

## **Divorce from Bed and Board**

### **Lynmarie Rivera, Legal Assistance Intern**

When facing a divorce it is advisable to consult an attorney to avoid misconceptions about the process. There are different scenarios for each family to consider before starting the process. One common mistake is looking for legal advice on the internet without fully understanding the issue. Soldiers and family members often ask Legal Assistance Attorneys about a North Carolina statute permitting “divorce from bed and board”, believing it is a faster way to get divorced. However, the name is confusing since this action is a judicial separation, not an absolute divorce. The only ground for absolute divorce in North Carolina is separation for more than one year.

A divorce from bed and board is a fault-based legal separation action. This means the injured party would bring this action against the other spouse in any of the following cases: (1) the person abandons his or her family; (2) maliciously turns the other out of doors; (3) cruel or barbarous treatment; (4) offers such indignities to the person of the other as to render his or her condition intolerable and life burdensome; (5) becomes an excessive user of alcohol or drugs so as to render the condition of the other spouse intolerable and the life of that spouse burdensome or (6) commits adultery.

It is important to understand a divorce from bed and board does not completely terminate the marriage. A plaintiff who gets a divorce from bed and board is not "single again" and eligible to remarry. For military members, the spouse remains a dependent entitled to an I.D. card, Tricare coverage, and other benefits available to family members.

When the bed and board divorce is granted the parties will obtain a judgment that equitably distributes the assets, makes support and alimony awards, apportions debts, sells the marital home, and divides pensions. However, this judgment will not terminate or dissolve the marriage; it will just declare the parties are legally separated. There are several situations where the divorce from bed and board may be a good option such as religious reasons that prevent either or both parties from not wanting a divorce, Tricare coverage benefits for the spouse or convincing the dependent spouse to accept a lower alimony award. This remedy is not for persons who want an absolute divorce or are planning to get remarried.

If you have questions, please contact the XVIII Airborne Corps and Fort Bragg Legal Assistance Office at 910-396-0396 or 6113.