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Military Survivor Benefit Plan: Background and Issues for Congress

Updated January 15, 2020

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R45325

CRS REPORT
Prepared for Members and
Committees of Congress

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SUMMARY

R45325

January 15, 2020

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Military Survivor Benefit Plan: Background and Issues for Congress

The Department of Defense's Survivor Benefit Plan (SBP), enacted in 1972, provides cash benefits in the form of a lifetime annuity to a surviving spouse or other eligible recipient(s) of a retiree or deceased member of the uniformed services. The original intent of the SBP (and its antecedents) was to "ensure that the surviving dependents of military personnel who die in retirement or after becoming eligible for retirement will continue to have a reasonable level of income." Coverage was later expanded to those who die while on active service. Under the SBP, a military retiree can elect to have a portion of his or her monthly retired pay withheld in order to provide a monthly survivor benefit to a designated beneficiary. The cost of this protection is shared by the retiree (in the form of reductions from monthly military retired pay after retirement), the government, and sometimes the beneficiary (under certain types of coverage).

Nearly every Congress since 1972 has, in some way, modified the SBP provisions. These modifications have affected eligibility, the size of the benefit, and the interactions of the benefit with other federal benefits, such as the Department of Veterans Affairs' Dependency and Indemnity Compensation (DIC) and Social Security. In nearly every instance, these changes have made the SBP more generous. The program's eligibility requirements and enrollment processes are complex, and modifications over time have added to the complexity.

The SBP is administered by the Defense Finance and Accounting Service (DFAS), which provides annuities to approximately a quarter of a million survivors of military servicemembers and retirees. SBP participation and costs have grown over time as Congress has made changes to increase the generosity of the program. In FY2018, survivor pay expenditures totaled $3.7 billion. SBP coverage is provided at no cost for active duty servicemembers. Those who die on active duty are generally assumed to have retired with full disability and elected full SBP coverage on the day they die. Military retirees' monthly SBP premiums are generally deducted from the retiree's monthly annuity payment. Because the premiums do not cover the full liability, part of the benefit cost is borne by the government.

The amount of the annuity is a percentage of the base retired pay a member is eligible to receive, with a maximum of 55% of the base amount of retired pay and a minimum of $300. Coverage provisions and benefit calculation vary depending on the status of the member (i.e., active duty retiree, reserve retiree, or deceased on active duty), the member's dependents (i.e., spouse and/or children), and certain elections that the member makes at the time of retirement.

There are limits on changing or discontinuing coverage once a member is enrolled in SBP. Those who do not have eligible beneficiaries at the time of retirement, but later marry or have children may enroll within a year of eligibility based on a qualifying event (i.e., marriage or birth of a child). Congress has, on occasion authorized *open seasons* for certain members to make changes to their enrollment in parallel with other enacted changes to the benefit.

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Introduction

The Survivor Benefit Plan (SBP), enacted in 1972, provides cash benefits to a surviving spouse or other eligible recipient(s) of a retiree or deceased member of the uniformed services.[1] The original intent of the SBP (and its antecedents) was to "ensure that the surviving dependents of military personnel who die in retirement or after becoming eligible for retirement will continue to have a reasonable level of income."[2] Coverage was later expanded to those who die while on active service. Under the SBP, a military retiree can have a portion of his or her monthly retired pay withheld in order to provide a beneficiary with a monthly survivor benefit. The cost of this protection is shared by the retiree (in the form of reductions from monthly military retired pay after retirement), the government, and sometimes the beneficiary (under certain types of coverage).

This report describes the categories of beneficiaries eligible for survivor benefits under the military Survivor Benefit Plan (SBP), the formulas used in computing the income level (including the integration of SBP benefits with other federal benefits), and the costs of SBP participation incurred by the retiree and/or the beneficiary.[3] While this report focuses primarily on SBP, survivors of military members may be eligible for other benefits, including life insurance, TRICARE health benefits, Annuity for Certain Military Surviving Spouses (ACMSS), the Minimum Income Widow Annuity, Department of Defense (DOD) death gratuity, commissary and exchange privileges, and other federal benefits, such as Social Security.

