



INFORMATION ON THE UNIFORMED SERVICES FORMER SPOUSES' PROTECTION ACT

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The information displayed in this handout is meant for the sole use of Active Duty service members, retirees, their families and other personnel eligible for legal assistance from the Goodfellow AFB Legal Office. The information is general in nature and presented to assist those eligible persons prepare for a legal assistance appointment with a professional in the legal office. Rights and responsibilities vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws are changed from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

UNIFORMED SERVICES FORMER SPOUSES PROTECTION ACT

Divorces involving a military member or retired military member create issues not found in typical divorces. Military members and their spouses often have questions about division of retired pay, commissary and exchange privileges for former spouses, medical care for former spouses, and Survivor Benefit Plan (SBP) coverage. This handout addresses these issues.

The Uniformed Services Former Spouses Protection Act (USFSPA) is a law Congress enacted in 1982 to provide benefits to certain former spouses of military members.

Among other provisions, it allows state courts to divide disposable military retired pay as marital property upon divorce under certain circumstances. Disposable military retired pay is a service member's monthly retired pay minus qualified deductions.

The USFSPA, does *not* establish a right to any specific amount of retirement pay that a former spouse may be awarded in a divorce settlement. The decision whether to award retirement pay is solely in the discretion of the state court and the amount awarded will vary. There is no required formula that specifies how retired pay will be divided.

What benefits are available under the USFSPA?

The other benefits available depend on the former spouse's status.

A spouse that passes the **20/20/20** test (the military member has completed at least 20 years of creditable service; the spouse has been married to the military member for at least 20 years at date of final decree of divorce; and the period of marriage overlaps the period of creditable service by at least 20 years) can receive commissary and BX privileges and full medical benefits. These benefits will be suspended if the spouse remarries. However, they will be revived if the subsequent marriage is terminated.

A **20/20/15** spouse (same requirement for 20 years of marriage and 20 years of service and at least 15 years of overlap between the marriage and the creditable service) may be entitled to full military medical benefits for a one-year period after which the spouse may purchase a DoD-negotiated conversion health policy. These benefits will be suspended if the spouse remarries and will not be revived unless the subsequent marriage is annulled.

A **10/10** spouse (the spouse is married to the military member for at least 10 years and the member has served 10 years of creditable military service during the marriage) may be entitled to receive payment directly from DFAS if they are eligible. Eligibility is determined by a state court. This rule has **nothing** to do with whether you are eligible to have the retirement pay divided – it only has to do with where your check comes from.

Former spouses of military members or retirees may have additional benefits under the Survivor's Benefit Plan (SBP), certain separation incentive programs, and in certain domestic abuse situations.

NOTE: This handout is for general informational purposes only. For additional information concerning your specific situation, you should seek counsel from an attorney. If you have any questions, please call the Legal Office at 325-654-3203 to make an appointment with a legal assistance attorney.

References:

Defense Finance and Accounting Service Fact Sheet at

<http://www.dfas.mil/garnishment/usfspa/legal.html#>

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