay Grade	Partial	BAH RC/T*		Differential*
		Without Dependents	With Dependents	
O-10	\$ 50.70	\$ 1,758.90	\$ 2,111.10	\$ 379.80
O-9	\$ 50.70	\$ 1,758.90	\$ 2,111.10	\$ 379.80
O-8	\$ 50.70	\$ 1,758.90	\$ 2,111.10	\$ 379.80
O-7	\$ 50.70	\$ 1,758.90	\$ 2,111.10	\$ 379.80
O-6	\$ 39.60	\$ 1,612.80	\$ 1,900.20	\$ 322.80
O-5	\$ 33.00	\$ 1,553.10	\$ 1,831.80	\$ 312.00
O-4	\$ 26.70	\$ 1,439.10	\$ 1,614.60	\$ 207.90
O-3	\$ 22.20	\$ 1,153.80	\$ 1,335.90	\$ 207.60
O-2	\$ 17.70	\$ 914.10	\$ 1,140.30	\$ 244.80
O-1	\$ 13.20	\$ 784.80	\$ 1,020.30	\$ 264.60
O3E	\$ 22.20	\$ 1,245.30	\$ 1,436.10	\$ 217.20
O2E	\$ 17.70	\$ 1,059.30	\$ 1,295.70	\$ 260.10
O1E	\$ 13.20	\$ 921.30	\$ 1,197.60	\$ 305.10
W-5	\$ 25.20	\$ 1,462.50	\$ 1,559.40	\$ 129.90
W-4	\$ 25.20	\$ 1,298.40	\$ 1,429.50	\$ 160.20
W-3	\$ 20.70	\$ 1,091.70	\$ 1,310.40	\$ 240.90
W-2	\$ 15.90	\$ 968.70	\$ 1,203.90	\$ 255.00
W-1	\$ 13.80	\$ 812.40	\$ 1,042.20	\$ 246.90
E-9	\$ 18.60	\$ 1,065.60	\$ 1,371.60	\$ 325.80
E-8	\$ 15.30	\$ 979.50	\$ 1,264.80	\$ 305.40
E-7	\$ 12.00	\$ 902.70	\$ 1,173.90	\$ 353.10
E-6	\$ 9.90	\$ 834.00	\$ 1,084.50	\$ 341.70
E-5	\$ 8.70	\$ 750.30	\$ 976.20	\$ 290.70
E-4	\$ 8.10	\$ 652.80	\$ 848.40	\$ 250.80
E-3	\$ 7.80	\$ 606.90	\$ 788.70	\$ 206.10
E-2	\$ 7.20	\$ 578.70	\$ 752.10	\$ 275.40
E-1 >4	\$ 6.90	\$ 578.70	\$ 752.10	\$ 325.80
E-1 <4	\$ 6.90	\$ 578.70	\$ 752.10	\$ 325.80

\*BAH RC/Transit rates are adjusted by the average change in housing costs; BAH-DIFF rates are adjusted by the amount of the basic pay raise.

**Enhanced Interim Support for Spouses**

Recently, the Army in Army Directive 2020-04 established an additional requirement for Soldiers to make an enhanced interim financial support (EIFS) payment to non-active-duty spouses. Enhanced interim financial support for spouses will be provided by the Soldier in addition to the interim support discussed above. Enhanced interim financial support payments will not be made to spouses who are Service members



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of any component while serving on active duty. However, Soldiers must pay spouses the EIFS even if spouse still lives in government housing.

To calculate the amount owed for the Enhanced Interim Support, take the amount equal to 25% of the BAH RC/T-WITH.

The amount due under the Enhanced Interim Support is a one time payment that is due in conjunction with the spousal support amount discussed above. However, if the spouse does not have access to a state court with jurisdiction to order spousal support (living abroad), then the Enhanced Interim Support is due every month, in conjunction with the spousal support.

