



The ADVOCATE

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In This Issue:

***RLSO NDW Launches
"The Advocate"***

***Legal Assistance
Services***

***Fighting Fraud and Bad
Deals: Consumer and
Financial Protection for
Service Members
[pg.2]***

***Understanding the
Divorce Process in the
District of Columbia
[pg.3]***

***Steps for Service
Members to Terminate
Tenancy in Virginia
[pg.6]***

***Social Security
Collection of Payroll
Tax Deferral
[pg.7]***

***VITA Tax Centers
[pg.9]***

***RLSO NDW Leadership
[pg.9]***

***RLSO NDW Launches
"The Advocate"***

***Legal Assistance
Services***

RLSO NDW LAUNCHES "THE ADVOCATE"

Region Legal Service Office Naval District Washington (RLSO NDW) is pleased to announce the launch of "The Advocate." Our goal is to provide service members with frequently sought after legal assistance information and updates on current hot topics. The inaugural edition of this newsletter will focus on consumer law, DC divorce law, Virginia landlord-tenant law, social security tax repayment, and available tax center resources.

Your feedback and any suggestions for future articles are greatly appreciated, contact us at:

RLSONDWLEGALASSISTANCE@navy.mil.

LEGAL ASSISTANCE SERVICES

The mission of the Legal Assistance Department is to provide services to active duty Navy, Marine Corps, Army, Air Force and Coast Guard service members and their dependents, reservists on active duty for 30 days or more, and retirees, as resources permit, in the District of Columbia, Maryland, and Northern Virginia area.

Legal Assistance

Legal assistance can include advice on topics such as consumer/financial affairs, family law, non-support, military naturalization, immigration, landlord/tenant matters, Servicemembers' Civil Relief Act, small claims court matters, domestic violence, civil protective orders, notary services, powers of attorney, and wills/estate planning.

Pre-deployment services are given priority. Please contact your local office to see how it can best meet your pre-deployment needs.

All services are provided by appointment only. To speak with an attorney, please contact us at

RLSONDWLEGALASSISTANCE@NAVY.MIL.

FIGHTING FRAUD AND BAD DEALS: CONSUMER AND FINANCIAL PROTECTION FOR SERVICE MEMBERS - LCDR ANDREW GIDDINGS

Service members, military retirees, and their families are sadly not immune from consumer and financial fraud and are often directly targeted. High mobility, a steady government paycheck with publicly available information on salaries, BAH, etc., by rank and location, and other factors contribute to bad actors seeking to take advantage of service members and their families. According to the Federal Trade Commission, military members reported higher median losses from consumer fraud – including identity theft and imposter scams – than civilians.¹

**Fighting Fraud and Bad Deals:
Consumer and Financial Protection for Service Members**

Being embroiled in a consumer or financial fraud issue can add undue stress on service members and their families. At its worst, it can impact a person's credit and financial health – which could impact a security clearance – and, if a service member is distracted and concerned by an issue, it can impact morale and mission focus.

Criminal fraud should always be reported to the correct authorities (which could be your command, local authorities, NCIS, and others). However, sometimes people are not entirely sure where to go, or the lines are not very clear. The victim still needs the bad actor to stop, and plenty of consumer issues are not criminal in nature – it may be a civil disagreement over a contract – but can still have a big impact. The Legal Assistance office can help address those concerns for service members, retirees, and eligible family members. Legal assistance has been provided continuously by the armed forces since 1943,² and the attorneys at your Region Legal Service Office have seen almost any conceivable issue, usually more than a few times.

How can your Legal Assistance office help? A number of consumer and financial protection issues commonly come up. Issues, and the corresponding actions taken, include:

- Consumer financial issues, predatory lending, and the protections under the Servicemember's Civil Relief Act (SCRA) – including addressing excessive credit card interest rates, high-interest loans such as car loans or personal loans prior to the entry of service, and more. Legal assistance attorneys can discuss the relevant protections and can assist with taking action. This can include, for example, contacting a credit card company charging a rate in violation of the SCRA.
- Contracts and consumer scams, automobile purchases, warranties, and service contracts, personal property storage and moving issues (for example damaged goods), and consumer fraud issues. Legal assistance attorneys may contact and negotiate with businesses, including submitting complaint letters, cease and desist letters, and more. This can also include, where appropriate, warning the larger military community to avoid doing business with a particular individual or business by putting the offender on a banned business list. Even the threat of being put on such a list can be a strong motivator for businesses to take corrective action.

