

PL 99-661 permits state courts to order SBP coverage.

If a member voluntarily elects SBP coverage for a former spouse and the agreement has been ratified or approved by a court order, or if the member has been ordered to elect SBP coverage for a former spouse, the retired member must make that election within **one year of the date of the divorce**. A former spouse, within one year of the date of divorce, may submit to DFAS-CL a request that a "deemed" SBP election be established. If neither the retiree nor the former spouse requests former-spouse SBP coverage within one year of date of divorce, former-spouse coverage will not be established.

A retired member cannot voluntarily elect, nor can a court order, former-spouse SBP coverage if the retired member had not elected SBP spouse coverage at time of retirement.

Former-spouse SBP coverage is generally irrevocable. However, if a retired member remarries, a change from the former spouse to current spouse coverage may be made with the former spouse's written consent. Such a request must be submitted to DFAS-CL within one year of the remarriage. If the former spouse SBP coverage was ratified or approved by a court order, the court order must be amended within one year.

Hours of Operation

Legal Assistance

(Attorney consults by appointment only)

Will Appointments

Please complete Will worksheet BEFORE you make a will appointment! Stop by or call our office for more information.

Italian Legal Assistance

(Attorney consults by appointment only)

Powers of Attorney/Notaries

Mon-Fri 0745 - 1630

You can complete power of attorney & will worksheets, and read information at <https://aflegalassistance.law.af.mil>

31 FW/JA

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UNIFORMED SERVICES FORMER SPOUSES PROTECTION ACT (USFSPA)



31ST FW LEGAL OFFICE

Current as of April 2022

FORMER SPOUSES’ BENEFITS

The Uniformed Services Former Spouses’ Protection Act (USFSPA) addresses the rights and entitlements of former spouses of military members, including: medical benefits, retirement pay, Commissary and BX privileges, and the Survivor Benefit Plan (SBP).

MEDICAL BENEFITS

Eligibility is based on the length of marriage and the date of the divorce. For those divorced on or after 1 Apr 85, the member must have been married to the former spouse for at least 20 years during which time the member served at least 20 years on active duty. If the member served only 15 years on active duty, medical benefits are extended for one year, with the option to participate in a group insurance with limited coverage for an additional year. There is no coverage after two years. For those divorced before 1 Apr 85, the member must have been married to the former spouse for at least 20 years during which the member served at least 15 years on active duty.

To receive continued medical benefits, the former spouse must not be remarried, or covered by an employer-sponsored health care plan. The termination of a subsequent marriage of

former spouse does not revive these benefits, but an annulment will.

RETIREMENT PAY

USFSPA authorizes state courts to divide military retirement pay in divorce decrees, if permitted by state law. The court must be in the military member’s state of legal residence, or the military member must consent to the court’s jurisdiction (“appearing” in a divorce court will give the court jurisdiction).

How much? State law dictates how much of the member’s retirement pay the former spouse is entitled to receive. Normally, the former spouse may ask for that portion of the member’s “disposable retired pay” (DRP) earned during the active duty years of the marriage. DRP equals the total monthly retirement pay minus authorized deductions such as SBP premiums. The parties can voluntarily agree on any amount. The divorce decree must state the amount in dollars, or as a percentage of DRP. NOTE: If divorced before 3 Feb 91, income taxes and SGLI premiums can also be deducted from DRP.

Direct Payment of Retirement Pay to Former Spouse. If eligible for the program, the former spouse can collect his or her portion of the member’s retirement pay directly from DFAS. To be eligible, the member and former spouse must have been married for at least 10 years, during which time the

member served at least 10 years on active duty. DFAS will pay up to 1/2 of the member’s DRP directly to the qualified former spouse. If the state court awards more, the former spouse must collect from the member. If there is more than one former spouse, DFAS will pay up to 65% of the member’s DRP on a first-come, first-served basis for multiple court orders. DFAS requires a written request for direct payment and a certified copy of the divorce decree. For Air Force members, send the application to DFAS, Cleveland DFAS-HGA/CL, P.O. Box 998002, Cleveland, OH 44199-8002, or fax to (877) 622-5930. The former spouse need not wait until the member retires to submit the request.

COMMISSARY AND BX PRIVILEGES

A former spouse is eligible for Commissary and BX privileges so long as he or she is not remarried. Also, the former spouse must have been married to the member for at least 20 years during which the member served at least 20 years on active duty. Termination of the subsequent marriage will revive Commissary or BX privileges.

SURVIVOR BENEFIT PLAN (SBP)

SBP is a government-subsidized annuity for designated survivors of deceased military retirees. For divorces finalized on or after November 14, 1986,