

WORKING WITH THE MILITARY ON CHILD SUPPORT MATTERS



TRAINER GUIDE





MODULE

INTRODUCTION



Target Audience

Child support workers who handle cases
involving the military

Administrative Matters

- Class hours
- Breaks
- Lunch
- Lunch/snack facilities
- Restroom location
- Phone location
- Emergency exits
- Emergency phone no.
- Parking
- Smoking
- Cell phone
- Attendance roster
- Name badges/tents

Summary

- Target audience
- Course goals & objectives
- Format of Trainer Guide
- Training agenda



MODULE 1

OVERVIEW OF THE MILITARY



Military Parents



★

THE WAR AT HOME

Military Divorce Rate Climbs Again





Yearlong Absence





Multiple Deployments

Staggering Numbers*

Since the attack of September 11

- 875,000 moms and dads have deployed
- 245,000 have deployed twice
- 91,000 three times
- 48,000 four+ times



* Source: National Military Family Assoc. 2011

PTSD/TBI



Organization of the Military

- Department of Defense (DoD)
 - Department of the Army
 - Department of the Navy (includes Marine Corps)
 - Department of the Air Force
- Department of Homeland Security (includes U.S. Coast Guard)

Organization

Where is
Sergeant
Smith?

President of the United States
Commander in Chief, Elected Civilian

Secretary, Dept. of Defense
Appointed Civilian

Secretary of the Army
Appointed Civilian

Army Chief of Staff

Major Command

Corps / 3 Stars

Division / 2 Stars

Brigade

Battalion

Company

SGT Smith



Military Authority

- Rank
- Pay grade
- Source of authority
 - Law
 - Regulation
 - Policy
 - Custom

When Member Fails to Respond

- Contact unit commander
 - Recognize limitations of command assistance
 - Identify action you are seeking

Practice Tips

- Explain thoroughly
- Don't threaten
- Humanize the situation
- Move up the “chain of command”
- Be
 - Respectful
 - Reasonable
 - Understanding

Military Resources

- Installation and command legal offices
- Family advocacy and family life centers
- Identification card facilities
- Medical treatment facilities
- Internet

askDFAS | Customer Service | Careers | About DFAS

Defense Finance and Accounting Service
Providing payment services for the U.S. Department of Defense

888-332-7411

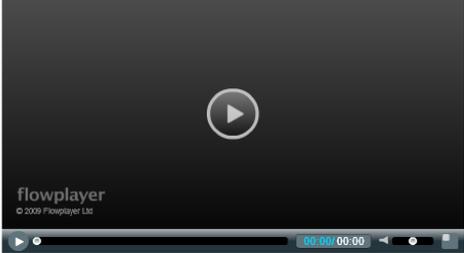
myPay myInvoice eCOMMERCE SEARCH

DFAS Home | Military Members | Retired Military & Annuitants | Civilian Employees | Contractors & Vendors

How do I...

- Contact Customer Service
- Find Military Pay Tables
- Find PCS Travel Information
- Find TDY Travel Information
- Correct Military Records
- Find Garnishment Information
- Find Civilian Pay Tables
- Learn about Wide Area Work Flow
- Find Debt Information
- Report a Military Retiree Death
- Request a Waiver of Debt

RESET YOUR MYPAY PASSWORD



ACCESS YOUR myPay ACCOUNT

LOG ON

RELATED WEBSITES

- Department of Defense
- Department of State
- Department of Veterans Affairs
- DoD Forms
- DoD Budget Execution Reports
- Warrior Care Website
- Military Employment V
- Civilian Personnel Mgt

LATEST NEWS

We are not processing [Relocation Income Tax Allowance \(RITA\) claims](#) yet. We begin after the 2012 marginal tax rates are published. Watch for an announcement stating we have received tax rates and can begin processing. Then your claim will be processed in the order it was received.

askDFAS | Customer Service | Careers | About DFAS

Defense Finance and Accounting Service
Providing payment services for the U.S. Department of Defense

888-332-7411

myPay myInvoice eCOMMERCE SEARCH

DFAS Home | Military Members | Retired Military & Annuitants | Civilian Employees | Contractors & Vendors

888-DFAS411
Monday through Friday
8 a.m. to 5 p.m. Eastern

[Customer Service](#)

[Contact Us Online](#)

askDFAS

- Child Support and Alimony
- Former Spouses' Protection Act
- Military Commercial Debt
- Civilian Commercial Garnishment
- Bankruptcy

DFAS Home | Garnishment

FIND IT FAST

- [Verification of Military Service](#)
- [Court Order Copy Request](#)
- [Payment Information](#)
- [Child Support Enforcement Agency Information](#)

DIVIDING MILITARY RETIRED PAY

Are you a retired military member or former spouse with questions about the Uniformed Services Former Spouse Protection Act?

[Read These FAQs](#)

ABOUT GARNISHMENT OPERATIONS

Find out what Garnishment Operations does and how to contact us.

[Read About Us](#)
[Contact Information](#)

FAX INSTRUCTIONS

[Sending us a Fax?](#)

Be sure to include the right information so your documents will be processed as quickly and efficiently as possible.

