



## OFFICE OF THE STAFF JUDGE ADVOCATE

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## Domicile and Legal Residency

**"Domicile"** is the state where one has his or her true and permanent home. For military members, it is the place to which the member intends to return at the conclusion of his or her military service.

**"Legal Residence"** is used frequently as a synonym of "domicile." However, you may become a legal resident of a state for certain purposes without changing your domicile. For example, if you have lived in California for at least six months, you qualify as a "legal resident" for purposes of obtaining a divorce.

"Home of record" is not necessarily your domicile. That's merely the Air Force term for the address you listed when you entered active duty.

### **What Is Your Domicile?**

Every person acquires the legal residence (domicile) of their parents at birth and keeps this domicile until the age of majority, at which time they may acquire a new one. In order to determine what your present legal residence is, you will need to consider the next section which explains how you might have changed your legal residence in the past and how you may change it in the future. A quick way to determine what the Air Force considers to be your legal residence or domicile is to examine the "Legal Residence" block on your leave and earning statement. The abbreviated state in that block is the one that the Air Force considers your legal residence.

### **How Do You Change Your Legal Residence?**

Three things are required to change your domicile:

1. Actual presence in the state where one desires to establish a new domicile.
2. An intention to remain there permanently or indefinitely.
3. An intention to abandon your old domicile.

Acts indicating a change in state of legal residence include registering and voting in local and state elections, claiming a homestead exemption, registering motor vehicles as a resident, obtaining a driver's license from that state, paying state income tax, and the exercise of other benefits or obligations of a particular state. These acts may be interpreted by authorities as expressing your choice of legal residence. Therefore, you are advised to vote, exercise rights granted to citizens of the state, and claim the benefits of legal residency only in the state you intend to establish a new residency. Merely purchasing a new home in a new state or moving to a state under military orders does not necessarily indicate that you have changed your legal residence. Likewise, moving overseas does not change your legal residence. In fact, it is virtually impossible to change your legal residence once overseas. While overseas, you retain legal residence in your state and do not lose it.

In addition to establishing your liability for state income taxes, your domicile or legal residence determines many other important matters. Each of the following will be affected by the law of your state of legal residence:

- Liability for state inheritance taxes
- Rules on the probate of your will and the resulting consequences
- The right to vote
- The right to hold public office
- The right to a homestead exemption
- Your family's right to attend a state college without paying the higher price tuition rates for out-of-state residents
- Rules on marriage, property rights, divorce, and annulment of a marriage
- Liability for state personal property taxes
- Eligibility for public welfare

The actual change of legal residency is accomplished by Accounting and Finance. If you have questions about a legal matter, contact the legal office at 385-2329.

***NOTICE: This brochure is based in South Dakota law and is designed to inform, not to advise. No person should ever apply or interpret any law without the aid of an attorney who knows the facts and may be aware of any changes in the law.***