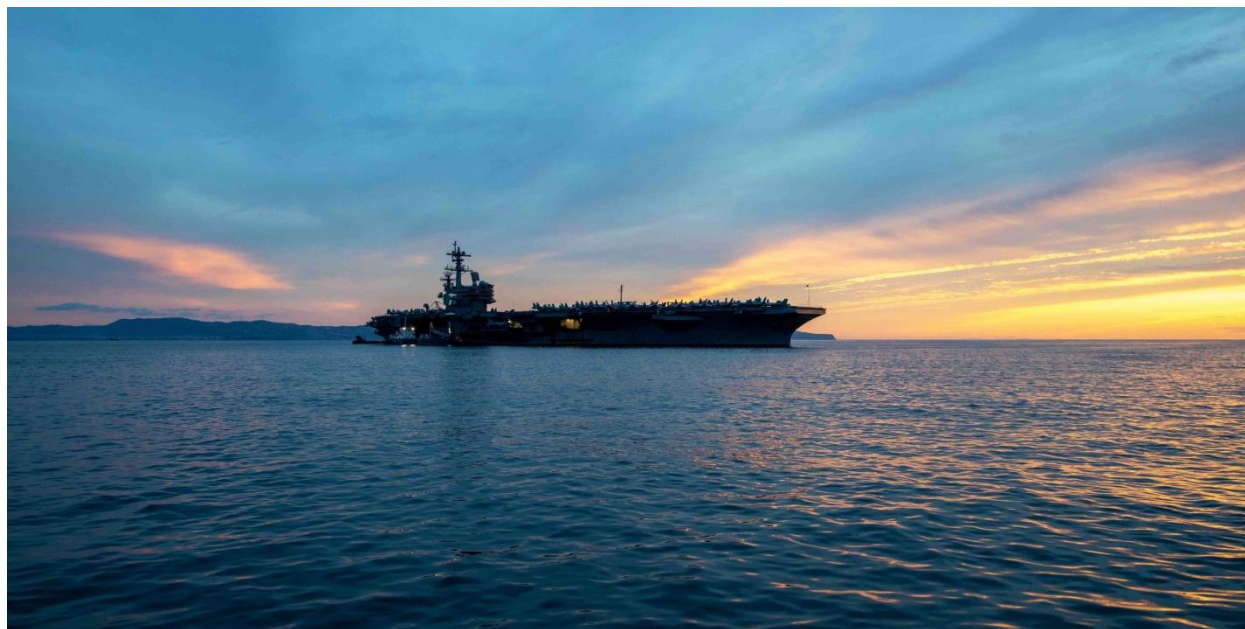


## Understanding Your Service Benefits After Divorce



While couples do not usually marry intending to divorce, divorce is a common reality. Deciding to part ways is often difficult and emotional, and it has financial implications for all parties. If you and your spouse have chosen to part ways, it's important to understand how some of the benefits associated with military service may be affected.

First, you may be tempted to turn to the Legal Assistance Office or a Judge Advocate General (JAG) officer for help with your divorce. While JAG officers may be able to offer you legal advice, they cannot help you file for divorce or represent you in court; you will need to hire your own attorney to represent you during the divorce proceedings. The American Bar Association maintains [a directory of legal programs](#) that are available to military families in each state.

Second, the [Servicemembers Civil Relief Act](#) protects servicemembers' interests during divorce proceedings if they cannot make a court date due to military service by allowing a servicemember to request a delay of the proceedings for up to 90 days.

### Basic Allowance for Housing

A former spouse who is a civilian will no longer receive Basic Allowance for Housing (BAH). They will become financially responsible for their own housing, which may become a factor in divorce negotiations.

For servicemembers, BAH allowances may change depending on post-divorce dependency status. If their new status is *single with no dependents*, they will receive BAH at the "without dependents" rate, which will be less than their previous allowance. If they become *single but have dependent children*, BAH depends on their housing, custody arrangements, and child support obligations.