Military Rules and Regulations

- Federal and state law
- DoD regulations
- Service regulations
- Supplements
- Policy memoranda

Law

Summary

- Military parents
- Organization of military
- Authority of commanders
- Useful military resources
- Rules and regulations governing the military in child support matters



MODULE 2

MILITARY LOCATE PROCEDURES



Federal Locate Regulations (1)

45 CFR 303.3(a) defines **location**:

- Info concerning NCP's physical location
- Info concerning NCP's employer, income, or assets
- Info that is sufficient & necessary to take the next appropriate action

Federal Locate Regulations (2)

- IV-D agency must attempt to locate when it is needed to take necessary action
- Federal locate timeframe is 75 days
- IV-D agency must repeat failed locate efforts as appropriate
- State must create guidelines defining diligent efforts to serve process

Locate Resources for Military

- Local & state IV-D locate resources
- Expanded FPLS
- Local military resources
 - Military installation
 - Legal assistance office
- Military locator services

Summary

- Federal locate regulations governing IV-D cases
- Local and national military locate resources
- State and federal civilian locate resources for military



MODULE 3

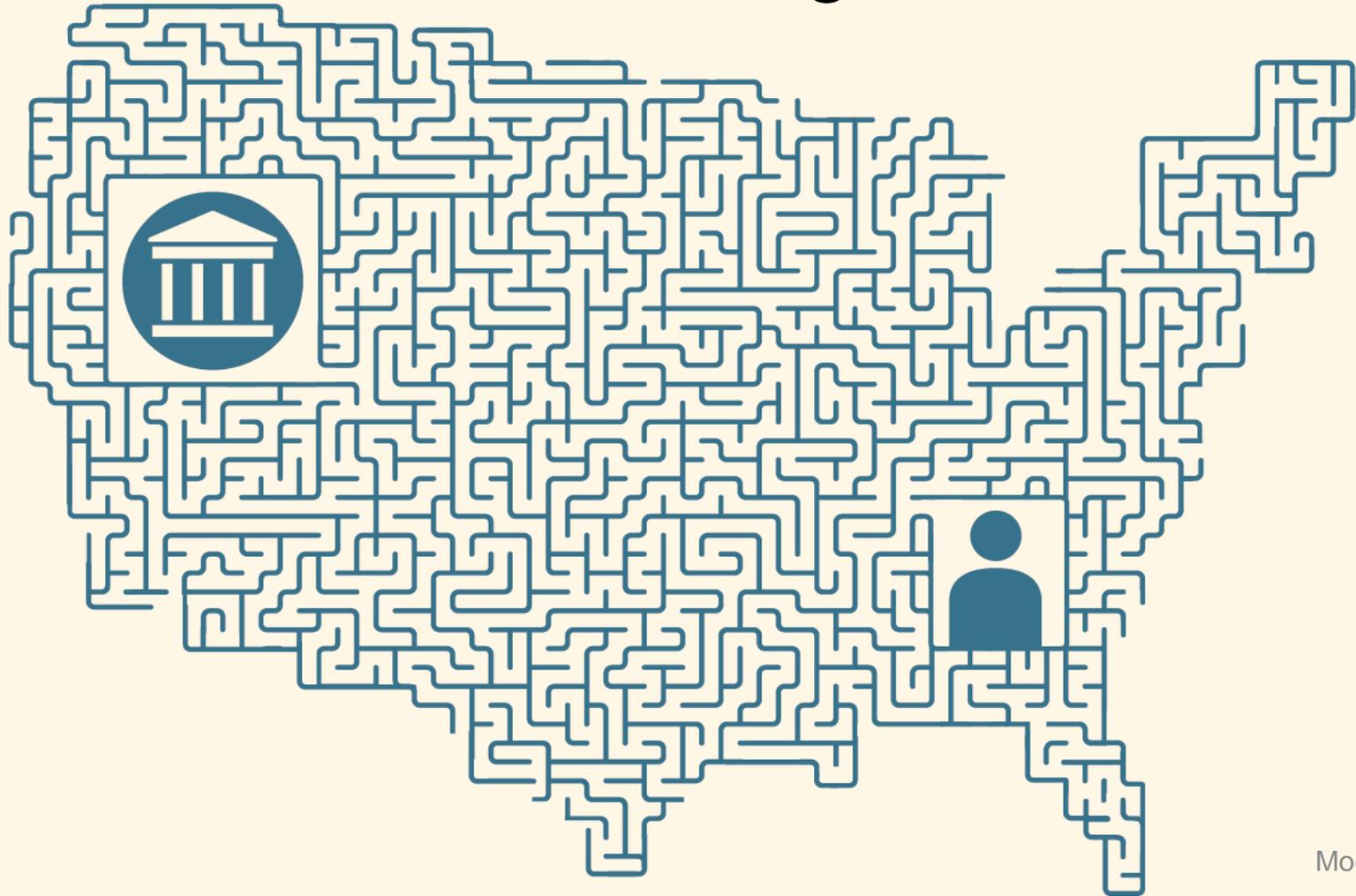
SERVICE OF PROCESS ON MILITARY PERSONNEL



Types of Jurisdiction

- Personal jurisdiction
 - Power over persons
 - Requires notice
- *In rem* jurisdiction
 - Power over things (bank accts, property)
 - Requires notice

Personal jurisdiction over the defendant service member may be a challenge



★

Obtaining Personal Jurisdiction Over a Military Member

★

- Domicile
 - Legal residence at time of entry into service (state income tax, drivers license)
 - LES reflects domicile
 - Member can change domicile
- Physical residence
- State long arm statutes, including UIFSA

Long Arm Jurisdiction

- Service of process in the state
- Consent
- Lived with child in the state
- Lived in the state & provided prenatal expenses or support

Hawaii



West Virginia



Long Arm Jurisdiction

- Child is in forum state due to nonresident's acts or directives
- Child may have been conceived in forum state
- Nonresident asserted parentage in the [putative father registry] in forum state
- Another constitutional basis



United States Installations

- Installations
 - Open
 - Closed
- Types of jurisdiction
 - Exclusive
 - Partial and concurrent
 - Proprietary

★

Voluntary Acceptance of Service

★



Overseas Methods of Service

- Service by mail
- Treaty or convention
 - Hague Service Convention
 - Central Authority
- Service by agent
 - UIFSA
- Voluntary acceptance of service
- Letters Rogatory

Service on Board a Ship

- Service by mail
- Voluntary acceptance
- Command assistance

Exercise Scenarios

- Spot issues
- Open discussion
- What if?
- Questions?