¹Carol Kando-Pineda, "Veterans, servicemembers, and fraud: by the numbers", November 18, 2019, Federal Trade Commission (FTC) Division of Consumer & Business Education, <https://www.consumer.ftc.gov/blog/2019/11/veterans-servicemembers-and-fraud-numbers>

The Advocate

- Referring cases as necessary to the Department of Justice (DOJ), the American Bar Association Military Pro Bono Program,³ and the Consumer Financial Protection Bureau (CFPB) – which enforces federal consumer financial laws by investigating cases of potential wrongdoing and taking action.⁴
- Referring clients to resources for the temporary provision of financial assistance such as the Navy Marine Corps Relief Society.
- Addressing the interaction of consumer and credit issues with other issues such as divorce and separation. This includes, for example, a partner running up credit card bills during a pending divorce.

If you are facing a consumer or financial protection issue, do not suffer alone. The discussions with your attorney are confidential and are for your benefit. If you find yourself in that situation, contact your local legal assistance office for an appointment.

² Department of the Navy Judge Advocate General, JAG INSTRUCTION 5801.2B, February 13, 2013, https://www.jag.navy.mil/library/instructions/5801_2b.pdf

³ American Bar Association Military Pro Bono Project, <https://www.militaryprobono.org/>

⁴ Consumer Financial Protection Bureau, <https://www.consumerfinance.gov/enforcement/>.

UNDERSTANDING THE DIVORCE PROCESS IN THE DISTRICT OF COLUMBIA - LCDR Ryan Rowan

Are you considering filing for divorce in the District of Columbia? Depending on your particular situation, the divorce process could either be a relatively quick and inexpensive process or more lengthy and complicated. Regardless of your case, it is imperative to learn and understand your legal rights and the divorce process in the District of Columbia. Our office provides free legal assistance to explain your legal rights and discuss possible options concerning your situation. To schedule an appointment, please call either (202)767-5297 or (202) 685-5580 or e-mail us at rlsondwlegalassistance@navy.mil.

Below are few important notes that explain the divorce process in the District.

1. What type of divorce actions are recognized in the District of Columbia?

There are two types of divorce actions recognized in the District of Columbia: (1) absolute divorce (a complete dissolution of the marriage) and (2) legal separation from bed and board, which does not dissolve the marriage. At the time of a divorce and separation, various issues, such as custody of children, financial burden, asset control, etc., have to be settled. In a divorce, the court decides these issues, while in a separation, the couple themselves have to agree upon them.

2. What is a Separation Agreement?

Separation simply means living apart. You do not need to file court papers to separate. However, separating from your spouse may affect your legal rights. It is a good idea to seek the advice of an attorney prior to separating. If you do separate, you will need to work out arrangements for the care of the children, support, and payment of bills. If a separation agreement is reached, the judge can make it into a final court order, which can later be enforced by the Court. A lawyer can advise you on your legal options if an informal agreement is not possible.

3. What is a Legal Separation?

Legal Separation is a significant change in the status of your marriage. To get a legal separation, you must file a petition in your Superior or Family Division Court. It is a distinct legal process rather than being a first step to getting a divorce. Legal Separation takes as long as a divorce and the costs can be the same. In many ways, a legal separation is the same as a divorce. Both include final custody, visitation, child support, and, if appropriate, alimony orders. All the family assets and debts are permanently divided. In both types of cases, it is possible to get temporary orders regarding support and custody early in the case, if needed. The significant difference is that if you have a legal separation, you are still married. A spouse may be able to resume their former name during a legal separation. In order to do so, the spouse must petition the court. The decision to grant or deny the request for a name change will be at the discretion of the judge presiding over the separation case.

