

Divorce and the Survivor Benefit Plan



Nobody gets married with the intention of getting divorced at a later point, but still, divorce happens. The process of splitting assets and determining alimony and child support payments is not easy, but it's important that you work with a lawyer or representative to ensure that you and your soon-to-be-ex-spouse reach an agreement that is fair to all.

When it comes to a divorce between a servicemember and their spouse, there are additional considerations, one of them being what happens with the Survivor Benefit Plan (SBP).

The [Survivor Benefit Plan](#) is a government-subsidized, monthly income annuity provided to eligible beneficiaries when a servicemember or veteran passes away. Since military retirees receive a monthly pension for life – which stops upon their death – the Survivor Benefit Plan offers a way to preserve part of that monthly income for a beneficiary.

Participation is free and automatic while service members are on active duty, but to continue the coverage into their retirement, servicemembers must elect to continue participating in the Survivor Benefit Plan by their last day on active duty and begin paying premiums. After the servicemember's death, monthly benefit payments to their beneficiary begin.

If a retiree elects SBP at the time of retirement and lists their current spouse as the beneficiary, what would happen if they were later to divorce?

There are a couple common occurrences:

1. The retiree is mandated to maintain their former spouse (and children) as their SBP beneficiary by a court order or divorce decree.
2. The retiree and their former spouse agree voluntarily that the retiree will maintain the former spouse (and children) as their SBP beneficiary.

3. The retiree is not mandated to maintain their former spouse as their SBP beneficiary by a court order or divorce decree and the retiree can suspend their coverage by providing their divorce decree to DFAS. In the future, the retiree can update their SBP beneficiary to cover a new spouse or a new spouse and children.

If the court mandates that SBP coverage be provided to a former spouse, they can decide who is liable for the premiums. They may order the retiree to pay the premiums in full, in which case they would continue to come out of their military retirement pay each month, or they may order the retiree and the former spouse to split the cost. Because premiums are automatically paid out of the retiree's retirement pay, the former spouse may then owe money to the retiree each month. Additionally, if the former spouse is entitled to receive a portion of the retiree's military retirement pay each month, the SBP premium will first be deducted from the gross monthly retirement amount and then the remainder will be divided based on the court-ordered percentage. It is up to the retiree and the former spouse to work out an arrangement on how costs will be reimbursed, if necessary.

If the court requires the retiree's SBP beneficiary to remain the now-former spouse or the now-former spouse and children OR if the retiree and former spouse agree to maintain coverage voluntarily:

A retiree should not assume that if they elected current spouse coverage at the time of retirement that the coverage will continue when that spouse becomes a former spouse. The retiree must complete [DD Form 2656-1](#) (Survivor Benefit Plan Election Statement for Former Spouse Coverage) and submit the completed form as well as a copy of their divorce decree and settlement agreement to Defense Finance and Accounting Services (DFAS) within one year of the court order.

DD Form 2656-1 does not require a signature from the former spouse, and a retiree may neglect to submit it on time or at all. To protect themselves and ensure that the SBP changes go through, the former spouse should complete [DD Form 2656-10](#) (Survivor Benefit Plan Former Spouse Request for Deemed Election) and send it to DFAS within one year of the court order mandating the SBP beneficiary change. Along with the form, the former spouse must also submit a copy of the divorce decree and settlement agreement. If the deemed election form and divorce decree are not received within one year of the divorce, DFAS is not required to honor it.

If child coverage is required along with former spouse coverage:

It is important to note that only children from the marriage of the retiree and the former spouse are covered. Children from another marriage (of either the retiree or former spouse) are ineligible for coverage under this SBP beneficiary election.

Former spouse and child(ren) as a beneficiary designation does not indicate that both the spouse and child(ren) will receive annuity payments at the same time. Provided that the former spouse remains alive and eligible for SBP, they will receive the entirety of the payment each month. If the former spouse passes away or become ineligible through remarriage before age 55, each child will receive monthly annuity payments instead, provided that:

- The child remains unmarried, and
- The child is under age 18 **or** under age 22 if they are enrolled in school, or
- The child is disabled and cannot support themselves **and** the disability occurred while the child was under the age of 18 or 22 (if a student).

If the former spouse remarries after age 55, their coverage is unaffected.



Note: Retirees can only have one main beneficiary designated at a time. If a former spouse is designated as the retiree's SBP beneficiary, a current spouse (and any affiliated children) cannot also be listed.

If a former spouse was designated as a retiree's SBP beneficiary and remarries before age 55:

The SBP coverage for the former spouse is suspended for the duration of their remarriage. Either the former spouse or the retiree needs to submit written notification of the marriage and a copy of the marriage certificate to DFAS in order for premiums to be suspended. If the remarriage also ends in divorce, the former spouse's SBP coverage will resume. In this case, DFAS must be given written notification and a copy of the divorce decree. If the remarriage ends with the death of the former spouse's new spouse, coverage will resume after DFAS receives notification and a copy of the death certificate.

If a former spouse was designated as a retiree's SBP beneficiary and passes away:

SBP coverage can be transferred to the retiree's current spouse provided they notify DFAS of the former spouse's death within one year of its occurrence. If the retiree was not married at the time of their former spouse's death, but later marries, the new spouse can still be listed as the SBP beneficiary. DFAS must be notified within one year of the marriage.

There are four other situations in which a retiree may be able to change their SBP beneficiary away from their former spouse:

1. If the retiree obtains a court order stating that the former spouse needs no longer to be designated as their SBP beneficiary.
2. If the original SBP election was based on a written agreement between the retiree and the former spouse, and not a court order, the former spouse can agree in writing to the beneficiary change.
3. If the retiree provided former spouse coverage voluntarily, and not as part of a court order or written agreement, the retiree can change the beneficiary designation without consent from the former spouse.
4. If the retiree wants to cancel their SBP coverage in the one-year window between the second and third anniversaries of their initial receipt of retired pay, the retiree must provide a copy of a modified court order allowing SBP termination or, if SBP was originally provided voluntarily and based on a written agreement, the former spouse must consent to SBP termination. A retiree who chooses this option cannot change or add a beneficiary; this is a complete withdrawal from SBP.

The Survivor Benefit Plan can be confusing, especially in cases of divorce. Fortunately, Navy Mutual is a recognized expert in providing information and education on this and other DoD benefits. If you need help, you can learn more about SBP [here](#) or you can contact our education department at education@navymutual.org or by calling **888-298-4442**. Additionally, as a federally recognized Veterans Service Organization, Navy Mutual can help you navigate VA benefits and make sure that you get the answers to your questions. You can reach our Veteran Services team at VSO@navymutual.org.