



## OFFICE OF THE STAFF JUDGE ADVOCATE

28th Bomb Wing  
1000 Ellsworth Street, Suite 2700  
Ellsworth AFB, SD 57706  
DSN: 675-2329  
Commercial: (605) 385-2329



## UNIFORMED SERVICES FORMER SPOUSES' PROTECTION ACT (USFSPA)

If you are currently in a divorce proceeding or are a former spouse of a military member, this pamphlet will help you understand your rights under the Uniformed Services Former Spouses' Protection Act (USFSPA).

### SPOUSE CATEGORIES

**Category: 20/20/20.** Qualification for issue of a 4-year renewal, DD Form 1173, Uniformed Services Identification and Privilege Card, reflecting All benefits & privileges [medical, commissary, exchange, and Morale, Welfare, & Recreation (MWR)] under the Uniformed Services Former Spouses' Protection Act (USFPA). At the time of final decree (signed by a judge), the divorce, dissolution, or annulment of marriage, the following three eligibility requirements must be met:

- o An unremarried former spouse must have been married to a military member for at least **20 years**;
- o The military member must have performed at least **20 years** of service that is creditable in determining eligibility for retired pay;
- o There must have been a **20-year** overlap of marriage and military service. The amount of overlap (of marriage) and final date of divorce, determines the benefits the former spouse is entitled (refer to **15-year** overlap of marriage and military service).
- o \*See *Notes* below.

**Category: 20/20/15.** Qualification for issue of a 4-year renewal, DD Form 1173, Uniformed Services Identification and Privilege Card, reflecting **Medical** benefits only under the Uniformed Services Former Spouses' Protection Act (USFPA). At the time of final decree (signed by a judge), the divorce, dissolution, or annulment of marriage, the following three eligibility requirements must be met:

- o An unremarried former spouse must have been married to a military member for at least **20 years**;
- o The military member must have performed at least **20 years** of service that is creditable in determining eligibility for retired pay;
- o There must have been a **15-year** overlap of marriage and military service, and the divorce must have occurred prior to 1 April 1985.

**Category: 20/20/15.** Qualification for issue of a 1-year, DD Form 1173, Uniformed Services Identification and Privilege Card, reflecting **Medical** benefits only under the Uniformed Services Former Spouses' Protection Act (USFPA). At the time of final decree (signed by a judge), the divorce, dissolution, or annulment of marriage, the following three eligibility requirements must be met:

- An unremarried former spouse must have been married to a military member for at least **20 years**;
- The military member must have performed at least **20 years** of service that is creditable in determining eligibility for retired pay;
- There must have been a **15-year** overlap of marriage and military service, and the divorce must have occurred *on or after 29 September 1988*.

Former spouses' whose divorce occurred on or after *1 April 1985 but prior to 29 September 1988* are no longer eligible for a DD Form 1173. The law authorized eligibility for a DD Form 1173 for this category of former spouses' for 2-years from date of divorce or 31 December 1988, whichever was later. The eligibility time period for a 2-year DD Form 1173, reflecting medical benefits is now expired.

**\*Notes:** This information applies to all categories of former spouses':

- If a former spouse is enrolled in an employer-sponsor health plan, medical care benefits are not authorized. When the former spouse is no longer enrolled in an employer-sponsor health plan, then, medical care benefits may be reinstated. **Exception:** Former spouses, who qualify for a 1-year DD Form 1173, medical benefits will not exceed the 1-year period of coverage from final date of divorce.
- Former spouses of military sponsors, who are on active duty, and have 20-years or more creditable service in determining eligibility to retire pay are eligible to apply for a DD Form 1173; the military sponsor does not have to be in a retired status.
- An unmarried former spouse of a member who retired under the Early Retirement Program with less than 20 service years which is creditable in determining eligibility to retired pay is not entitled to an ID card.
- An unremarried former spouse of a member who was placed on the Permanent Disability Retire List (PDRL) with less than 20 years which is creditable in determining eligibility to retired pay is not entitled to an ID card.
- Former spouses, who initially qualified under the Category 20/20/20, but lose their eligibility for a DD Form 1173, because of remarriage, and who subsequently become unmarried through divorce or death of a spouse is *entitled to reinstatement of privileges* (commissary, exchange, and MWR). Medical care benefits are not authorized.
- Former spouses, who initially qualified under the Category 20/20/15, but lose their eligibility for a DD Form 1173, because of remarriage, and who subsequently become unmarried through divorce or death of a spouse are *not eligible for reinstatement of a DD Form 1173, reflecting medical care benefits*.
  - To apply for an ID card, the former spouse should provide a copy of the marriage certificate and divorce decree to the nearest Air Force military personnel office. If unable to apply in person, contact the nearest Air Force military personnel office for mail-in procedures.
  - When Verifying Officials (VOs) at an Air Force ID card issuing facility initially determine the former spouse qualifies for a DD Form 1173, a temporary provisional ID card may be issued until the military sponsor's service dates can be

verified by a **Statement of Service** or a complete set of **DD Form 214s**, Certificate of Release or Discharge From Active Duty.

