

Standard Military Forms vs. Unique Specialized Forms

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Standard Military Forms vs. Unique Specialized Forms

The military legal assistance programs for all services offer standardized forms to military personnel and their families. These programs are regularly updated and are designed to meet the requirements of all 50 states, but they are not designed to address unique family situations. So, what are the pros and cons of these military forms?

1. Pros of Standard Military Forms:

- Readily available from Military Judge Advocate Offices
- Generated for all deployments and special missions
- Military attorneys who understand the uniqueness of military needs
- Understood by military communities

2. Cons of Standard Military Forms:

- Often done "on the fly" without much forethought
- Fail to address unique needs of families (e.g., special needs children; blended families; assets in multiple states, etc.)
- Failure to choose the right person. Is that designated person able to provide the required services and available to do so?
- Intended to cover "most" general needs

So, what are the benefits and negatives of military personnel having private attorneys create unique, specialized estate plans designed to meet their family needs?

1. Pros of Specialized Instruments:

- Specific solutions to meet the unique needs of each military family's personal and financial situation
- Intended to cover and meet all "what if" situations that might arise

- More likely to be understood and accepted by local communities
 - Require both spouses to be involved in the planning process
2. Cons of Specialized Instruments
- Not immediately available - attorneys may require two or more meetings to evaluate the situation and identify the appropriate strategies to be implemented, then they need time to prepare the documents, to review them and to prepare them for the final signing, and then finally schedule their final execution
 - There is a personal financial cost to be paid for this level of planning
 - It requires more time and effort on the part of the clients—they need to do their homework, both financially and family related
 - Some of these documents may need to be updated once a soldier relocates to another military installation in a different state
 - Soldiers and families need to work with attorneys who understand the uniqueness of military service

So What Resources are Available to Help with Military Planning?

Advisors assisting military families need to be aware of the various resources available to assist them in these endeavors. They include but are not limited to the following:

1. Military Judge Advocate Legal Assistance Programs
 - Local military bases and posts
 - The Judge Advocate General School, Army, in Charlottesville, VA

- The Air Force Judge Advocate Generals School, Maxwell AFB, Montgomery, AL
- The Naval Justice School, Newport, RI
- 2. Local Bar Association assistance programs
 - Pro Se Legal Assistance through Military Committees and bar association programs
 - Pro bono attorney assistance
- 3. The American Bar Association Special Committee for Legal Assistance to the Military (LAMP)
- 4. Pro Se Legal Clinics, such as Legal Aid Services
- 5. Specialized programs
 - Oklahoma Indian Legal Services, Inc.
- 6. Private law firms with specialized expertise for mentoring

The Importance of Beneficiary Designations

One of the issues we regularly encounter is the failure of military personnel to regularly review and update their beneficiary designations. This is particularly relevant when we talk about wills and insurance policies.

1. Failure to update beneficiary designations in Wills and Trusts
 - In a recent case, an air force officer still listed his parents (now deceased) and his ex-wife (not his current one) in both his Will and his Trust as his personal representatives, trustees, and beneficiaries. What types of issues did this create?
2. Failure to update beneficiaries in life insurance policies
 - Recent naval retiree (and dear personal friend) who was suffering from numerous medical issues told his wife not to worry if he should predecease her as he had sufficient life insurance to pay off their mortgage and loan

balances on their vehicles. What actually happened when he died last January?

- One policy listed his deceased mother as his beneficiary.
 - One policy listed a former girlfriend, not his current wife.
 - The last policy named his estranged son (of eight years) and not his current wife.
 - RESULT: The stress and financial concerns forced her to sell her home and vehicles, her health deteriorated, and she is now in assisted living
3. What about ownership of the life insurance policies? If the client has a trust, should the owner of the life insurance policy be the trust, so that the trustee can make changes to beneficiaries should the need arise.

Servicemember's Group Life Insurance (SGLI) and Private Policies

For married couples, what needs to happen upon divorce or separation?

How should you address the question of minor children as beneficiaries?

How regularly do these beneficiary designations need to be reviewed and updated?

For SGLI, the owner is always the military member, but this need not be the case for private policies

What About Health Insurance and Long-Term Care Policies?

All military personnel are covered by Tricare, the military health care program, but there are different Tricare programs for active duty, reserve, and retired personnel and the benefits are not the same.

Attorneys should discuss the availability of long-term care insurance. Certain military members and retirees may be able to take advantage of state VA centers for assisted living and long-term care, but these may not be available for family members.

1. The younger a person is when long-term care insurance is purchased, the lower the cost.
2. Once a person is 60-70 years old, long-term care insurance may not be an option

Be Sure to Discuss and Review the Thrift Savings Plan

Many military members have enrolled in the Thrift Savings Plan (TSP), which is similar to a 401(k) or IRA—it allows military members to pay into their retirement accounts with tax-deferred money, and the military matches deposits up to a specified amount. Are they taking full advantage of the government match? Are they assertively planning for their retirements? Who are the beneficiaries of their TSPs?

What About Their Survivor Benefit Plans?

Military personnel are eligible to select part of their retirement income for distribution to their surviving spouses. Military members agree to forfeit part of their retired pay so their spouses will continue to receive a portion of their income should the military members predecease. Is this the best option?

1. What are the relative ages of the military member and the spouse?
2. Are there any health concerns for either?
3. Is it likely the spouse will survive the military member for a sufficient period to warrant the forfeiture of a portion of retired pay during the service member's lifetime?
4. Is there a better alternative?
 - Life insurance policy for benefit of surviving spouse
 - Purchase of spousal annuity

What is the Impact of the Divorce or Death of the Soldier or Spouse?

If the military member passes unexpectedly, there are offsetting financial issues—loss of current military income vs. receipt of SGLI proceeds.

If the soldier passes, the spouse will become the primary source of family income. Depending on the ages of any children, the need for and cost of childcare for any minor children will become a bigger burden or a major added expense if the spouse was previously caring for the children at home.

If the spouse passes, the soldier will need to arrange for the care of any minor children. If both spouses were working, the existing arrangement may continue, but there will be a loss of spousal income. If the spouse was providing the primary care of the children, this will become an added expense for the soldier.

The results of a divorce are almost the same as a death, just with different emotional underpinnings. In either event, there will be a major change for a family with children. This should not be left up to the last minute. The attorney needs to review these issues and make sure there is a plan in place for any such eventuality.



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