Prior Plan: Retired Serviceman's Family Protection Plan (RSFPP)

When SBP was enacted in 1972, it replaced the Retired Serviceman's Family Protection Plan (RSFPP), which also provided benefits to dependents of deceased retirees.[4] The RSFPP had a number of unpopular features. First, it was intended to be actuarially neutral in terms of costs—in other words, the cost of this program was fully paid for by its participants. As a result, it could be expensive for the retiree.[5] In addition, the decision to elect RSFPP coverage had to be made by the prospective military retiree before his or her 18th year of military service. As such, the methods used in computing the RSFPP's cost and benefit could change between the time at which the servicemember elected to provide coverage and the time at which the member actually retired. Therefore, the costs and benefits remained an unknown quantity, limiting the ability of the retiree to make future financial plans.

During its 19-year history, participation in the RSFPP never exceeded more than 15% of eligible military retirees. RSFPP continues to pay survivor annuities for spouses of covered

[1] P.L. 92-425. The Survivor Benefit Plan (SBP) is authorized under subchapter II of Chapter 73 of Title 10 of the United States Code (10 U.S.C. §§1447-1455).

[2] Department of Defense, Office of the Secretary of Defense, Military Compensation Background Papers, 8th Ed., July 2018, p. 727, https://www.loc.gov/rr/frd/pdf-files/Military_Comp-2018.pdf.

[3] Retirees of the Armed Forces (Army, Navy, Marine Corps, Air Force and Coast Guard), as well as retirees of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA) are eligible to participate in the Survivor Benefit Plan. This report emphasizes the provisions of the SBP as they relate to members or retirees of the Armed Forces.

[4] RSFPP was originally known as the Uniformed Services Contingency Option Plan of 1953, P.L. 83-239, 67 Stat. 501, 1953; name changed by P.L. 87-381, 75 Stat. 810, 1961.

[5] For example, the cost was approximately $0.23 of deducted retired pay per dollar of survivor benefits for a retired member age 45 who elected to provide coverage for a spouse who was five full years younger.

servicemembers who retired before 1972 and who did not convert to the SBP.[6] It was expected—and has largely been proven—that the SBP would be more popular than the RSFPP, due to lower costs to the retiree and broader benefits for the survivors. However, SBP also entails higher costs to taxpayers because the SBP costs are shared with the government in most cases.

Enactment of SBP

In 1971, Congress conducted a committee study, and held a series of hearings on military survivor benefits, where testimony was heard from DOD, the Veterans' Administration, the Social Security Administration, military widows, and spokesmen for veteran and servicemember organizations. As a result of this review, the congressional armed services committees deemed existing survivor benefits for military families (primarily the RSFPP) to be, "incomplete, inadequate, or nonexistent."[7] The House Armed Services Committee report voiced the philosophical basis for the new system, stating,

> In drafting the legislation, the Committee sought to create a bill that would provide a fair level of income replacement for survivors, that would call for some cost sharing at a reasonable level by the retiree, that would meet the government's obligation to survivors and still be acceptable in terms of its financial demands on the government, that could be generally applicable to all military retirees, and that would be easily understood by members of the retired community and their dependents. In arriving at its bill the Committee has been guided by two broad, general concepts:
>
> To build on the foundation provided by Social Security; and
>
> To parallel, to the extent feasible, the successful survivor benefits program of the Civil Service Retirement System.[8]

The initial formulas for cost-sharing and maximum benefit for the SBP program (55% of the base retired pay) mirrored those of the federal Civil Service benefit at the time.[9] In its legislative development, Congress also sought to, "build upon the income-maintenance foundation of the Social Security system", by integrating the benefit with Social Security benefits through offsets of the SBP annuity at age 62.[10] Nearly every Congress since 1972 has, in some way, modified the SBP provisions. These modifications have affected eligibility, the size of the benefit, and the interactions of the benefit with other federal benefits, including Department of Veterans Affairs' Dependency and Indemnity Compensation (DIC) and Social Security.

