



## FORT SILL LEGAL ASSISTANCE



# INVOLUNTARY ALLOTMENTS AND GARNISHMENTS

## INVOLUNTARY ALLOTMENTS

Involutary allotments only apply to Soldiers. Civilian employees and retirees cannot be assessed an involutary allotment. Involutary allotments are frequently imposed for child support obligations and debt.

### **Commercial Credit Obligations**

In order to obtain an involutary allotment against a Soldier, creditors must first obtain a final judgment from a court of competent jurisdiction. The party must next file an involutary allotment application (DA 2653) with DFAS and include a certified copy of the court order. The involutary allotment application must include a certification that the creditor complied with the Servicemembers Civil Relief Act. DFAS will review the application then forward it to the Soldier's commander. Within five days of receiving the package, the commander must notify the member of the action and inform the member of the right to either consent or contest the involutary allotment.

### **Support Obligations**

Involutary allotments for child support, or child support coupled with alimony, take precedence over those other creditors. Involutary allotments are not available for spousal support alone. The party requesting an involutary allotment 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 the obligation to satisfy just debts, the Soldier has 15 days to respond to the involutary allotment application. The commander may extend the Soldier's time to respond for good cause. Under normal circumstances, these extensions will not exceed 30 days. The Soldier should make an appointment with the Legal Assistance Office for assistance in responding.

*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 Servicemembers Civil Relief Act;
  - The creditor's application is false;
  - The debt or 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 involutary allotment.

## **GARNISHMENTS**

Garnishment generally applies to civilian employees only, not to Soldiers or retirees. However, Soldier and retiree 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. Soldiers are encouraged to seek legal counsel for assistance in contesting garnishments.

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**This Information Paper provides only basic information and is not intended to serve as a substitute for personal consultation with a Legal Assistance Attorney. To schedule an appointment with a Legal Assistance Attorney, please contact the Legal Assistance Office at (580) 442-5058. The Fort Sill Legal Assistance Office is located on the 4th Floor of Building 4700 (Welcome Center) at 4700 Mow-Way Road, Fort Sill, Oklahoma 73503.**