4. Do I need to live in Washington D.C. to get a divorce here?

One party, either you or your spouse, must have resided in D.C. for six months before the date on which the petition for divorce is filed with the court. It does not matter where you were married. Only one of you has to meet the D.C. residency requirement.

5. My spouse and I agree on all matters concerning the divorce. Do we still need a lawyer?

Not necessarily. If you and your spouse have agreed mutually and voluntarily to separate and have been living apart, without cohabitation (sexual relations), for at least six months before the date you file for divorce, you can represent yourself, which is known as proceeding "pro se." To navigate the legal system and file the appropriate documents, you will need to see the court's rules. You can get them by visiting the Family Court Self Help Center, Room JM570 of the Superior Court for D.C.

6. If my spouse and I do not agree on all matters concerning the divorce, what is the separation period?

If one of you does not agree to the separation and divorce, then the required separation period without cohabitation is one year.

7. Where do I file for divorce?

You file a "complaint" for divorce in the District of Columbia Superior Family Court located at 500 Indiana Avenue, NW Washington, DC 20001.

The Advocate

8. What is separate maintenance?

Separate maintenance is a court document that puts the terms of your legal separation in writing. If you request an order for separate maintenance instead of for divorce, the judge will address all issues that could be addressed in a divorce case. Some people ask for separate maintenance because of religious beliefs, to keep a legal benefit (insurance or Social Security, for example), or other reasons.

9. Does the District of Columbia have a "fault" or "no-fault" divorce?

No, the District of Columbia does not have "fault" or "no-fault" divorce action. The only two divorce actions are: (1) both parties and mutually and voluntarily agreed to live without cohabitation for six months or (2) both parties have lived separate and apart without cohabitation for one year preceding the divorce action.

10. How do I file for a divorce?

The person seeking the divorce (the "plaintiff" or "petitioner") must file a document in the Superior Court. This document is called the "complaint" or "petition." It contains information such as current living arrangements, children, marital assets and debts, and the specific reason for divorce. A copy of the complaint will be served on (personally delivered to) the other spouse (the "defendant" or "respondent") by a sheriff, or the respondent spouse may acknowledge service by signing a document in the presence of a notary public. The defendant/respondent has 30 days to file a written answer to the complaint.

11. How long will the whole process take?

It depends on whether your divorce is complicated or simple, based in large part on how you and your spouse interact. The more the two of you can agree on, the more comfortable and less costly it will be. If you decide on all issues, the divorce is "uncontested" and may be granted 31 days after everything is filed. If you take your disagreements to trial, the divorce won't be final for months or even years.

12. Can I get the court to help me immediately?

If you need the court to quickly resolve child custody questions, visitation, child support, alimony, debts, or property possession, you can request a temporary court order. The court will schedule a short hearing, you and the other spouse will make your arguments, and the judge will issue an order that applies only until the final trial. The temporary order may also prohibit you and your spouse from giving away or selling assets or taking the children out of state.

13. Who will get custody of the children?

Typically, until a court ruling or agreement, married parents share custody. The judge will try to fashion a custody plan in the "best interests of the child." The judge will consider many factors, including the child's age and sex and the ability of each parent to care for and nurture the child. A child who has reached 14 years of age may generally choose which parent will have custody. A judge may take into account the wishes of children aged 11 to 13.

The Advocate

**Understanding
the Divorce
Process in the
District of
Columbia
(cont.)**

14. Can the other parent and I share custody?

Yes. The court can award joint custody instead of sole custody. There are two types of joint custody: legal and physical. Joint legal custody means both parents have equal rights and responsibilities for major decisions concerning the child. Joint physical custody means the child has substantially similar time and contact with both parents. The court may order joint legal custody, joint physical custody, or both.