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[6] DOD Office of the Actuary, *Statistical Report of the Military Retirement System (MRS) Fiscal Year 2017*, released July 2017, p. 23.

[7] U.S. Congress, House Committee on Armed Services, *Establishing a Survivor Benefit Plan for Members of the Armed Forces in Retirement and for Other Purposes*, report to accompany H.R. 10670, 92nd Cong., 1st sess., September 16, 1971, H.Rept. 92-481.

[8] Ibid. p. 6.

[9] The structure and benefits of the federal civilian survivor annuity plan and the military plan have diverged over time. For more information on federal civilian survivor benefits, see CRS Report RS21029, *Survivor Benefits for Families of Civilian Federal Employees and Retirees*, by Katelin P. Isaacs

[10] U.S. Congress, House Committee on Armed Services, *Establishing a Survivor Benefit Plan for Members of the Armed Forces in Retirement and for Other Purposes*, report to accompany H.R. 10670, 92nd Cong., 1st sess., September 16, 1971, H.Rept. 92-481, p. 14.

Current Program Size and Participation

At the end of fiscal year 2018 (FY2018) there were 273,596 survivors receiving SBP annuity payments for total DOD expenditures of $3.7 billion (see **Table 1**).[11] Of those receiving SBP payments, the number whose sponsor died on active duty was 10,622, which includes 3,443 spouses and 7,179 children.[12] There are an additional 4,644 survivors who are receiving benefits through an older program called the Retired Serviceman's Family Protection Plan (see **Table 1**).

Table 1. Military Survivor Benefit Plan Recipients and Expenditures

FY2018

	Number of recipients at end of September 2018	Fiscal year expenditures 2018 dollars
Survivor Benefit Plan (SBP) - Retirees	252,297	$3,497,259,105
Reserve SBP (RC-SBP) - Retirees	10,266	$77,254,363
Death on Active Duty	10,622	$105,784,835
Annuities for Certain Military Surviving Spouses (ACMSS)	411	$1,232,991
Total SBP	**273,596**	**$3,681,531,294**

Source: DOD, Office of the Actuary, Statistical Report of the Military Retirement System Fiscal Year 2018, released May 2019.

Notes: ACMSS is a monthly annuity authorized by Section 644 of P.L. 105-85, and effective December 1, 1997, for certain widows whose spouses died before being eligible to participate in RSFPP (the pre-SBP plan) or SBP. ACMSS dollar amounts are estimated.

Approximately 1.1 million military retirees are enrolled in SBP. Members in active service do not need to be enrolled to be eligible for benefits. Participation rates have increased as the benefit has become more generous; rates have risen from 58% of all members retiring in 1993 to 67% of those retiring in 2017.[13] Among nondisabled retirees in the regular component, 58% of enlisted and 74% of officers participate in SBP. (Among the services in the regular component, the Navy and Marine Corps generally have lower participation rates than the Air Force and Army.) Participation rates among Reserve Component retirees are higher, at 91% of enlisted and 90% of officers (see **Table 2**).

Table 2. Survivor Benefit Plan Participation Rates of Military Retirees

September 30, 2018

	Army	Navy	Marines	Air Force	Total
Nondisabled Regular Enlisted	62%	50%	43%	64%	58%

[11] This figure is "Total SBP." It does not RSFPP recipients or payments for Special Survivor Indemnity Allowance (SSIA) and SBP Guaranteed Minimum Income. Department of Defense Office of the Actuary, *Statistical Report of the Military Retirement System (MRS) Fiscal Year Ended September 30, 2018*, released May 2019, p. 23, https://actuary.defense.gov/Portals/15/Documents/MRS_StatRpt_2018%20v5.pdf?ver=2019-05-14-220629-787.

[12] Ibid., p. 221.

[13] Ibid., p. 228.