- If a servicemember has primary custody of dependent children and lives outside of military housing, they will continue to receive BAH at the "with dependents" rate.
- If a servicemember lives in military housing but pays child support greater than the "BAH differential" amount, they will receive BAH at the "differential" rate.

BAH remains dependent on location and pay grade, regardless of the servicemember's marital status.

## TRICARE

A former spouse who is a civilian will lose access to TRICARE upon the date of the divorce, subject to the following exceptions:

1. A former spouse can maintain TRICARE coverage if they were married to the servicemember for at least 20 years at the time of the divorce, the servicemember completed at least 20 years of service, and the former spouse was married to the servicemember during at least 20 years of their service, *or*
2. A former spouse can maintain TRICARE coverage for one year after the divorce is finalized if they were married to the servicemember for at least 20 years at the time of the divorce, the servicemember completed at least 20 years of service, and the former spouse was married to the servicemember during at least 15 years of their service.

TRICARE benefits cease if the former spouse remarries.

Note that a former spouse may be eligible to purchase health care coverage through the Continued Health Care Benefit Program. Individual coverage is available for up to 36 months, provided that coverage is purchased within 60 days of the loss of TRICARE eligibility.

For the servicemember, TRICARE benefits remain unchanged.

## Military Retirement Pay

The Uniformed Services Former Spouse Protection Act (USFSPA) is a federal law that provides financial protection to former spouses of servicemembers. Specifically, it states that a former spouse may be entitled to a portion of the servicemember's disposable retirement pay after a divorce. Note that the law does not *require* retirement pay to be split; it merely allows the state to divide the servicemember's retirement pay as part of a divorce settlement.

The law also provides that, if a former spouse and servicemember were married for at least 10 years and the servicemember performed 10 years of military service, the spouse will receive any awarded retirement payment directly from Defense Finance and Accounting Service.

How military retirement pay is divided between a former spouse and a servicemember and how the payments are made is decided by the court during divorce proceedings.

Note that only the amount of retirement pay that was earned during the marriage (the marital portion) can be divided; anything earned by the servicemember outside of marriage is considered the servicemember's sole property.

## Survivor Benefit Plan

USFSPA allows a former spouse to be listed as a Survivor Benefit Plan (SBP) beneficiary if they were previously listed as a spouse beneficiary prior to the divorce. In many cases, a divorce



decree mandates that the former spouse be designated as the SBP beneficiary. However, a servicemember or veteran may voluntarily choose to designate the former spouse even without that mandate.

If the divorce occurs before the servicemember retires, the former spouse's coverage amount is determined by court order. If the divorce occurs after the servicemember retires, the former spouse's coverage amount stays the same.

Note that if a former spouse remarries before reaching age 55, they lose their SBP eligibility unless their new marriage ends.

Learn more about divorce and the Survivor Benefit Plan [here](#).

### **Department of Veterans Affairs Benefits**

A former spouse is not entitled to a veteran's VA disability benefits; these funds are not considered marital property and cannot be affected by a divorce decree. However, VA disability payments are considered income for the purposes of calculating child support and/or alimony.

For veterans, disability benefits may decrease after divorce. This is because disability payments for veterans who are rated 30% disabled or more are increased based on the number of dependents (e.g., spouse, child, or qualifying parent) that they have. After a veteran is no longer married, they will no longer qualify for the credit they previously received for having a spouse.

If a former spouse was using VA education benefits (also known as Chapter 35 benefits), those benefits cease to be available to the former spouse as of the date of the divorce.

### **Installation, Commissary, and Exchange Access**

Former spouses can maintain their military ID card and commissary and exchange privileges if they were married to a servicemember for at least 20 years at the time of the divorce, the servicemember completed at least 20 years of service, and the former spouse was married to the servicemember during at least 20 years of their service.

Installation access for servicemembers and veterans is not affected by divorce.

Getting a divorce can be tough, emotionally and financially. If you have questions about the Survivor Benefit Plan or other DOD or VA benefits, Navy Mutual's Education and Veterans Services team can help. Our representatives can help you understand the benefits to which you are entitled – you can contact them at [888-298-4442](tel:888-298-4442).