Summary

- Personal and *in rem* jurisdiction
- Long arm jurisdiction
- Military installations with exclusive federal jurisdiction vs. concurrent or proprietary jurisdiction
- Service of process
 - On U.S. installations
 - On overseas installations
 - On board a ship



MODULE 4

THE SERVICEMEMBERS CIVIL RELIEF ACT



Scope of the SCRA

- Active military
 - Army, Navy, Air Force, Marines, Coast Guard
- Reserve and National Guard called to federal active duty
- Not applicable to:
 - DoD civilian employees or contractors
 - Retirees

Stay of Civil Proceedings

- Applies to judicial and administrative proceedings
- Is person active military?
- Did member provide required documents?
 - Letter re: how current military duties materially affect member's ability to appear; date when available
 - Letter from commanding officer stating military duties prevent member's appearance and leave not authorized
 - DoD Directive 1327.06

★ Stay of Civil Proceedings (cont'd) ★

- If required documents are presented, tribunal must grant initial stay of at least 90 days
- If member requests an additional stay, with required documents, tribunal has discretion re: granting stay

Default Judgment Under SCRA

| Scenarios | Status | Outcome |
|--------------------------------|----------------|---|
| Agency files affidavit | Not in service | Court can enter a default judgment |
| Agency fails to file affidavit | Unknown | Any default judgment is voidable |
| Agency files affidavit | Is in service | Court must appoint attorney to represent member |

Reopening a Default Judgment Under the SCRA

- Judgment during member's military service or within 60 days
- Application to reopen filed within 90 days of service termination OR during service
- No appearance in proceeding
- Member materially affected by service in defending action
- Member has meritorious or legal defense

Appointed Counsel

- If unknown or it appears that defendant is in military, court must appoint prior to default judgment
- Appointed attorney:
 - Attempts to locate member
 - Obtains stay until member can be present
- If unable to locate member, can't waive rights or bind member

Stay or Vacation of Judgments and Attachments

- Material effect
- With regard to member's service, the action must have arisen:
 - Prior to that service;
 - During the period of service; or
 - Within 90 days after termination of service
- Reservists and downward modification



Tolling the Statute of Limitations

Tolling

- Self-executing
- No material effect need be shown



Interest Under the SCRA

- 6% interest rate cap
 - Only pre-service obligations
 - Not automatic – member must give creditor notice of military service and copy of military orders
 - Creditor may seek relief
 - Show no material effect on ability to pay

Exercises/Questions

- Read scenarios
- Answer questions
- Ask questions!

Summary

- Scope of the SCRA
- Stay of proceedings
- Default judgment
- Role of appointed counsel
- Tolling of statute of limitations
- Maximum interest rate



MODULE 5

OBTAINING EVIDENCE FROM THE MILITARY



★ Paternity Establishment ★

- A civilian matter
- Moral and legal obligations of members
- Commander obligations on inquiry

★

Genetic Testing



Financial Information/Evidence

- FPLS
 - Quarterly wage report from the Defense Manpower Data Center (DMDC)
 - State Services Portal – DoD entitlement data
- Defense Finance and Accounting Service
 - Historical pay information
 - General military pay information

Medical Information/Evidence

- Electronic match between FCR and DMDC — confirmation of child's enrollment in Defense Enrollment Eligibility Reporting System (DEERS)
- Enrollment in DEERS requires proof of dependency

The Privacy Act and FOIA

- The Privacy Act: prevents release of information
- Freedom of Information Act (FOIA)
 - FOIA is a disclosure statute
 - Exemptions prevent release
 - Exceptions overcome the exemptions
 - E.g., law enforcement purposes

Evidence from Overseas Locations

An aerial photograph of a coastal town and harbor. The town is built on a peninsula, with a dense residential area in the foreground and a larger commercial or industrial area in the background. A large white building, possibly a government or military installation, is prominent in the commercial area. The harbor is filled with several large ships, and the coastline is irregular with a mix of urban development and natural features.

- Information on members overseas is usually in the United States
- Obtaining physical evidence from overseas is more difficult

★

The Hague Convention on Taking Evidence Abroad in Civil or Commercial Matters



★

Evidence from Overseas Locations (continued)

Department of State information



Exercise Scenarios

- Read scenarios
- Answer questions
- Ask questions

Summary

- Compliance with genetic testing orders
- Resources for obtaining financial and medical information
- The Hague Convention on Taking Evidence Abroad in Civil or Commercial Matters



MODULE 6

MILITARY ESTABLISHMENT PROCEDURES



★

Federal Regulation re: Paternity Establishment

45 CFR 303.5 – In all cases where paternity has not been established, IV-D agency must, as appropriate:

- Offer voluntary acknowledgment and attempt to establish paternity by legal process
- Upon request in contested case, require genetic testing
- Seek default orders