15. What are our child support obligations?

In the District of Columbia, parents must support their children generally until a child reaches 18. Typically, the non-custodial parent must pay a reasonable amount to the custodial parent to assist with living expenses. Child support may also include payment for health insurance, medical and dental fees, and life insurance. Courts rely on child support guidelines (District of Columbia Code section 16-916.01) to calculate the appropriate amount of child support. The amount is based on the time the non-custodial parent spends with the children, the ages of the children, daycare costs, medical costs, education costs, significant income or debt of either parent, and obligations to another household. The guidelines are revised frequently. Each parent is required to prepare a worksheet, setting out his or her financial circumstances.

If you wish to know more about your legal rights, please contact us at RLSONDWLEGALASSISTANCE@navy.mil.

STEPS FOR SERVICE MEMBERS TO TERMINATE TENANCY IN VIRGINIA – *Mr. Kenneth Hagans, Esq.*

Under section 55.1-1235 of the Virginia Residential Landlord Tenant Act (VRLTA), any member of the Armed Forces of the United States or a member of the National Guard may terminate their rental agreement if the member has (1) has received permanent change of station orders to depart 35 miles or more (radius) from the location of the dwelling unit, (2) has received temporary duty orders in excess of three months' duration to depart 35 miles or more (radius) from the location of the dwelling unit, (3) is discharged or released from active duty with the Armed Forces of the United States or from his full-time duty or technician status with the National Guard, or (4) is ordered to report to government-supplied quarters resulting in the forfeiture of basic allowance for quarters.

If the service member fits into one of the four categories above, they are required to give their landlord written notice of termination to be effective on a date not less than 30 days after the first date on which the next rental payment is due. For example, if a service member was in a residential lease agreement and the lease term was October 1, 2020 to September 30, 2021, and they received PCS orders on February 2, 2021, to deploy on February 14, 2021, the service member should immediately inform their landlord in writing of their intent to terminate the lease. Their lease would terminate on March 31, 2021. Even if the service member vacates the property on February 14th, the member is still responsible for March's rent.

**Steps for
Service
Members to
Terminate
Tenancy in
Virginia**

The Advocate

The VRLTA allows a service member to terminate their lease up to 60 days prior to the date of departure necessary to comply with the official orders or any supplemental instructions for interim training or duty prior to the transfer. For example, under a 12-month lease that runs from January 1st to December 31st; in March, the member receives PCS orders for September 1st, a departure date of August 1st, which allows for three weeks of interim training. The earliest the lease could be terminated is June 2nd, which would be 60 days before the date of departure.

Steps for Service Members to Terminate Tenancy in Virginia (cont.)

Prior to the termination date in both examples, the service member is required to furnish the landlord with a copy of the official notification of the orders or a signed letter confirming the orders from the service member's commanding officer. Thereafter, the tenant is not responsible for the remainder of the rent in the lease term.

Not all Virginia lease agreements are subject to the VRLTA. If the lease states that it is not subject to the VRLTA, then common law and basic contract law will generally apply to its provisions. However, if the lease does not have a military clause then the service member can still exercise their right to terminate the lease early if they receive PCS orders or military orders to deploy for a period of 180 days or more under the Servicemembers Civil Relief Act 50 U.S.C App. Sec. 535. Under the SCRA, the service member is required to give their landlord written notice of termination and a copy of their military orders.

When a service member vacates the property, their landlord is required to return their security deposit no later than 45 days after the lease termination date. In 2014, Virginia law removed the requirement that interest accrue on security deposits in an account held by landlords (unless otherwise agreed in writing).

SOCIAL SECURITY – COLLECTION OF PAYROLL TAX DEFERRAL

- *Provided by DFAS*

Social Security - Collection of Payroll Tax Deferral

Pursuant to IRS Notice 2020-65 and at the direction of the Office of Management and Budget And Office of Personal Management, Social Security (Old Age, Survivors, and Disability Insurance) or "OASDI" tax withholdings were temporarily deferred from September through December 2020. Those deferred withholdings will be collected from wages paid between **January and December 31, 2021**, for those Service Members with a monthly rate of basic pay of less than \$8,666.66. For civilians, those deferred withholdings will be collected from wages paid between **January and December 31, 2021**, for employees who had wages subject to OASDI of less than \$4,000 in any given pay period. These actions were in response to the Presidential Memorandum issued on August 8, 2020.

