

Uniformed Services Former Spouses Protection Act (USFSPA)

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In 1982, Congress passed, and President Ronald Reagan signed into law, the Uniformed Services Former Spouses Protection Act (USFSPA), the major Federal law allowing and regulating the division of future military retirement benefits. This law was passed to overturn a 1981 U.S. Supreme Court decision providing that future military retirement benefits were not subject to division by State courts upon divorce.

The effect of the USFSPA is straightforward and simple. With certain exceptions, which are beyond the scope of this article, a service member's disposable retired pay is subject to State property division schemes by State judges upon divorce or separation. Generally speaking, disposable retired pay means the net retired pay a service member receives or will receive. There are limitations and exceptions to this as well.

The USFSPA dealt only with military retirement benefits and did not deal with veteran or military disability pay. Disability pay received because of military service is not subject to division by State Courts upon divorce or separation. This was particularly problematic until some recent post-9/11 changes to Federal law that now allow service members to receive both retirement pay and disability pay under certain circumstances. Previously, a service member had to choose retirement pay or disability pay, but the service member could make the choice at his or her option.

If you would like more information about your rights as a military spouse or for specific questions, please consult with an attorney who has experience with military retirement and related issues.