★

Federal Reg re: Establishment of Support Obligations

★

45 CFR 303.4 – The IV-D agency must:

- Establish paternity when necessary
- Use appropriate state laws & procedures
- Within 90 days of locating alleged father or NCP, establish support obligation or complete service of process
- Seek a support order based on a voluntary acknowledgment of paternity

Federal Statute re: Establishment of Medical Support Obligations

42 U.S.C. 666(a)(19):

All support orders enforced
by the IV-D program must
include a provision for
medical support for the child



★ Paternity at Issue ★

The military will provide limited assistance because paternity is essentially a civil matter

- Inform member of obligations
- Refer to a legal assistance attorney
- Provide accurate, timely information to agency

★

Commander's Assistance when Paternity is Admitted

- Obtaining appropriate housing allowance
- Filing for voluntary allotment for child
- Obtaining military ID card for child
- Obtaining leave, if requested, in order to marry child's mother

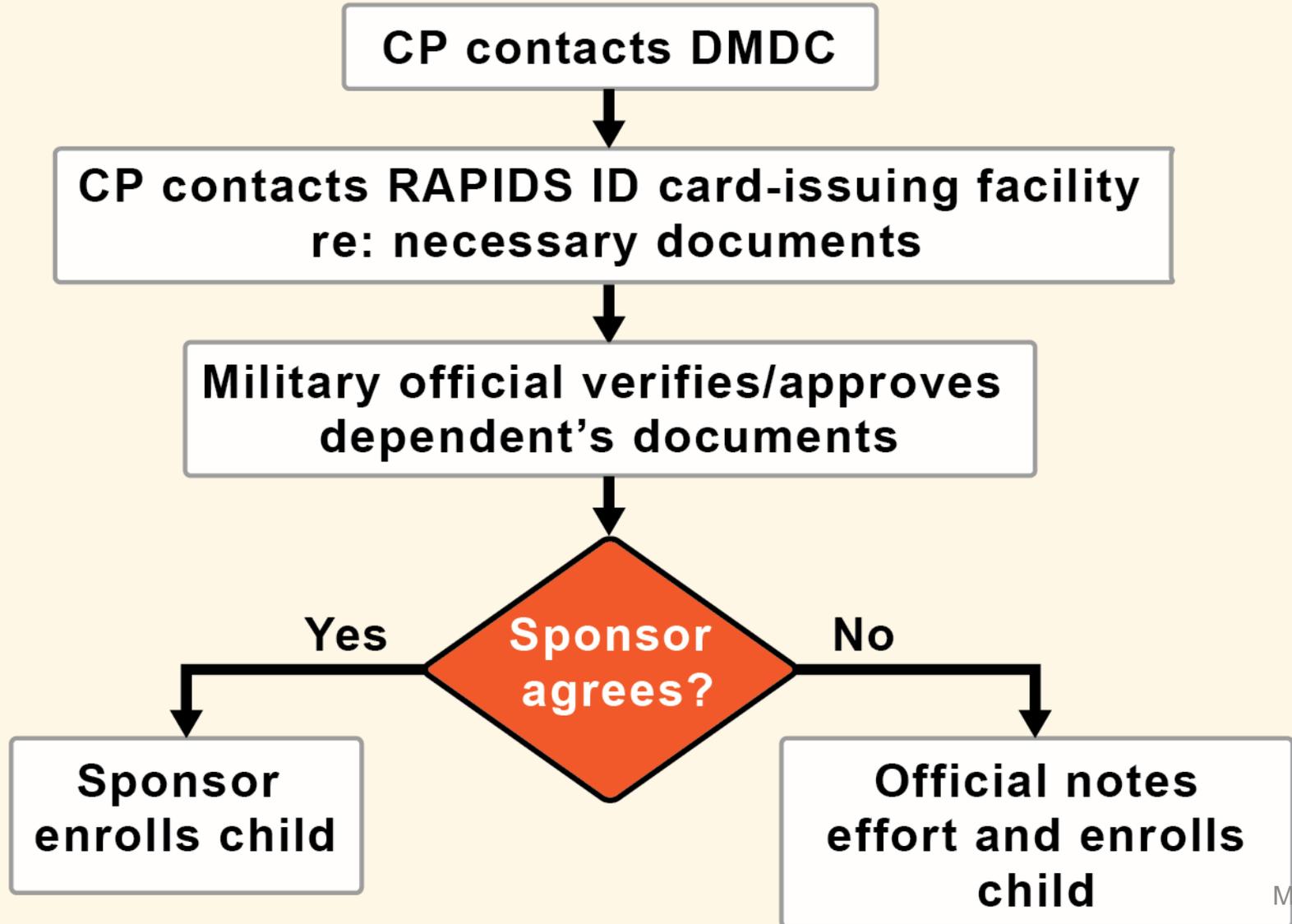
★

Medical Support for Military Family Members

★

- Services through military medical facilities (if available) or through TRICARE – health care program serving military members, retirees, and their families
- Available to legal dependents of active or retired military member regardless of whether dependent resides with member
- Requires enrollment in Defense Enrollment Eligibility Reporting System (DEERS)

TRICARE Enrollment Flow Chart



Types of Military Pay

- Basic pay
- Allowances
 - Basic Allowance for Housing (BAH)
 - Basic Allowance for Subsistence (BAS)



Special Skills Pay and Bonuses

- Special skills pay
 - Flight pay
 - Hazardous duty
 - Sea, submarine duty
 - Etc.
- Bonuses
 - Lump sum
 - Usually for re-enlisting



