

Hold the Lawyer Jokes!

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6.0 – Military Service and Tax law

Had Shakespeare been a military Reservist called to active duty, he would have never penned the infamous phrase from *Henry VI*: “The first thing we do, let’s kill all the lawyers.” Because, for the last 50 years, military lawyers have been providing quality legal assistance to military personnel on matters ranging from purchasing a car to renting an apartment, buying a home, paying taxes, divorce or writing a will. Virtually any legal issue can be brought to a judge advocate—a military attorney graduated from an accredited law school and licensed to practice law by the highest court of one of the 50 states—who can assist the service member in resolving the matter. Free of charge.

Particular attention is paid to service members who are mobilized and preparing for deployment. In those circumstances, legal assistance attorneys are particularly adept at addressing the host of legal concerns that a deploying service member faces, including drafting wills and powers of attorney or enhancing the benefits of the Servicemembers Civil Relief Act. (SCRA). Indeed, the overarching mission of military legal assistance is to maximize the “operational readiness” of a unit by allowing service members to focus on their duties—not personal concerns half a world away.

The authority for military legal assistance is set forth by federal statute and regulation. Title 10 U.S.C. Section 1044 provides an expansive definition of who rates legal assistance but, like commissary or exchange privileges, if you hold a military identification card, chances are that you will receive assistance—priority, of course, going to active-duty members. Retirees? Yes. Dependents? Yes. Including minor children? Yes. Reservists called for duty? Yes. Just like a civilian law firm, however, legal assistance offices must always be mindful of conflict of interest issues. In other words, an Active Duty member going through a divorce will not receive assistance from the same office as his or her spouse.

Thanks to the Internet, locating a legal assistance office in your area is a simple thing to do. With input from all the services, the Air Force recently established a terrific, user-friendly locator at the following Web address: <https://legalassistance.law.af.mil/>. Just punch in your ZIP

¹I invite the reader’s attention to www.roa.org/lawcenter. You will find more than 2000 “Law Review” articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about very specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997.

code and the locator will give the locations of the closest legal assistance offices in your area, including the distance in miles from where you are. One frequent question is: Must a sailor, for example, go to a Navy legal assistance office? Answer: No. In popular parlance, all legal assistance offices are “purple”—that is, you may receive assistance from any of the services.

What about the legal assistance attorneys? Are they *really* attorneys? Absolutely! Legal assistance attorneys are all graduates of accredited law schools—some from the best law schools in the country—and all licensed to practice law. What’s more, all attorneys receive specialized training in legal assistance at their judge advocate training schools and attend annual conferences to ensure that they remain current on legal developments. Significantly, many legal assistance offices also employ civilian, government service attorneys who are licensed to practice law in the state where the office is located. These attorneys, most of whom have prior military *and* civilian experience, bring a wealth of local, practical knowledge to the office.

There are limits, of course, to what a legal assistance attorney can do. Generally, legal assistance attorneys do not provide in-court representation, although there is a burgeoning Extended Legal Assistance Program (ELAP) where, under limited circumstances, a service member can receive in-court counsel. Nor can a service member receive assistance on a personal business interest or assistance brought through a third-party—a relative or friend for example. The attorney must deal directly with the client and, for confidentiality reasons, advice will not be dispensed over the phone, absent unusual circumstances. Finally, legal assistance attorneys deal in civil, not criminal matters. A service member involved in a civilian criminal matter is in need of local civilian counsel, not a military legal assistance attorney.

Indeed, the legal assistance attorney who knows and recognizes the limits of military legal assistance is the most beneficial to his or her client. That is why almost any legal issue can at least be *presented* to legal assistance attorneys; if they can’t help you, they will refer you to someone who can. In fact, because every case has the potential to expand beyond the limit of legal services provided, legal assistance attorneys are trained to recognize the types of cases that would require the assistance of a civilian lawyer.

But that is not to suggest that military legal assistance attorneys shy away from complicated issues. Take taxes, for example. Although military tax programs vary by service and location, most sites have personnel who are H&R Block–certified and have spent literally years filing tax returns for privates and generals alike. It’s a safe bet that if you have a complex tax issue, someone has seen it before. “I had a client once,” said Francisa Rojo, head of the Marine Corps tax program and a 16-year tax veteran, “a general officer, who had eight rental properties, four K-1 corporations, and numerous stock sales. It took some effort, but we handled his return without a hitch.”

A great indication of the lengths military legal assistance is willing to go for their clients is the recent development of Alternative Dispute Resolution (ADR) programs that each of the services has created. Sadly, divorce is rife in the military, as in society. And, because in most cases legal

assistance attorneys can't provide in-court counsel, situations often arise where the parties can't come to terms and must hire civilian attorneys and "head to court." Under the ADR programs, the parties have a means—at no cost to them—to sit down with a trained, civilian mediator who can assist them in coming to terms for an amicable separation. (ADR is not limited to divorce. Landlord/tenant issues, leases, or small contract disputes are other common ADR cases.)

Another recent hot topic is immigration. There, too, almost all legal assistance offices have an immigration specialist who can shepherd a service member through the naturalization requirements and provide direct support to those members of the armed forces who are seeking citizenship. In short, military legal assistance is an invaluable asset to military personnel that provides tangible, competent legal counsel on a wide array of legal matters, all at a great price. Surely if Shakespeare had another chance, he would write: "The first thing we do, let's go see legal assistance."