



Legal Briefs

INVOLUNTARY ALLOTMENTS AND GARNISHMENTS

INVOLUNTARY ALLOTMENTS:

Involuntary allotments from military pay are applicable to full-time soldiers only, not to civilian employees or retirees. Such allotments can be involuntarily paid from a soldier's paycheck to a third party to whom the soldier is indebted.

For Commercial Credit Obligations: Creditors must first obtain a final judgment from a court of competent jurisdiction. The party must next file an allotment application with DFAS and include a certified copy of the court order and a certificate stating that the creditor complied with the Soldiers' and Sailors' Civil Relief Act. DFAS will review the application then forward it to the soldier and unit commander.

For Support Obligations: Involuntary allotments for child support, or child support coupled with alimony, take precedence over those for creditors. Involuntary allotments are not available for spousal support alone. The party must file an application with DFAS, which must be accompanied by a certified copy of the underlying support order or divorce decree. DFAS will review the application and forward it to the soldier and unit commander.

The Soldier's Options: After the command counsels the soldier on his/her obligation to satisfy just debts, the soldier has 30 days to respond to the involuntary allotment application.

The soldier's options include:

1. Consent to the allotment.
2. Contest the allotment on any of the following applicable grounds:
 - The allotment does not comply with the Soldiers' and Sailors' Civil Relief Act (usually not available for child support obligations);
 - The creditor's application is false;
 - The debt and judgment has already been satisfied or set aside;
 - Bankruptcy prevents the allotment;
 - Emergency or mission essential duty (as decided by the commander) prevented the soldier from appearing at the court proceeding resulting in the judgment, or prevents the soldier from responding to the application for involuntary allotment.

GARNISHMENTS:

Garnishment generally applies to civilian employees only, not to soldiers or retirees. However, soldiers' and retirees' wages may be garnished for purposes of spousal or child support. A garnishment order from a court of competent jurisdiction must be served on DFAS. DFAS will honor garnishment orders which appear valid on their face; however, DFAS will consider a debtor's defenses. Civilians and military members facing garnishment actions are encouraged to seek legal counsel.

If you have any questions concerning these matters, please call the Office of the Staff Judge Advocate at 317-247-3449 between the hours of 8:00AM and 4:00PM Monday-Friday.