Per IRS guidance (as modified by the Consolidated Appropriations Act, 2021), the deferred taxes from your wages between January and December 2021.

The Advocate

**Social Security –
Collection of
Payroll Tax
Deferral
(cont.)**

- For **active duty military members**, the total amount of 2020 deferred Social Security taxes will be collected in **24 installments**, out of your mid-month and end-of-month pay between January and December 30, 2021.
- For **reservists and guardsmen** performing intermittent duty in 2021, the amount collected may not be the same every pay period. DFAS will collect **2% of net available pay** from each weekly, mid-month, and end-of-month pay, and will continue until the deferred taxes have been repaid in full.
- For **civilians**, the total 2020 deferred taxes will be collected in **24 installments** between pay-period ending **January 16 and December 4, 2021**.
 - o Beginning in January 2021, your myPay LES Remarks section will include the 2020 deferred collection amount as well as your remaining balance to be collected.
 - o The amount of OASDI deferred in 2020 can be calculated using your final 2020 LES and subtracting the OASDI year-to-date (deductions tab) from the OASDI year-to-date (benefits tab).

If you separate or retire in 2021, before the deferred Social Security tax is collected in full, you are still responsible for the remainder of your Social Security tax repayment.

- The unpaid balance will be collected from your final pay. If there are insufficient funds to collect the full amount, you may receive a debt letter with instructions for repayment.

If you have questions on the collection process:

- Visit the DFAS page: <https://www.dfas/mil/taxes/Social-Security-Deferral>
- Visit the IRS page:
 - o Tax deferral Implementation: <https://www.irs.gov/newsroom/guidance-issued-to-implement-presidential-memorandum-deferring-certain-employee-social-security-tax-withholding>
 - o W-2 Reporting: <https://www.ird.gov/forms-pubs/form-w-2-reporting-of-employee-social-security-tax-deferred-under-notice-2020-65>

For more information on financial readiness and the impacts of the payroll deferral:

- Service members and retirees may contact your nearest installation Military and Family Support Center.
- Service members and new retirees may Contact Military One Source at 1-800-342-9647 or visit <https://militaryonesource.mil> for financial counseling and tax consultation support up to 365 days post separation and retirement.
- Civilians should consult with a private financial advisor.

VITA TAX CENTERS – Mr. Michael Sherrill

The following Legal Assistance offices will be providing VITA Tax Services for the 2020 tax filing season:

FORT BELVOIR TAX CENTER

9990 Belvoir Drive # 257

Fort Belvoir, VA 22060

(703) 805-8736

- From 11 Feb – 15 Apr, Tuesday thru Thursday, 0900-1500
- Please call for an appointment.

JOINT BASE MYERS-HENDERSON HALL TAX CENTER

101 Bluxon Street, Bldg. 205,

Fort Myer, VA 22211

(703) 696-1040

- Please call for an appointment.

FORT MEADE TAX CENTER

4217 Roberts Avenue

Fort Meade, MD 20755

(301) 677-9366

- Please call for an appointment.

Additional services available:

- **MILITARY ONE SOURCE: FREE TAX SERVICE FOR MILITARY.**
- Call 1-800-342-9647. MilTax is here to support you in navigating the 2020 tax filing season. Their free e-filing software is now available to service members and their families. Talk with MilTax consultants who understand military life.

RLSO NDW LEADERSHIP

COMMANDING OFFICER:

CAPT Jon M. McLeod

EXECUTIVE OFFICER:

CDR Sara DeGroot

SENIOR ENLISTED LEADER:

LNCS Bonnie Vermillion

COMMAND SERVICES DEPARTMENT HEAD:

LCDR Stephen Buckley

TRIAL DEPARTMENT HEAD:

LCDR Christopher T. Cox

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