

## Statutory Provisions – Arizona's Service Members in Family Law Litigation

### Military Family Care Plans

Although appearing in the statutory section regarding modifying custodial provisions (now called “legal decision-making” and “parenting time”), the legislature has thought about Arizona's service members in divorce and paternity cases and modification proceedings that involve children.

*25-411. Modification of legal decision-making or parenting time; affidavit; contents; military families.* includes this wording “..Except as otherwise provided in this section, if a parent is a member of the United States armed forces, the court shall consider the terms of that parent's military family care plan to determine what is in the child's best interest during that parent's military deployment.” For the lengthy specifics and detail download section 411 in title 25 of the Arizona Revised Statutes at [www.azleg.gov](http://www.azleg.gov) .

Further, if Arizona “is the home state of a child at the time of the military deployment of that child's custodial parent outside of the United States and the child is relocated outside of the United States during the deployment, this state remains the home state of the child until the deployment ends.” from [www.azleg.gov](http://www.azleg.gov); *25-1013. Military deployment; home state.*

### Equitable Division of Community Assets and Debt

Upon entering of a marital dissolution decree, the judge in an Arizona divorce action will make a finding that the division of the marital community is “equitable.” If the divorce enters with a spousal maintenance award, then upon a later substantial and continuing changes of circumstance, that spousal maintenance award might be modified.

In both regards, the Arizona legislature prohibits a court “in making a disposition of property” from these enumerated actions:

*“1. Consider any federal disability benefits awarded to a veteran for service-connected disabilities pursuant to 38 United States Code chapter 11.*

*“2. Indemnify the veteran's spouse or former spouse for any prejudgment or postjudgment waiver or reduction in military retirement or retainer pay related to receipt of the disability benefits.*

*“3. Award any other income or property of the veteran to the veteran's spouse or former spouse for any prejudgment or postjudgment waiver or reduction in military retirement or retainer pay related to receipt of the disability benefits.”*

from [www.azleg.gov](http://www.azleg.gov); *25-318.01. Military retirement benefits; disability related waiver.*

### Seek Counsel When Indicated

The above provisions are available protections that may be invoked by you in a divorce, paternity, child custodial, or post-decree case. The provisions are not automatically known to the Court nor advocated. Some attorneys offer limited scope of representation sessions, commonly known as “advice and counsel” or “work” sessions which may assist you to know how to raise these statutory protections even if you proceed *in propria persona* otherwise.