

Ask the Lawyer: Family's Losses Depend on Charges, Sentence

By Mathew B. Tully

Question:

What will happen to my family if I am convicted at court-martial and sentenced to confinement with a punitive discharge?

Answer:

What happens in the short term to dependents of service members sentenced to confinement and a punitive discharge may depend on whether the conviction was for a crime related to a domestic-abuse offense.

Ultimately, service members facing such sentences can expect to lose the military's financial support, housing and medical benefits. The big question for family members is: When will these losses reach them?

Under Article 58b of the Uniform Code of Military Justice, sentences of confinement of more than six months or death generally result in total forfeiture of pay and allowances. The same is true for sentences of less than six months and a dishonorable or bad-conduct discharge or dismissal.

Dependents may be able to directly receive a convicted member's pay and allowances for a period up to six months if the convening authority grants a waiver to the forfeiture.

Dependents eventually will have to move out of military family housing. At the time a punitive discharge becomes effective, medical and dental benefits will be lost.

Under the Joint Travel Regulations, a spouse or other dependents may be able to receive a travel and transportation allowance.

In cases where an active-duty member is sentenced to a court-martial separation due to a dependent-abuse offense, the member's spouse at the time of the offense and any dependent children could receive 12 to 36 months of compensation.

This transitional compensation ensures dependents will not be doubly punished — first by the abusing service member and then by the loss of financial security prompted by a court-martial conviction related to the abusive conduct. Department of Defense Directive 1342.24 details this transitional compensation for abused dependents.

Under this program, the spouse or dependent children have commissary and exchange privileges. However, the spouse could lose these benefits if she remarries, if the service member moves back into the same household as the spouse or dependent child, or if the

spouse took part in the abuse of a child.

Clearly, service members — and their families — have much to lose when a court-martial sentence calls for the forfeiture of all pay and allowances, confinement and a bad-conduct or dishonorable discharge.

Service members facing criminal charges should consult with a military law attorney who can discuss options and protect their rights.