

THE LEGAL ASSISTANCE OFFICES OF  
III CORPS, 1<sup>ST</sup> CAVALRY DIVISION, 4<sup>TH</sup> INFANTRY DIVISION  
(MECHANIZED)  
FORT HOOD, TEXAS 76544

**SUPPORT OF DEPENDENTS**

**Purpose:** Soldiers are expected to provide adequate and continuous support to their family members. Army Regulation 608-99, "Family Support, Child Custody, and Paternity," sets out the Army's policy regarding support and the procedures to follow when a soldier is not paying support. Army Regulation 608-99 creates a temporary support requirement that applies only in the absence of a court order or an agreement between the parties.

**I. SUPPORT OF DEPENDENTS**

A. **Responsibilities** - Soldiers are required to manage their personal affairs in a manner that does not discredit them or the Army. This responsibility includes maintaining reasonable contact with family members so that their financial needs and welfare do not become official matters of concern for the Army. Soldiers are to conduct themselves in an honorable manner with regard to parental commitments and responsibilities. They must provide adequate financial support to their family members and comply with all court orders. Commanders and their staffs have a responsibility to ensure that soldiers fulfill these responsibilities in accordance with Army Regulation 608-99.

B. **Family Member** - Under Army Regulation 608-99, a family member includes any of the following:

1. A soldier's present spouse.
2. Minor children from a present marriage.
3. One or more children from a prior marriage for whom the soldier is required to provide financial support.
4. One or more children born out of wedlock from a prior relationship for whom a soldier is required to provide financial support.
5. Any other person for whom the soldier is obligated to support under applicable state law.
6. **NOT** a former spouse.

**II. COURT ORDERS**

A. Soldiers will comply with the financial support provisions of all court orders. Commanders will order a soldier to comply with the court order if he or she is not complying with its requirements.

B. The amount of support set out in the court order is the amount the soldier must pay.

C. Army Regulation 608-99 does not override a court order.

D. A court order supersedes all previous written or oral agreements and can only be modified by a court.

E. Commanders will consult their Staff Judge Advocate if the court order appears to have been issued without proper jurisdiction over the soldier. If the court did not have proper jurisdiction, the battalion commander may release the soldier from the obligation of such a court order.

**III. ARMY REGULATION 608-99**

### A. Written Support Agreements

1. A written support agreement is any written document signed by the parties that evidences an agreement to provide financial support. Such agreements may include a separation agreement or property settlement agreement, a statement signed by both parties, or even a series of signed letters between the parties.

2. The amount of support specified in the agreement controls the amount of support the soldier is required to pay.

**B. Oral Agreements** - It is not the Army's policy to get involved in disputes over the terms or enforcement of oral financial support agreements. Where an oral agreement exists and is being followed, the Army will not interfere. When a dispute arises, the commander will order the soldier to comply with the provisions of paragraph 2-6 of Army Regulation 608-99.

### C. Regulatory Support Requirements

1. The Army's regulatory support requirements apply in the absence of a court order, a written financial support agreement, or an undisputed oral agreement containing a financial support provision. The requirements are set out in paragraph 2-6 of Army Regulation 608-99.

#### 2. Single Family Situations.

a. *Single-family unit living in Government quarters (civilian spouse):* a soldier is not required to provide financial support to family members who are living in Government housing.

b. *Single-family unit living off-post (civilian spouse):* a soldier must pay the full amount of his or her BAH II-WITH rate for the soldier's pay grade.

3. Multiple Family Situations. The rules become more complicated when multiple family units are involved. "Multiple families" include a situation when a servicemember has include children from a previous marriage, as well as a current spouse and children from a present marriage.

a. *Financial support by court order or agreement:* a soldier will provide financial support to family members as required by either an existing court order or financial support agreement.

b. *Dependents living on-post:* a soldier is not required to pay support to family members living in Government quarters, unless required to do so by either an existing court order or financial support agreement.

c. *Dependents living off-post:* a soldier will provide a pro-rata share of the BAH II-WITH rate to each family member. The pro-rata share is determined using the following equation:

$$\text{pro-rata share} = (1 \div \text{total number of supported family members}) \times \text{soldier's BAH II-WITH rate}$$

#### 4. Military Couple Situations.

a. If there are no children, neither spouse has an obligation to provide support to the other.

b. If there are children of the present marriage, or a prior marriage, and all are in the custody of one of the spouses and not living in Government quarters, the non-custodial spouse pays support equal to his or her BAH-DIFF rate.

c. If the soldier does not have custody and the children live in Government quarters, the soldier is not required to provide financial support to the spouse with custody.

d. If each spouse has custody of one or more children, neither spouse is required to provide support for the child or children in the custody of the other spouse.