### **Like Kind Payment in lieu of BAH**

Soldier may comply with the financial support requirements by directly paying non-government housing expenses on behalf of Family members if the Family members are residing in non-government housing. Non government housing expenses are limited to the following:

1. Rent (including payments to privatized housing on a military installation)
2. The principal and interest payments due on any outstanding loan secured by a mortgage on a home in which the Family is residing and the real property taxes and property insurance due under an escrow agreement covering the same property.
3. Essential utilities such as gas, electricity, and water.

Expenses do not include other housing costs, such as telephone or cable television charges, regardless of whether or the Soldier is legally responsible for their payment. Additionally, Soldiers may not satisfy enhanced interim support payment requirements by directly paying non-government housing expenses on behalf of spouses or by any other in-kind financial support without the written approval of the supported spouse.

### **Pro-Rata Share of Spousal Support for Family Members**

The amount that you are obligated to pay as spousal support under the regulation is meant to include any other family members, including children. If a Soldier and a spouse separate, and the spouse is unqualified to receive the interim spousal support, the Soldier is still responsible for paying support to the child. This amount is the pro-rata share and is obtained by taking the number of family members (current spouse and children, including children from a prior marriage) and dividing that number by the amount required as determined above.



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## **When You Can Stop Making AR 608-99 Payments**

Although court ordered financial support obligations terminate in accordance with the terms of the court order, AR 608-99 support can be terminated/reduced by the Soldiers chain of command.

Situations which may warrant relief, include, but are not limited to the following:

1. The income of the spouse exceeds the military pay of the Soldier.
2. The Soldier has been the victim of substantial abuse by the spouse.
3. The supported Family member is in jail.
4. Regulatory support has been provided to the spouse for 18 months.
5. A court with the jurisdiction to order financial support for the spouse has issued one or more orders, none of which contain a financial support provision.
6. The spouse has acted in a manner to cause divorce proceedings to be unreasonably prolonged.
7. A showing, by a preponderance of evidence, that the soldier should be released as a matter of fundamental fairness.

## **Soldier Refuses to Pay the Spousal Support**

Spousal support is enforced by the Soldier's company commander. If you feel the company commander is not enforcing the spousal support regulations, you may file a complaint with the FLW IG Office: <https://home.army.mil/wood/index.php/contact/ig>





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## How Divorce Will Affect Your Retirement

A common misconception is that a former spouse is entitled to half of the retirement of a Soldier after 10 years of marriage. There is no Federal law that automatically entitles a former spouse to a portion of a member's military retired pay. A former spouse must have been awarded a portion of a member's military retired pay in a State court order. This means that a State court can order a Soldier to pay a former spouse retirement, even though they were not married for 10 years. However, Missouri law provides that pensions do not need to be divided if other assets can offset its value.

Where the 10 year misconception comes from is that in order for the Defense Finance and Accounting Service (DFAS) to provide direct retirement payments to an ex-spouse, the couple must have been married 10 years overlapping with 10 years of service.

Not qualifying for the DFAS direct pay does not mean you are ineligible to a portion of the payment. In order to receive your portion, the criteria would need to be included as part of the divorce settlement agreement. Keep in mind that the award of military retired pay may be in addition to child support, and alimony or maintenance.

## How Divorce Will Affect Your Healthcare

If you and your service member spouse are separated or living apart, but not divorced, you keep TRICARE. After the divorce, you may be eligible for TRICARE coverage if you fit into one of the following scenarios:

1. 20/20/20: Under the 20/20/20 rule, you keep TRICARE health care benefits if you were married to the service member for at least 20 years, the service member served in the armed forces for at least 20 years, and the marriage and the period of service overlapped for at least 20 years.
2. 20/20/15: Under the 20/20/15 rule, you keep all TRICARE health care benefits for one year if you were married to the service member for at least 20 years, the service member served in the armed forces for at least 20 years, and the marriage and the period of service overlapped for at least 15 years. Unlike the 20/20/20 rule, you only have full coverage for one year after the divorce.
3. Purchase temporary transitional coverage through the Continued Health Care Benefit Program (CHCBP). You must apply for CHCBP within 60 days from the date of the divorce. CHCBP coverage isn't available to former spouses of sponsors who served in NATO or Partners for Peace.