- Former spouses of Reserve members who are entitled to retired pay at age 60 will not be issued a DD Form 1173 until HQ ARPC/DPAR has verified their eligibility. Questions or additional information may be directed to HQ ARPC/DPAR, 6760 E. Irvington Place, Denver CO 80279-3000, and the telephone number (303) 676-6369.
- Spouses who do not qualify for a DD Form 1173 for medical care benefits under the USFSPA, may be eligible for the Continued Health Care Benefit Program (CHCBP), by writing or calling the CHCBP Administrator: Humana Military Healthcare Services, Inc., Attn CHCBP, PO Box 740072, Louisville, KY 40201, telephone 1-800-444-5445, option 4.

### **DIVISION OF RETIRED PAY**

USFSPA allows state courts, under state law, to award a portion of a military member's retired pay to a former spouse as part of the marital property settlement. The specific amount, if any, is determined only by state law and the judge - USFSPA and the Air Force do not set specific percentages. Retired pay is considered a piece of property just like a home or car, etc.

### **DIRECT PAYMENT**

A former spouse can initiate the direct payment process by sending a written request along with the necessary documents to the appropriate Finance Office.

### **INSURANCE**

Individuals who lose TRICARE eligibility or other coverage under the Military Health System are eligible for temporary health care coverage in the Continued Health Care Benefit Program (CHCBP). CHCBP is not part of TRICARE but provides similar benefits and operates under most of the rules of TRICARE. For further information about this coverage, how to obtain it and other possible coverage options, contact your base Health Benefits Advisor.

For more information on USFSPA, contact:

HQ AFPC/DPSFR  
550 C Street West, Suite 37  
Randolph AFB, TX 78150-4739  
DSN 665-2089/2467, 210.565.2089/2467  
web site [www.afpc.randolph.af.mil/deers](http://www.afpc.randolph.af.mil/deers)  
email: [deers@afpc.randolph.af.mil](mailto:deers@afpc.randolph.af.mil)

Although state law will determine whether retirement pay will be treated as divisible marital property, the chart and accompanying notes on the next page will help explain general property distribution and military benefits under USFSPA.

*NOTICE: The information provided in this document is meant for the sole use of Active Duty service members, retirees, and their families. The information is general in nature and meant only to provide a brief overview of various legal matters. Rights and responsibilities vary widely according to the facts and circumstances in each case. Laws can vary across states, services and civilian jurisdictions. 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	Length of Time that Marriage Overlaps with Service Creditable for Retirement Purposes			
	Number of Years			
	0 to <10	10 to <15	15 to <20	20 or more
<b>Benefits for Former Spouses</b>				
<b>Division of Retired Pay</b>	X	X	X	X
<b>Designation as an SBP Beneficiary<sup>1</sup></b>	X	X	X	X
<b>Direct Payment<sup>2</sup></b>				
Child Support	X	X	X	X
Alimony	X	X	X	X
Property Division		X	X	X
<b>Health Care<sup>3</sup></b>				
Transitional <sup>4</sup>			X	
Full <sup>5</sup>				X
Insurance <sup>6</sup>	X	X	X	X
<b>Commissary</b>				X
<b>PX</b>				X
<b>Dependent Abuse</b>				
Retired Pay Property Share Equivalent <sup>7</sup>		X	X	X

<sup>1</sup> When a married service member retires, he or she is automatically enrolled in the Survivor Benefit Plan (SBP) with the spouse as beneficiary, unless affirmative action is taken to modify SBP. Under SBP, a portion of retainer/retired pay is deducted from each retirement check; when the retiree dies the beneficiary will receive continued payments in proportion to the amount deducted. As part of a divorce decree, state courts can now require a service member to name an ex-spouse as SBP beneficiary. However, DFAS does not enforce these elections unless the ex-spouse was a SBP beneficiary during the marriage. A former spouse beneficiary will lose SBP coverage if remarried before age 55.

<sup>2</sup> Contact your local Base Finance Officer and/or DFAS for more information.

<sup>3</sup>To qualify for any health care provided or paid for by the military, the former spouse must be unremarried and must not be covered by an employer-sponsored health care plan.

<sup>4</sup> Qualifying former spouses are those who are unremarried, who have no employer-sponsored health insurance, and who meet the "20/20/15" requirement. Transitional health care now includes full military health care for 1 year after the date of the divorce, and during this period the former spouse is eligible to enroll in the civilian group health care plan negotiated by DOD.

<sup>5</sup> "Full health care" includes health care at military treatment facilities and that provided through the Tricare insurance program. A former spouse of a reserve component retiree is eligible for this benefit upon the retiree's 60th birthday (or on the day the retiree would have been 60 if (s)he dies before reaching age 60) if (s)he meets the normal qualification rules.

<sup>6</sup> Implementation of the Department of Defense Continued Health Care Benefit Program (CHCBP) was directed by Congress in the National Defense Authorization Act for Fiscal year 1993 (see 10 U.S.C. 1078a). It is a premium based program of temporary continued health benefits coverage available to eligible beneficiaries. Medical benefits mirror those available under the basic Tricare program, but CHCBP is not part of Tricare. For further information on this program, contact a military medical treatment facility health benefits advisor, or contact the CHCBP Administrator, P.O. Box 1608, Rockville, MD 20849-1608 (1-800-809-6119). The CHCBP replaces the Uniformed Services Voluntary Insurance Program (USVIP).

<sup>7</sup> When a retirement-eligible member receives a punitive discharge via court-martial, or is discharged via administrative separation processing, the members retirement benefits are lost. In certain cases where the court-martial or separation action was based on dependent abuse, eligible ex-spouses may receive their court-ordered share of retired pay (divided as property) as if the member had actually retired.