



TORII LEGAL ASSISTANCE

OFFICE OF THE STAFF JUDGE ADVOCATE



SEPARATION AGREEMENTS ON TORII STATION BY: Rudy Wartella

Many clients call or visit the Torii Station Legal Assistance Office inquiring about separation agreements. The following information explains what a separation agreement is and who is eligible for a separation agreement at the Torii Station Legal Assistance Office.

A separation agreement is **not** a “**legal separation**,” but is a contract between husband and wife that operates as a full and final settlement of legal rights and claims to each other and to the marriage. The standard separation agreement decides important issues such as child custody, child support, visitation, dependent income tax exemptions for the children, alimony, pension division, property division, jurisdiction, debt obligations, medical benefits, and life insurance beneficiary decisions.

These are all important decisions that require analysis, negotiation, and knowledge. Typically, longer marriages have more difficult legal issues. Not every couple that wants to divorce would benefit from a separation agreement prepared by an overseas legal assistance office. Divorce laws are not uniform as all states have their own divorce/dissolution laws. Although attorneys are able to research laws from all 50 states (and U.S. Territories), it is usually best to have an attorney who is a member of the local state bar prepare a separation agreement, or more appropriately, a complete divorce packet for you. The money you save having a “free” separation agreement could end up costing you thousands of dollars in the end.

Many people think that they must have a separation agreement for an **Early Return of Dependents (ERD)** to the United States. This is not true! In fact, it is absolutely the wrong reason to have a separation agreement. A separation agreement is a **voluntary** agreement and is not for the command to decide that you must have one.

Not all states require or accept separation agreements. In states that do accept separation agreements, some local judges may not uphold them. It is important that agreements be fair. Most judges will look at “unfair” agreements with more scrutiny. Child support, child custody, and child visitation are always subject to court intervention, as most states will apply the “best interest of the child” standard.

A childless client who has been married for less than 5 years, and can agree on all financial and property issues, is usually an appropriate client for a separation agreement at the Torii Legal Assistance Office (per Army Regulation 27-3, only one spouse will be the client of the Torii Legal Assistance Office). Otherwise, it may be better to have a local attorney, in the county, state and country of your legal residence, prepare your separation agreement. The local attorney is more familiar with state specific law and local procedures. The money you spend on an attorney in your state of residence may save you more than a “free” separation agreement.