Summary

- Federal laws governing paternity, support establishment, and health care obligations
- Military policies and rules governing a commander's involvement in a IV-D paternity and support order establishment case
- Resources for obtaining complete earnings information for a military member
- Interpretation of a military member's Leave and Earnings Statement



MODULE 7

MILITARY ENFORCEMENT PROCEDURES



Federal Enforcement Regulation

45 CFR 303.6 – In all cases:

- Monitor compliance with obligation
- Identify date of noncompliance
- Enforce support obligation by
 - Initiating income withholding
 - Taking other appropriate action
 - Submitting case for tax refund offsets

★

Federal Requirements re: Medical Support Enforcement

★

- Child support orders enforced through Title IV-D program must include provision for medical support of child
- Where appropriate, medical support must be enforced through use of the National Medical Support Notice

★

Income Subject to State Income Withholding

- Military active duty pay (basic pay and certain bonuses, but not Basic Allowance for Housing and Basic Allowance for Subsistence)
- Military reserve and retired pay
- Federal DoD civilian employee pay and retirement annuities
- “Any other remuneration for employment”

State Income Withholding for Child and Spousal Support

- In most cases, withholding is immediate
- No need for arrears or advance notice
- Intercepts more than wages
- Can use to collect current support and arrears
- Applies to active and reserve members, retirees, and DoD civilian employees
- Requires only Federal Notice/Order to Withhold Income for Child Support

Federal Statutory Military Allotment

42 U.S.C. 665

- Only applies to active duty members
- Requires two months amount of arrears
- Initiated with a notice by an authorized person
 - A IV-D agent or attorney
 - A court with authority to issue a support order or an agent of the court
- Collects amount necessary to comply with order

Medical Support



★

Determination of Eligibility for Enrollment

- Match between FCR and Defense Manpower Data Center (DMDC)
- CP calls DMDC Support Office
- DoD FEIN will appear on new hire or quarterly wage report indicating parent is on active duty or is retired military

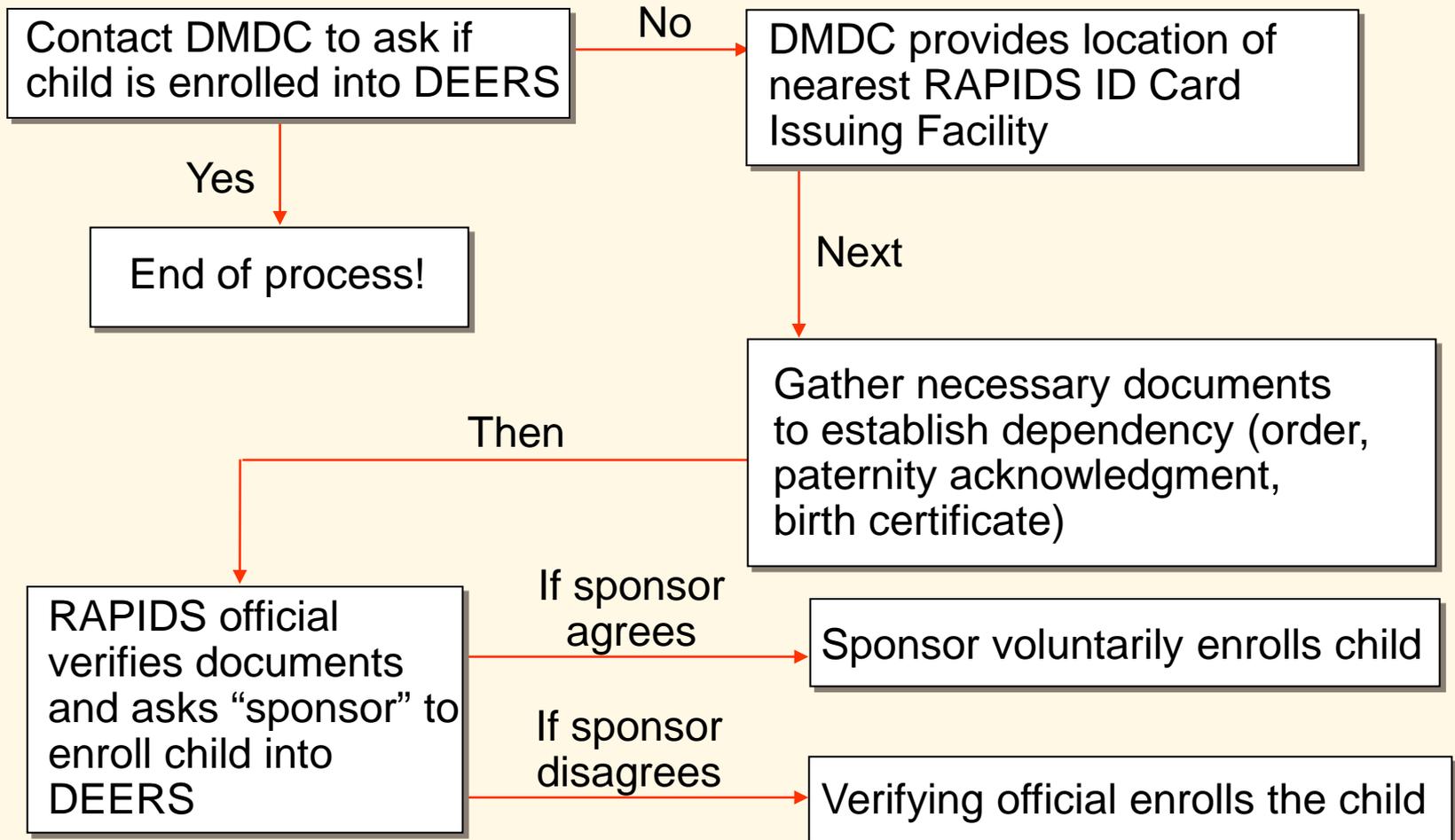
Documents Needed for DEERS* Enrollment

- Legal paternity determination, if necessary
- Birth certificate
- Support order
- Other