The sponsor's biological and adopted children remain eligible for TRICARE after divorce. The sponsor's children will lose eligibility when they turn age 21 (or 23 if in college), marry, or serve on active duty. Once no longer eligible due to age, children up



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to the age of 26 may qualify to purchase TRICARE Young Adult. If the sponsor didn't adopt his or her stepchildren, they lose eligibility once the divorce is final.

### **How Divorce Will Affect Your GI Bill**

A judge in a divorce may not treat Post-9/11 GI Bill benefits as marital property and allocate them between spouses. However, this restriction does not preclude the member from voluntarily agreeing in a binding separation agreement to allocate the GI Bill benefits to the spouse.

Why would a member voluntarily give away \$150K of benefits? A spouse receiving such benefits would need less maintenance. And once that spouse receives a degree, he/she will presumably earn more money, so that in turn would result in reduced maintenance or child support for the military member.

### **How Divorce Will Affect the Rest of Your Possessions**

A general overview of marital property will be provided here, but for more in depth questions regarding property, it is best to consult with a divorce attorney.

"Marital" property is all property acquired by either spouse during the marriage. Missouri law assumes that all property is marital unless a spouse can prove that something is non-marital. It doesn't matter whether the title is in one spouse's name or both; the law assumes that an asset belongs equally to both spouses if either spouse acquired it after the date the couple married. This type of property is equally divided upon divorce. In other words, both spouses have a claim to the property.

"Nonmarital" property is everything that's not marital, and it belongs to only one spouse. The general rule is that the court does not divide separate property during a divorce, and it stays with the spouse that acquired it. Nonmarital property also includes things acquired after the marriage, as described in § 452.330 R.S.Mo.:

1. Property acquired by gift, bequest, devise, or descent;
2. Property acquired in exchange for property acquired prior to the marriage or in exchange for property acquired by gift, bequest, devise, or descent;
3. Property acquired by a spouse after a decree of legal separation;
4. Property excluded by valid written agreement of the parties; and
5. The increase in value of property acquired prior to the marriage or pursuant to subdivisions (1) to (4) of this subsection, unless marital assets including labor, have contributed to such increases and then only to the extent of such contributions.

Once the Nonmarital property has been separated from the marital property, the court divides the marital property and marital debt (unless both parties agree on what to



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separate) in such proportions as the court deems just after considering all relevant factors including:

1. The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children;
2. The contribution of each spouse to the acquisition of the marital property, including the contribution of a spouse as homemaker;
3. The value of the nonmarital property set apart to each spouse;
4. The conduct of the parties during the marriage; and
5. Custodial arrangements for minor children.

### **Prenuptial Agreements**

A prenuptial agreement identifies what property is marital and what's separate. Couples draft up an agreement prior to marriage and they will be bound to follow the terms of the agreement if they decide to divorce.

On the other hand, a postnuptial agreement is similar to a prenuptial but it is entered into during the marriage. There may be a number of reasons why a couple would enter into a postnuptial while they are still married. The couple may have an existing prenuptial that they would like to make changes to, because of a change in circumstances. Like a prenuptial, a postnuptial can also provide some clarity for the couple on how certain assets and property will be handled after divorce.

The law requires certain conditions for prenuptial/postnuptial agreement to be enforceable by a court. Such conditions include:

1. The opportunity for each spouse to consult with an attorney before signing the agreement;
2. The contract was entered into voluntarily (not be force);
3. The agreement provides full disclosure of each party's financial assets and resources;
4. The agreement is not unconscionable; and
5. The agreement is not illegal.

