


Why You Should Review This Slideshow Very **CAREFULLY**

- The Client Services Division (CSD) referred you to this slideshow because information you provided indicated you had questions about family law. This slideshow is specifically designed to answer most general family law questions. We do not have the resources to dedicate an individual attorney appointment to discuss information the customer can learn for themselves by reviewing this brief.
- You will not be eligible for an appointment with a CSD attorney to discuss general family law questions until you review the information in this slideshow. If you carefully review the information provided, most of your questions will be addressed. If you have questions not covered by this brief, you can make an appointment with a CSD attorney by following the instructions on the next slide.

You MUST Read the Notes Portion of the Slides

- To get the full benefit of this slideshow, you must read the notes portion of the slides. You'll see an icon that looks like this  in the top left of the page. Scroll over or double click on the icon and read the notes for the slide
- You will want to read all the notes carefully.
 - Within the notes, there are three “codes”, labeled Appointment Codes.
 - If you call the CSD for a family law appointment, you must provide these codes to CSD personnel before an appointment will be scheduled. It is “proof” you reviewed the slides.
- We realize that just because you are able to tell us the codes doesn't mean you took the time to read and understand the information, but it will be an indication you did take some amount of time to review the slideshow.



DIY LEGAL ASSISTANCE

Family Law

**Fort Lee Office of the Staff Judge Advocate
Client Services Division**



Family Law

Separation and Divorce Overview



Initial Questions

- When can I file for divorce?
- Where do I file?
- How long does the process take?



When Can I File?

- Not immediately
- Not soon, probably
- Not all the same - Depends on state



When Can I File?

VA – 1 yr (kids), 6 mos (no kids & Sep Agmt)

NC – 1 year separation

TX – 60 days (if wife not pregnant)

FL – 30 days (sometimes)

CA – 6 months waiting period

NY – 1 year



Where Can I File?

- Where you live
- Where your spouse lives
- Military spouse's HOR
- Must qualify as state resident



Before Divorce

- Separation Agreement
- Interim Custody and Support
- Army Support Requirements



Separation Agreement

SA = Contract

- Custody and visitation
- Child support
- Spousal support
- Retirement
- Property
- Debts



Child Custody

Legal Custody = Care, control, decisions

- Usually joint unless one parent is unfit

Physical Custody = where child lives

- Usually one custodial parent



Visitation - Flexible

- No specific schedule
- Best when parents are on good terms and live close to each other
- Circumstances often change, may require going back to court



Visitation - Specific

- Guaranteed minimum protections
- Still allows for flexibility
- Set visitation schedule

Weekdays

Weekends

Holidays

Summers

- Travel arrangements



Visitation – SM Considerations

- Deployment
- Military duties may prevent visitation
- Child care



Child Support

- State specific calculation and factors
- Separation agreement: Couple decides, judge may reject if too low
- Filing in Virginia Court - Represent yourself or Hire an Attorney



VA Support Calculation

Guidelines based on:

- Gross income of parents
- Number of minor children
- Amount of time children are with each parent



VA Support Calculation

Court will also consider:

- Health care premiums
- Child care expenses
- Child support currently paid for children from prior relationships
- Support paid to prior spouse



Virginia Child Support

- Virginia requires support until age 18 or 19 is still in high school
- Parties can agree for support beyond high school
- Continuing support for disabled children
- TIP: Life insurance on paying spouse



Spousal Support or Alimony

- Must be addressed **PRIOR** to divorce or it is **GONE**
- Difficult to get in Virginia
- Strongly advised to hire an attorney



Spousal Support

How Much and How Long?

Separation Agreement: Couple decides

VA Court Ordered: Case by case basis

- Length of marriage
- Income & expenses of each spouse
- Earning potential of each spouse
- Standard of living during the marriage



Spousal Support

How Much and How Long?

- Adultery: Party who committed adultery not likely to receive spousal support
- Must PROVE Adultery
 - Court will have to decide
 - Civilian attorney



Division of Property

- Can be addressed in separation agreement or by court order
- Separate v. marital property
- Need to specify which spouse is keeping jointly held assets



Vehicles

- Both on title? Both on loan? Neither?
- Can agree to any division, BUT keep in mind who pays, who insures, etc.
- Divorce does NOT terminate duty to pay the loan or liability as a co-owner



Houses and Land

- Was the home purchased during marriage?
- Does one spouse want to remain in home?
- Should it be sold?
- Divorce does NOT terminate duty to pay the loan or liability as a co-owner