*Defense Enrollment Eligibility Reporting System (DEERS)



DEERS Enrollment Flow Chart



Summary

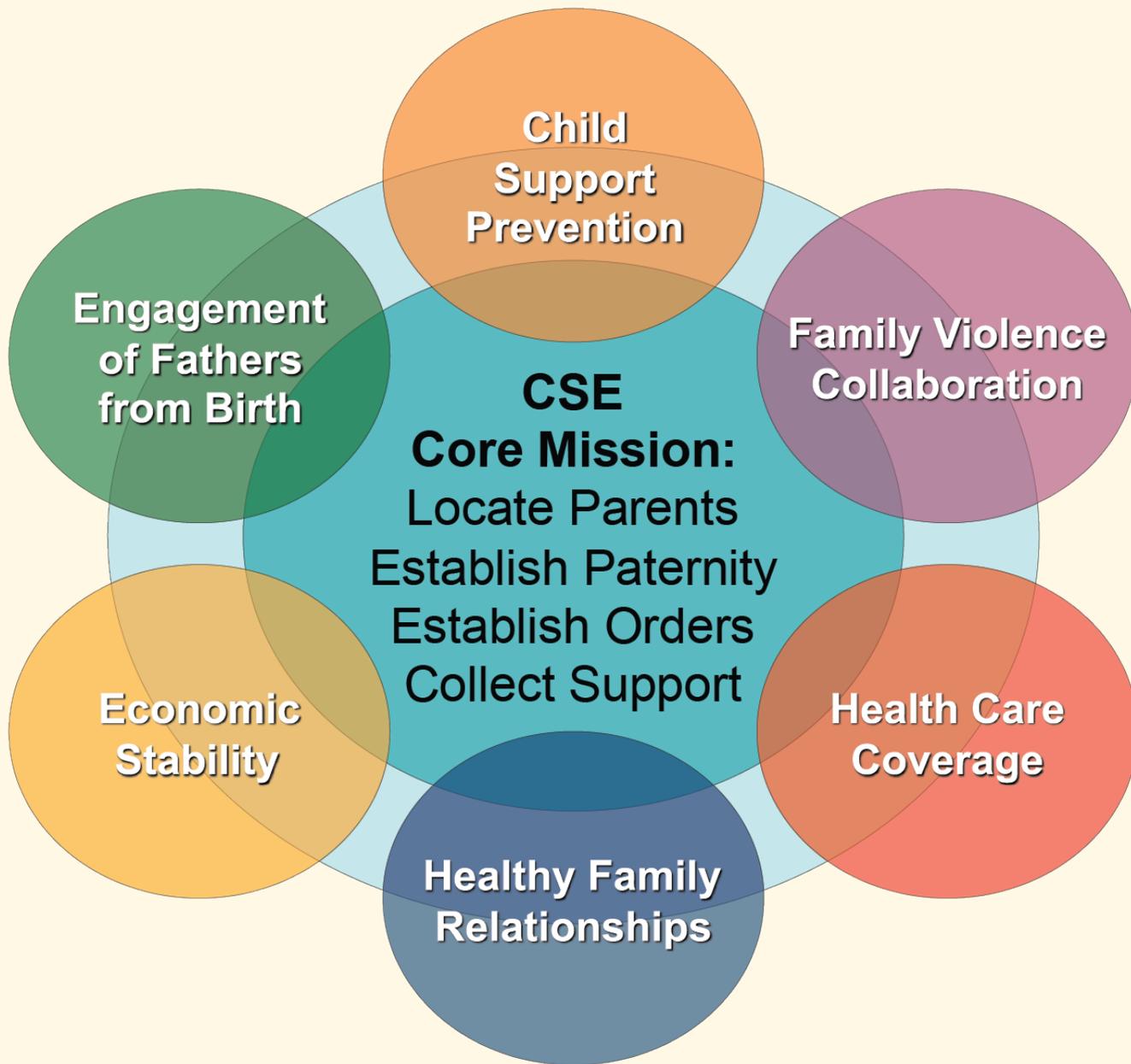
- Federal IV-D child support enforcement reg.
- Military policies/rules governing chain of command's involvement in enforcement of financial & medical support obligations
- Remedies/procedures for involuntarily attaching income of active duty, retired, and reserve military, and civilian DoD employees
 - State income withholding
 - Federal statutory military allotment
- Child's enrollment in DEERS and TRICARE
- Procedures for terminating enforcement



MODULE 8

ACCESS, PARENTING TIME, AND CUSTODY ISSUES





Parenting Time Services

- Child support agencies are not mandated to provide access or parenting time services; therefore, most currently do not provide
- All states currently participate in Access and Visitation formula grant program, which is funded separately from the IV-D program
- Services provided through grants vary

Legal Terminology

- ***Visitation or Parenting Time***

Term for time a nonresidential parent spends with his or her child. Can be agreed upon by parents in a parenting plan or ordered by court.

- ***Joint Custody***

Arrangement in which parents can each make decisions, such as seeking medical treatment, that impact their child. Usually established through a parental agreement or court order providing a specified level of care-taking time between each parent and the child.

