

Department of the Army, DoD

§ 584.9

(i) Violating the minimum support requirements of this regulation.

(ii) Submitting a fraudulent claim for BAQ based on false information.

(c) *Forfeiture of BAQ.* Forfeiture of the “with dependents” portion of BAQ does not relieve the soldier of the obligation to support family members as set up in this regulation.

(d) BAQ entitlements versus Army minimum support requirements Terms for entitlements to BAQ are set forth in DODPM, part 3, chapter 2. Except as provided in this regulation, BAQ entitlements have no relationship to Army minimum support requirements.

§ 584.8 Garnishment.

(a) *General.* (1) Pub. L. 93-647 (42 U.S.C. 659) permits garnishment, attachment, or assignment of Federal wages and retirement payments to enforce court-ordered child support and alimony obligations that are in arrears. It includes foreign court orders when—

(i) Required by treaty or international agreement. (A soldier is subject to garnishment for child support issued by the FRG only while physically stationed in Germany.)

(ii) Recognized by a court of competent jurisdiction. Applicable State laws govern legal procedures to be used by complainants. Jurisdictional or procedural challenges to garnishment actions remain the responsibility of individual members.

(2) In the absence of State law more favorable to the soldier, 15 U.S.C. 1673 limits the amount of pay that can be garnished as follows:

(i) Fifty percent of disposable pay when a soldier is supporting a spouse or dependent child who is not the subject of the support order. (See § 584.8(a)(3) for an explanation of disposable pay.)

(ii) Sixty percent of disposable pay when a soldier is not supporting such spouse or dependent child.

(iii) An additional 5 percent in each of the above cases if payments are more than 12 weeks overdue.

(3) The items of pay listed in § 584.8(a)(3)(i) are subject to garnishment except for amounts deducted for the items listed in § 584.8(a)(3)(ii).

(i) Items of pay and bonus subject to garnishment.

(A) Basic pay.

(B) Special pay (including enlistment and reenlistment bonuses).

(C) Incentive pay.

(D) Inactive duty training pay.

(E) Academy officials pay (except personal money allowances).

(F) Accrued leave payments (basic pay portion only).

(G) Retired and retainer pay.

(H) Lump-sum Reserve bonus.

(I) Separation payments (readjustment pay and severance pay).

(ii) Deductions not subject to garnishment.

(A) Federal income tax withholding.

(B) State income tax withholding.

(C) Servicemen's Group Life Insurance.

(D) Social Security taxes (Federal Insurance Contributions Act).

(E) United States Soldier's and Airmen's Home.

(F) Survivor Benefit Plan.

(G) Retired Servicemen's Family Protection Plan.

(H) Indebtedness to the United States and delinquent Federal taxes.

(I) Fines and forfeitures ordered by a court-martial or commander.

(b) *USAFAC procedures.* The USAFAC will process most garnishment orders. Unless the order is contrary to Federal law or the laws of the jurisdiction from which it was issued, the soldier's pay will be garnished per the court order. Garnishment orders will be sent by certified or registered mail to the Commander, USAFAC, ATTN: FINCL-G, Indianapolis, IN 46249-0160. However, all legal process issued by German courts will be processed under DODPM, section 70710, when the soldier is stationed in the FRG. The documents must expressly state they pertain to child support or alimony. Also, the name and social security number (SSN) of the soldier must be included. The submission of a divorce decree or support order alone is not enough, as a garnishment order is required.

§ 584.9 Involuntary allotments.

(a) *General.* Pub. L. 97-248 (42 U.S.C. 665) permits involuntary allotments from pay and allowances of soldiers on

active duty as child, or child and spousal, support payments when—

(1) The soldier has failed to make payments under a court order for 2 months or in a total amount equal to or in excess of the support obligations for 2 months.

(2) Failure to make such payments is established by notice from an authorized person to the Commander, USAFAC, ATTN: FINCL-G, Indianapolis, IN 46249-0160. An authorized person is—

(i) Any agent or attorney of any State having in effect a plan approved under part D of title IV of the Social Security Act (42 U.S.C. 651-664), who has the duty or authority under the plan to seek recovery of any amounts owed as child or child and spousal support (including, when authorized under a State plan, any official of a political subdivision).

(ii) A court or agent of the court that has authority to issue an order against the soldier for the support and maintenance of a child.

(3) Such notice must give the soldier's full name and SSN. Also, it must list the name and address of the person to whom the allotment is payable. The amount of the allotment will be the amount needed to comply with the support order. The allotment may include arrearages as well as amounts for current support if provided for in the support order. A copy of this must be included with the notice. If proper, a statement must be included that the support allotment qualifies for the additional 5 percent in excess of the maximum percentage limitations. These limitations are prescribed in 15 U.S.C. 1673. Also, a copy of the underlying support order must be included with the notice. An allotment under this provision will be adjusted or discontinued only upon notice from an authorized person.

(b) *Procedures.* No action will be taken to set up an allotment until the soldier has the chance to consult a legal assistance attorney. The purpose of the meeting is to discuss the legal and other factors involved with respect to the soldier's support obligation and failure to make payments. If the soldier has not consulted with legal counsel, the allotment will start the first

end-of-month payday after 30 days have elapsed since notice was given to the affected soldier.

APPENDIX A TO PART 584—REFERENCE

Section I—Required Publications

- AR 340-17
Release of Information and Records from Army Files. (Cited in §584.1(f)(2).)
- AR 340-21
The Army Privacy Program. (Cited in §584.1(f)(2).)
- AR 600-37
Unfavorable Information. (Cited in §§584.1(d)(5)(viii)(B) and 584.2(1)(5).)
- AR 640-3
Identification Cards, Tags, and Badges. (Cited in §§584.2(1)(1)(v) and 584.3(c)(3)(v).)
- Misc Pub 13-1
DOD Military Pay and Allowances Entitlements Manual. (Cited In §§584.7a, 584.7(d) and 584.8(b).)
- Uniform Code of Military Justice
(Cited In §§584.1(d)(5), 584.2(g)(4)(ii), 584.2(1)(2)(v)(B), and 584.3(b)(1)(ii).)

Section II—Related Publications

A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

- AR 11-2
Internal Control Systems
- AR 20-1
Inspector General Activities and Procedures
- AR 140-1
Mission, Organization, and Training
- AR 340-2
Maintenance and Disposition of Records for TOE Units and Certain Other Units of the Army.
- AR 340-18
The Army Functional Files System
- AR 600-240
Marriage in Oversea Commands
- AR 601-280
Army Reenlistment Program
- AR 608-3
Naturalization and Citizenship of Military Personnel and Dependents
- AR 608-61
Application for Authorization to Marry Outside of the United States
- AR 635-100
Officer Personnel (Separations)
- AR 635-200
Enlisted Personnel (Separations)
- Misc Pub 8-1
Joint Travel Regulations, Volume 1: Members of the Uniformed Services

Section III—Prescribed Forms

- DA Form 5459-R