### **Child Custody**

Divorces don't solely affect the spouses; children are also affected. The Army does not play much of a role in dictating which spouse gets custody of the child. Instead, the laws that dictate custody fall on the States. The Uniform Child Custody Jurisdiction and Enforcement Act of Missouri determines whether or not Missouri Courts have standing



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to hear child custody cases. For Missouri Courts to hear child custody cases, the following must apply:

1. Missouri must be the home state when the proceedings are commenced.
2. Missouri must be the home state six months prior to the commencement of the proceedings if at least one parent resides in Missouri.
3. Another state that is the home state declines jurisdiction by finding that Missouri is the more appropriate forum.
4. No other state will exercise jurisdiction so Missouri has jurisdiction.
5. Children are immediately subject to the jurisdiction of the court when a proceeding is filed for divorce or legal separation. Neither parent shall remove the child from the court's jurisdiction, or from the parent with whom the child has primarily resided for the 60 days immediately preceding the filing of the divorce petition, without the court's permission.

Once the Court has jurisdiction to hear you child custody case, the standard it will use to determine which parent gets custody is called the "Best Interest of the Child." This includes several factors, as laid out in § 452.375 R.S.Mo.:

1. The wishes of the child's parents as to custody and the proposed parenting plan submitted by both parties;
2. The needs of the child for a frequent, continuing and meaningful relationship with both parents and the ability and willingness of the parents to actively perform their functions as mother and father for the needs of the child;
3. The interaction and interrelationship of the parents, siblings, and any other person who may significantly affect the child's best interests;
4. Which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent;
5. The child's adjustment to the child's home, school, and community;
6. The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the court finds that a pattern of domestic violence as defined in § 455.010 RSMo has occurred, and, if the court also finds that awarding custody to the abusive parent is in the best interest of the child, then the court shall enter written findings of fact and concussions of law. Custody and visitation rights shall be ordered in a manner that best protects the child and any other child or children for whom the parent has custodial or visitation rights, and the parent or other family or household member who is the victim of domestic violence from any further harm;
7. The intention of either parent to relocate the principal residence of the child; and
8. The wishes of a child as to the child's custodian. The attendance of the child at a home school shall not be the sole factor that a court considers in determining custody.



## **Different Types of Child Custody in Missouri**

Once the Court has determined what the best interest of the child is, it can award one of five possible custodial arrangements.

1. Joint physical and joint legal custody to both parents with one parent's residence designated as the child's address for mailing and educational purposes.
2. Joint physical custody with one party granted sole legal custody with one parent's residence designated as the child's address for mailing and educational purposes.
3. Joint legal custody with one party granted sole physical custody with the other parent awarded visitation.
4. Sole legal and sole physical custody to one party with the other parent awarded visitation.
5. Third-party custody or visitation.

## **Child Custody and PCS**

If your custody agreement doesn't reference military relocation, you can work with the court and your child's other parent to modify the order. Understand you will need to give a compelling reason for moving the child. You also might have to prove that the move would benefit the child. Sometimes, frequent moves or deployments require service members to temporarily give up custody.

The Servicemembers Civil Relief Act protects your legal rights when you are called to or serving on active duty. Under the SCRA, individuals can obtain a stay or postponement of court or administrative proceedings (but not criminal proceedings), if military service materially interferes with their ability to appear in court.

## **Grandparent Rights**

Generally, grandparents have a difficult time seeing their grandchildren. However, Courts may grant reasonable visitation rights to grandparents when:

1. The parents of the child have filed for a dissolution of their marriage. A grandparent shall have the right to intervene in any dissolution action solely on the issue of visitation rights; or
2. Grandparents also have the right to file a motion to modify the original decree of dissolution to seek visitation rights when visitation has been denied to them; or
3. One parent of the child is deceased and the surviving parent denies reasonable visitation to the parent of the deceased parent of the child; or
4. If the child has resided in the grandparent's home for at least six months within the 24-month period immediately preceding the filing of the petition; and



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5. A grandparent is unreasonably denied visitation with the child for a period exceeding 90 days. However, if the natural parents are legally married to each other and are living together with the child, a grandparent may not file for visitation pursuant to this subdivision.