Applicable State Laws

- State law governs how parenting time and custody issues are handled
- Court rules may establish requirements for parents to participate in parenting time mediation
- Laws, policies, and procedures vary from state to state

Applicable Military Regulations

- Each military branch requires compliance with a court order
- In the absence of a court order, the service member must comply with military policy
- Army regulations specifically address visitation and custody

Relationship Between Child Support and Parenting Time

- Children need both financial and emotional support from their parents
- Most state child support guideline calculations factor in parenting time or custody arrangements that reach a certain threshold of residential time between the parent and child

Relationship (cont'd)

- Nonpayment of child support is not a legal justification for denial of parenting time
- Denial of parenting time is not a legal justification for nonpayment of child support
- Research shows that an NCP's participation in mediation results in increased:
 - Access rights
 - Parenting time
 - Support payments

Resolution of Parenting Time Issues

- If there is a conflict, some states provide counseling or mediation services through the court
- Military legal assistance offices and lay advisors can provide assistance, but do not represent service members in state court
- Parents may need to hire a lawyer to help resolve issues

★

Online Resources about Child Support and Parental Involvement

★

- **Air Force JAG Corps Legal Assistance Public Page:** Info on various legal topics. The family law area contains information about child and family support, paternity, divorce and separation, <https://aflegalassistance.law.af.mil/lass/lass.html>
- **Military OneSource:** DoD program providing resources and support to active-duty, National Guard, and Reserve service members and their families worldwide. Its website includes information on child support, custody, and visitation, www.militaryonesource.com/default.aspx
- Online resources offered by fatherhood programs such as the National Responsible Fatherhood Clearinghouse, <http://fatherhood.gov/>

★ Servicemembers Civil Relief Act* ★

- Automatic stay provision applicable to parenting time or custody proceeding
- If member decides to proceed with hearing, electronic and telephonic testimony available
- Importance of seeking legal advice

*(SCRA)

Family Care Plans

- DoD Instruction 1342.19, “Family Care Plans,” specifies when they are required
- Each service branch has additional guidelines
- A Family Care Plan should be updated when a court issues an order related to parenting time or custody

Relationship Between Family Care Plan and Custody Order

- One does not replace the need for the other
- A member should strive to have his/her Family Care Plan be consistent with any court order re: custody
- If they conflict, the custody order “trumps” the Family Care Plan

Summary

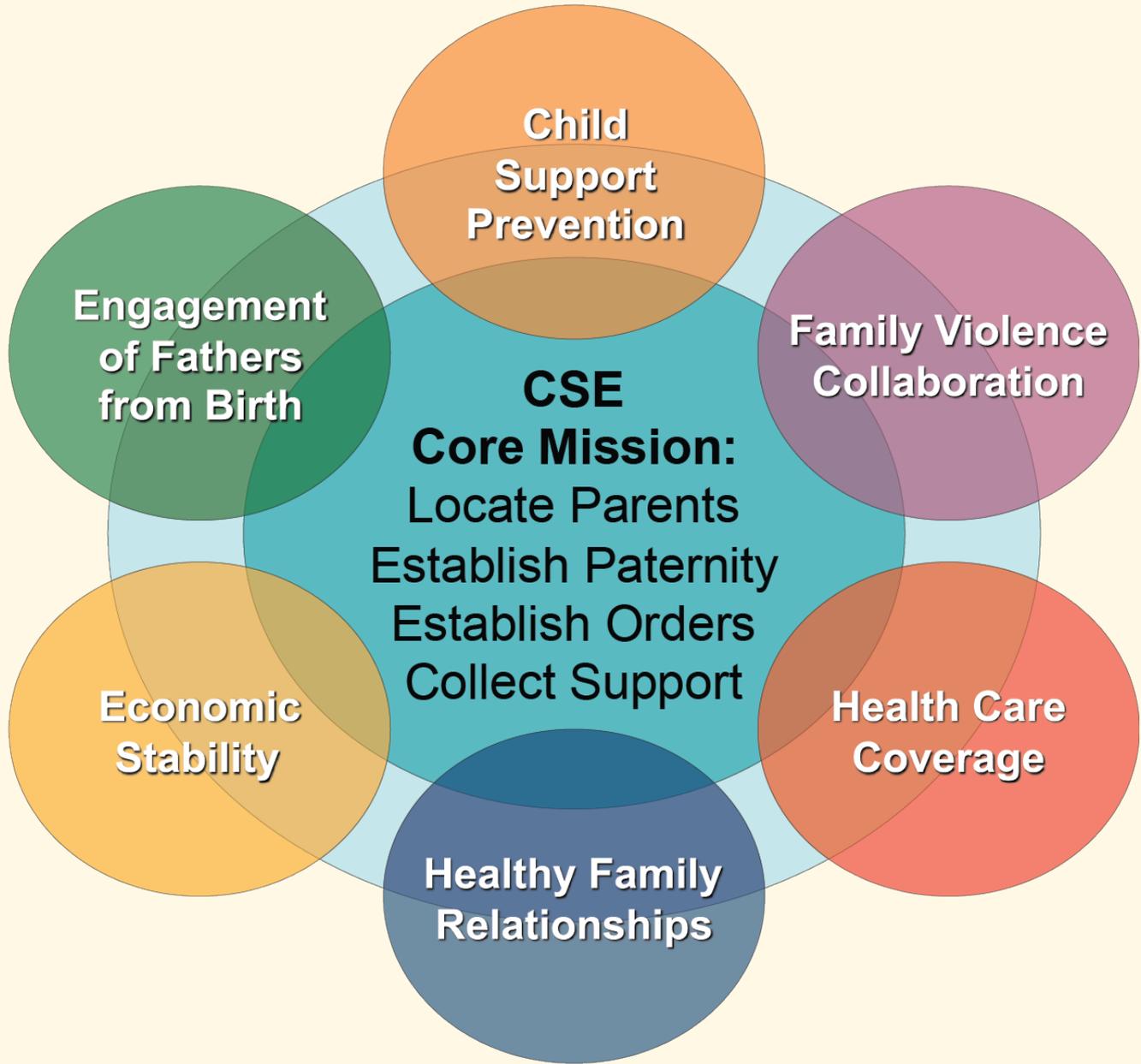
- Evolving role of child support program
- Definitions of visitation or parenting time and custody
- Applicable state laws, court rules, military regulations
- Resources
- Application of SCRA
- Family Care Plans



