

# Divorce and Separation Overview

*The material in this handout represents general legal principles. The law is continually changing; although the information in the handout was current as of the date it was drafted, some provisions in this pamphlet may have changed. It is always best to consult an attorney about your legal rights and responsibilities regarding your particular case.*

Legal assistance attorneys frequently advise military members or their spouses on marriage, divorce, legal separation, child support, child custody, military pension division and benefits under the Uniformed Services Former Spouses' Protection Act, and related issues. If you are considering a divorce or separation see a legal assistance attorney or civilian family law attorney to discuss which might be better for your specific situation.

Divorce has both financial costs and emotional strains for all involved. Financial expenses include legal and civilian attorney fees, the costs of dividing property, possibly child support and alimony, and the costs of separate living places. Emotional stress comes with child custody and care issues and the adjustment to a new life style – being single again.

## **What is divorce?**

*Divorce* is the ending of a marriage through the civilian court system. Generally, there are two types of divorce: a complete and final divorce, and a divorce "from bed and board" (often called a legal separation).

- When a complete divorce is final, the legal "marriage" that had existed ends and both parties may marry someone else.
- A divorce from bed and board does not completely end the marriage relationship. Neither party is free legally to remarry but they may live separate and apart from each other.

## **What is legal separation?**

A legal separation is not a divorce, but usually results when the spouses agree to separate and enter a contract or separation agreement in which each spouse agrees to do or not to do certain things. A separation agreement is voluntary; neither party can be forced to sign an agreement. After signature and divorce, a separation agreement can be incorporated into a later divorce decree. If one of the parties breaks the agreement, that party "breached the contract" and the other may sue under contract law to enforce the agreement or obtain any other state law remedy.

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