### **Child Support**

In Missouri, both parents have an obligation to care for the child. The amount of child support is determined by the Form 14 included with the divorce paperwork found on the Missouri Courts Website. Once a child support amount is determined, the amount can be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms of the prior child support unreasonable.

A parent's obligation to make support payments shall abate, in whole or in part, for periods in excess of 30 consecutive days that the other parent has voluntarily relinquished physical custody to the obligated parent, notwithstanding any periods of visitation or temporary physical or legal custody pursuant to a judgment of legal separation, dissolution of marriage, or modification. This means that if you have the child for over the summer months, you do not have to pay child support to the other parent.

Child Support terminates when:

1. When the child dies or the child support receiving parent dies.
2. When the child marries.
3. When the child enters active duty the military.
4. When the child becomes self-supporting.
5. When the child reaches age 18 unless he or she is incapacitated or enrolled in school.
6. When the child reaches age 21 unless he or she is incapacitated.

### **Child Support and BAH-Differential**

BAH-Differential is the housing allowance amount for a member who is assigned to single-type quarters and who is authorized a basic allowance for housing solely by reason of the member's payment of child support. A member is not entitled to BAH-Diff if the monthly rate of that child support is less than the BAH-Diff. See the table on the next page to determine the receivable amount of BAH-Diff.

Keep in mind, Soldiers must take care of their children even if they are married to another Service Member. If a Soldier is married to another Service Member, generally, there is no need to provide support. However, if the Soldier has custody of one or more children and the Service Member spouse also has custody of another child, then the



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Soldier does not have to pay support. See AR 608-99d (4) and AR 608-99 B-4 Examples 1-2 for more clarification.

**BAH-Differential Rates**

Office of the Staff Judge Advocate Legal Assistance Office  
316 Missouri Avenue Fort Leonard Wood, MO 65473 (573)-596-0629



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Pay Grade	BAH-Diff
O-10	\$379.80
O-9	\$379.80
O-8	\$379.80
O-7	\$379.80
O-6	\$322.80
O-5	\$312.00
O-4	\$207.90
O-3	\$207.60
O-2	\$244.80
O-1	\$264.60
O3E	\$217.20
O2E	\$260.10
O1E	\$305.10
W-5	\$129.90
W-4	\$160.20
W-3	\$240.90
W-2	\$255.00
W-1	\$246.90
E-9	\$325.80
E-8	\$305.40
E-7	\$353.10
E-6	\$341.70
E-5	\$290.70
E-4	\$250.80
E-3	\$206.10
E-2	\$275.40
E-1	\$325.80

### Parental Kidnapping

Generally, parents have equal rights to the children. However, in some instances, a parent can be violating a law called "Parental Kidnapping." Missouri's parental kidnapping law can be found in § 565.150 R.S.Mo.





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In the absence of a court order determining rights of custody or visitation to a child, a person having a right of custody of the child commits the offense of parental kidnapping if he or she removes, takes, detains, conceals, or entices away that child within or without the state, without good cause, and with the intent to deprive the custody right of another person or a public agency also having a custody right to that child. This is a felony.

If there exists a court order, a person commits the offense of interference with custody if, knowing that he or she has no legal right to do so, he or she takes or entices from legal custody any person entrusted by order of a court to the custody of another person or institution. This is a misdemeanor.

Keep in mind, even if the parent is not charged with any of these crimes, taking a child in an attempt to deprive the other parent from seeing the child is frowned upon by the family law judge and taken into heavy consideration when determining child custody.

AR 608-99 paragraph 2-11 also provides punitive actions against a Soldier that interferes with a custodial arrangement.