5. Illegitimate Child.

a. Female Soldiers: A female soldier with an illegitimate child is required to provide support as dictated by a court order or the support requirements in Army Regulation 608-99.

b. Male Soldiers: A male soldier is required to pay support to an illegitimate child if there is a court order establishing paternity, **or** there is the functional equivalent of a court order identifying the soldier as the father under the applicable state law.

6. No BAH Paid - A soldier is obligated to pay support even if he or she is not receiving any BAH. Additionally, a soldier is required to pay the amount of support required under Army Regulation 608-99 even if that amount is more than the BAH for the soldier's geographic duty location.

#### IV. ENFORCEMENT

A. **Chain of Command** - The ultimate responsibility to ensure that a soldier is complying with his or her support obligations falls on the soldier's chain of command. Only the commander can order a soldier to comply with the regulation. For this reason, you need to contact the soldier's chain of command if there is a problem with support payments. The soldier's company commander or First Sergeant is the place to start. You can call the commander, visit the commander in person, or write a letter. When making a complaint, be as specific as possible so the commander has enough information to start his investigation.

B. **Legal Assistance Office** - If you are dissatisfied with the commander's response or the soldier continues to disregard his or her obligations, you should contact the Legal Assistance Office. The Legal Assistance Attorney will contact the soldier's chain of command on your behalf. If the support obligation is not settled, the matter may be brought to the next higher commander in the chain of command.

C. **Inspector General's Office** - A complaint may also be filed with the Inspector General's (IG's) Office. The IG is the Army's "watchdog." Their job is to ensure that soldiers and commanders comply with Army regulations. The IG can contact the chain of command and ensure the provisions of the support regulation are being followed.

D. **Military Obligation** - A soldier cannot be forced to pay support. Army Regulation 608-99 does not authorize the Army to withhold wages from a soldier who fails to pay support. However, Army Regulation 608-99 is punitive. Commanders will take appropriate actions against soldiers who fail to comply with this regulation or lawful orders issued based on this regulation. These actions include, but are not limited to, the following:

1. Counseling.
2. Memorandum of reprimand filed in the soldier's record.
3. Bar to reenlistment.
4. Administrative separation from the service.
5. Nonjudicial punishment under the Uniform Code of Military Justice (Article 15).

## 6. Court-martial.

E. **Back Support** – A soldier is required to begin making support payments under the regulation on the first day of the month following the date on which the parties cease living together. Punishment for failing to provide support is based on the failure to provide financial support when due, not for the failure to pay back support. However, soldiers should be encouraged to pay back support.

F. **Court Order** – A commander may order a soldier to pay support only if there is a court order.

### G. Release From Requirements

1. A battalion commander may release a soldier from support requirements under Army Regulation 608-99 only in the following circumstances:

- a. The court issuing the support order clearly lacked jurisdiction
- b. The court order does not contain any language addressing the issue of support
- c. The income of the spouse exceeds the income of the soldier. This exception only releases the soldier from the obligation to pay spousal support, not child support.
- d. The soldier has been the victim of a documented case of physical abuse. This exception only releases the soldier from the obligation to pay spousal support.
- e. The supported family member is in jail.
- f. The soldier and spouse have been separated for 18 months and the soldier has been providing support for the entire 18 months.
- g. The supported child is in the custody of another who is not the lawful custodian.

2. The Special Court-Martial Convening Authority (SPCMCA) may also release a soldier from the regulatory requirements to provide spousal support as a matter of “fundamental fairness.” The SPCMCA may grant any of the following forms of relief:

- a. A release from the total support requirement.
- b. A reduction in the amount of the soldier’s monthly support requirement.
- c. A credit towards the regulatory support requirement.
- d. Does **NOT** apply to child support.

FOR ADDITIONAL INFORMATION CONTACT YOUR SERVICING LEGAL ASSISTANCE  
OFFICE: III Corps, Building 1001, Room C224, 287-7901/3199; 1<sup>st</sup> Cavalry Division, Building 28000,  
Room 1155, 287-6060; 4<sup>th</sup> Infantry Division (Mech), Building 410, Room 175, 287-1850.