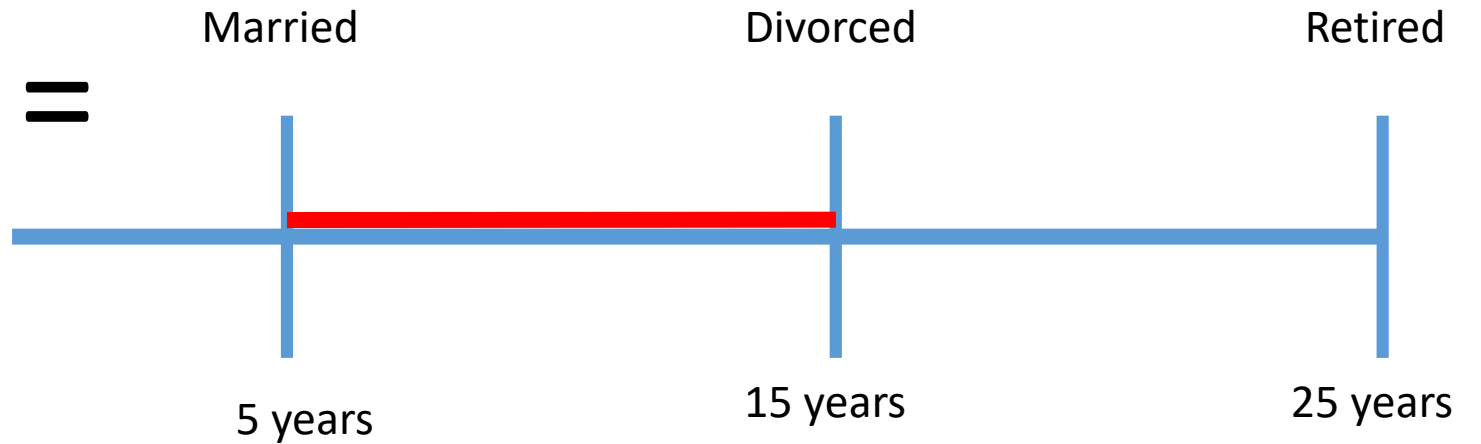


Retirement Pay

- Divisible asset – both parties
- Up to half – how much overlap between marriage and career?
- **MUST** be divided at divorce

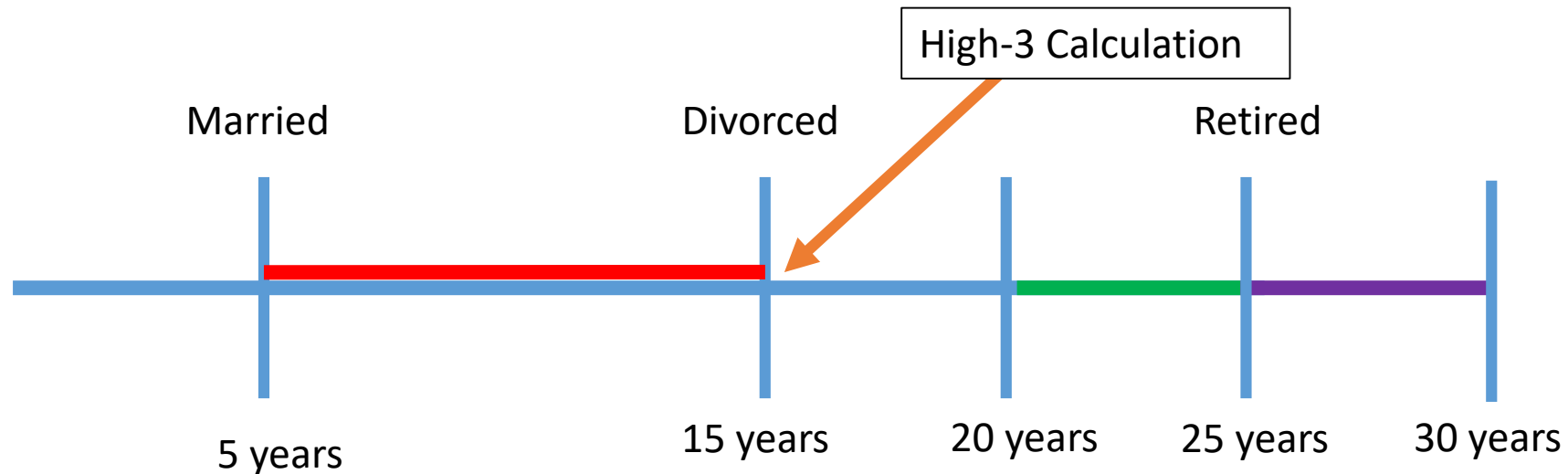


- 25 year career, 10 years overlap
- Spouse contributed to 10 yrs of the 25 yr career ($10/25 = 40\%$)
- Spouse has a 50% interest in 40% of the pension
- 50% of 40% = 20% share of pension





- Division of military retired pay uses SM's High-3 base pay at divorce
- 20 yrs - $\$4,000 \times 25\% = \$1,000$
- 25 yrs - $\$4,000 \times 20\% = \800
- 30 yrs - $\$4,000 \times 16.7\% = \668





Military Retirement Pay

- Disposable Retirement Pay
- Myth: Marriage must overlap with 10 years
- 10 year overlap required for direct payment from DFAS



Retirement Pay – Other Considerations

- Parties can agree to +/- or waive
- Court can/will decide
- Get help
- Identify all sources

Tricare



- Spouses are eligible to stay on Servicemember's insurance until divorce
- 20/20/20 = TRICARE FOR LIFE
- 20/20/15 = 1 year following divorce



Debts

- Any purchase can create debt
- Community vs. equitable property state
- Joint accounts and joint titling



NO Separation Agreement

Is there still an obligation to support?

Yes/Maybe

- Children – always (JDR & AR 608-99)
- Spouse – maybe (JDR or AR 608-99)



AR 608-99 Overview

- Requires Soldiers to provide financial support to family members
- Amount to be paid is based on SM's and BAH II (with dependents) based on rank
- Soldiers can be punished for failure to obey the regulation



Juvenile & Domestic Relations Court (JDR)

When to go to JDR?

- Spousal support – Before divorce
- All child issues – at any time



JDR Court Services

- Intake Officer at Court Services Unit
- Provide financials and spouse address



How to File for Divorce

Complaint for Divorce

- Reasons for divorce

Notice



How Do I Respond?

Answer

- Agree = Uncontested, waive future service
- Disagree = Contested, continued notice/service



Who Is Going To File?

Civilian Attorney

You pay out of pocket - \$\$\$\$\$\$

DIY – Pro Se

Depends on state

VA - www.valegalaid.org/

(Answer “No” to military question)



ELAP

Expanded Legal Assistance Program

- Soldier only
- Uncontested, apply after signed SA
- Need based
- You pay court filing fee
- Subject to office resources



For More Information

If you still have questions about a particular family law matter, you can call the Client Services Division at 804 765 1500.