

The Military Difference in Divorce: 3 Ways Civilian and Military Divorces Differ in San Diego.

From filing, to determining jurisdiction, to the division of military pensions, a divorce in which one spouse is in the military has unique characteristics which distinguish it from a non-military divorce in San Diego.

Here are a few key ways that military divorces differ from civilian divorces in San Diego

1. Filing

For California's civil court to have legal jurisdiction over a military divorce, the military spouse must be personally served divorce papers and a summons. However, if one spouse is attempting to file for divorce while his or her spouse is away on active duty, then the Servicemembers Civil Relief Act comes into play. This law states that the active duty service member cannot be held *entirely* responsible for a delay or lapse in responding to a petition for divorce. Note though, the Servicemembers Civil Relief Act does *not* exempt active duty military members from outright ignoring divorce papers.

In most cases the best way to serve divorce papers in San Diego to an active duty service member is to officially mail a summons abroad to what's called a "central authority," who will then serve those papers to the active duty spouse within that jurisdiction.

2. Jurisdiction

Unlike in civilian divorces in California, in military divorces, questions surrounding domicile come into play. Domicile is essentially another name for a service member's "State of Legal Residence" (SLR). Initially, all service members' SLR is the state in which they resided when they entered the service. Over time though, many services members elect to change their SLR, typically to a different state in which they are stationed, which can make the division of assets and property far more complex than in a community property state such as California.

In California, our laws are such that any assets acquired or earned during the marriage will be divided equally. However, in cases where a military spouse has deemed a state other than California as their Domicile/SLR, California civil court may not have jurisdiction over the division of property and assets.

3. Division of Military Pensions

Military pensions which are awarded to service members are funded by the government. Contributions to pensions are made through the service member's years of service, rather than through financial contributions, such as in civilian retirement plans. Additional non-monetary benefits are also afforded, such as medical care, commissary privileges and others. The division of these substantially valuable assets will be determined based upon which court has jurisdiction over the divorce. If California has jurisdiction, military pensions will be divided equally between the two spouses. In other states, the division of military pensions will not necessarily be a 50/50 split.

There's no getting around the fact that there are unique aspects to a military divorce in San Diego. Whether you're the civilian spouse, or the service member spouse, if you're seeking a divorce in San Diego, you're going to need an aggressive, experienced San Diego military divorce lawyer on your side to assure that you have a zealous advocate fighting for you.

During the stressful times that come along with family law matters, some extra help is usually appreciated. At Primus Family Law Group, we offer Free 30 Minute Phone Consultations to see if we can do just that.

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