MODULE 9

COLLABORATIONS: SERVING THOSE WHO SERVE US



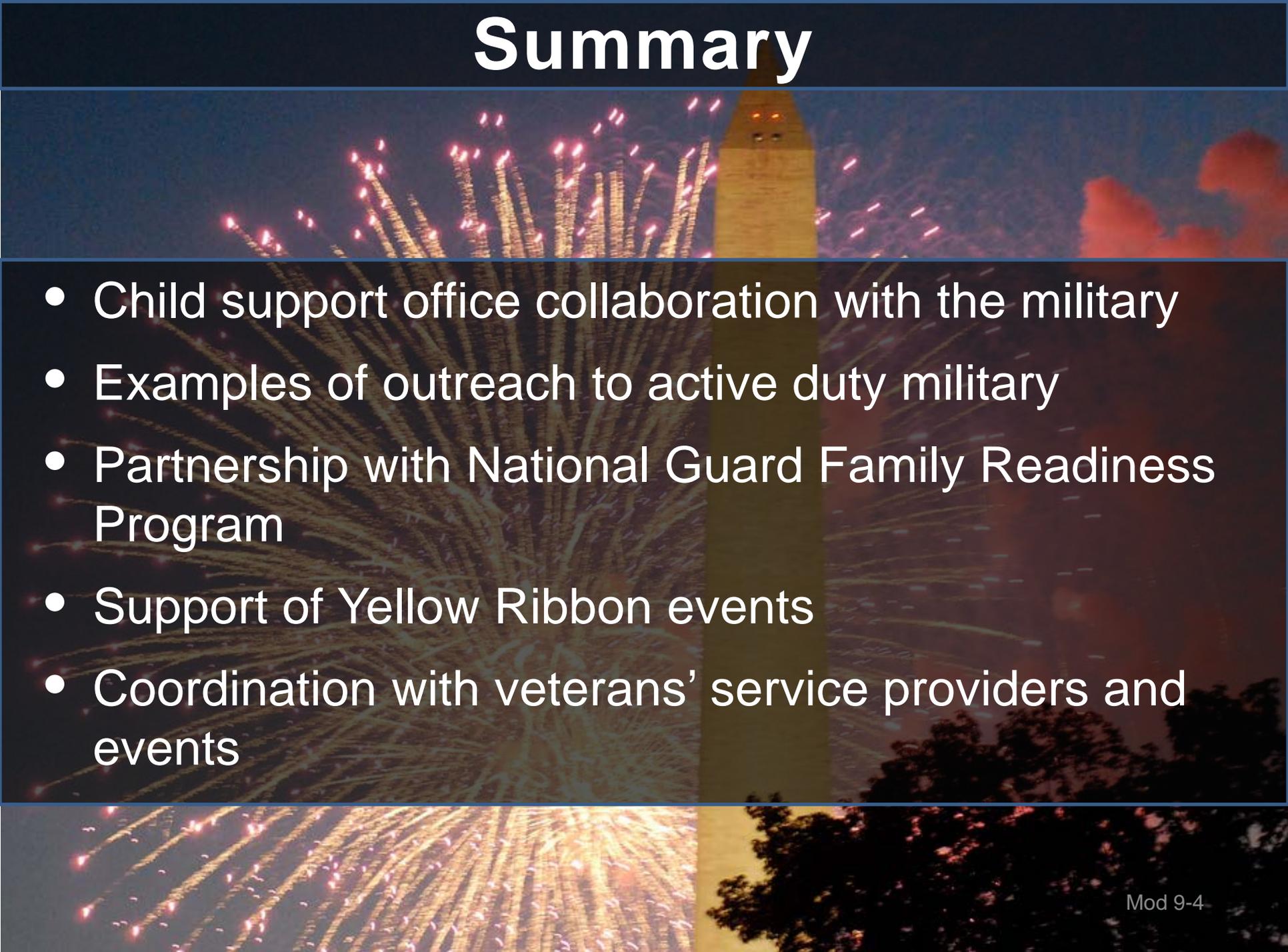


★

Partnerships to Improve Child Support Services for Service Members and Veterans

- Military installations
- National Guard Family Readiness program
- Yellow Ribbon events
- Veteran Stand Down events
- Veterans Integrated Service Networks (VISN)
 - Veterans Justice Outreach Specialists

Summary



- Child support office collaboration with the military
- Examples of outreach to active duty military
- Partnership with National Guard Family Readiness Program
- Support of Yellow Ribbon events
- Coordination with veterans' service providers and events