	Army	Navy	Marines	Air Force	Total
Nondisabled Regular Officers	76%	69%	63%	77%	74%
Disabled Enlisted	65%	52%	38%	58%	59%
Disabled Officers	66%	59%	51%	64%	64%
Reserve Enlisted	92%	87%	90%	89%	91%
Reserve Officers	91%	89%	89%	88%	90%
All Enlisted	70%	54%	43%	67%	64%
All Officers	80%	74%	66%	79%	77%
All	73%	59%	49%	70%	67%

Source: DOD Office of the Actuary, *Statistical Report of the Military Retirement System (MRS) Fiscal Year 2018*, released May 2019. P. 228.

SBP Coverage and Provisions

Coverage provisions and calculation of the benefit vary depending on the status of the member (i.e., active duty retiree, reserve retiree, or deceased on active duty), the member's dependents, and certain elections that the member makes at the time of retirement.

Level of Coverage

A retiree of the active or reserve component may elect to enroll in the SBP upon retirement. The member may elect the maximum coverage, reduced coverage, or may elect not to participate.[14] In some cases a court may order the member to provide such benefits to a former spouse. The maximum SBP benefit is 55% of base amount of military retired pay at the time of the retiree's death. Reduced coverage consists of 55% of the base amount of retired pay when the retiree elects a base amount that is *less* than total retired pay. The reduced amount of base retired pay is subject to a $300 minimum.

If a retiree elects not to participate, or to participate at a reduced level of coverage, the retiree's spouse must be notified, and in the case of such an election made on or after March 1, 1986, the spouse must concur with the election for it to be effective.[15] Any decision not to participate or to participate at a reduced level is usually irrevocable. However, under certain circumstances, a retiree who is unmarried at the time of his or her retirement and who elects not to participate in the SBP, but who marries after his or her retirement, may elect within one year of marriage to provide SBP benefits for the new spouse. This election takes effect only after a one-year waiting period. With the enactment of P.L. 99-145 (effective March 1, 1986), the spouse in a post-military-retirement marriage must be notified if the retiree does not elect to provide an SBP benefit, or elects to provide an SBP benefit at a reduced level.

[14] The form used to elect coverage is DD Form 2656. If this form is not complete or is invalid for any other reason and the member has eligible dependents, he or she will be enrolled automatically using gross retired pay as a basis. See https://www.dfas.mil/retiredmilitary/provide/sbp/cost.html.

[15] P.L. 99-145; Nov. 8, 1985; 99 Stat. 676, 677. If concurrence is not obtained when required, maximum coverage will be established for the member's spouse and for child(ren), if appropriate.

Formulas for Withholding

SBP coverage is provided at no cost for those in active service. A military retiree who elects to participate will have a portion of his or her monthly retired pay withheld in order to provide SBP coverage. The costs of SBP protection and benefits are computed on the basis of retired pay rates at the time of retirement. All subsequent post-retirement changes are a result of cost-of-living adjustments to retired pay. The FY2017 NDAA (P.L. 114-328) also authorized payment of SBP premiums from Combat Related Special Compensation (CRSC) payments.[16]

The statutory computational formula for determining the amount of retired pay withheld is based on the date the member entered the service and/or the type of retirement the servicemember is entitled to receive (see **Table 3**). The basic formulas are discussed below as the *Original Computational Formula* and the *Flat Rate Formula*. Military personnel who entered service on or after March 1, 1990, and who are not entitled to retired pay under either Chapter 61 of Title 10 United States Code (Retirement or Separation for Physical Disability, also known as disability retired pay), or Chapter 1223 (Retired Pay for Non-Regular Service, also known as reserve retired pay), are to have their withholdings computed under the Flat-Rate method. For those military personnel who first became a member before March 1, 1990, or those who have their retired pay computed under either Chapter 61 or 1223 (regardless of the date of retirement), DFAS is to compute SBP withholdings under the formula (Original or Flat-Rate) that is more financially advantageous to the individual.

DFAS generally withholds premiums from retired pay in any month in which there is an eligible spouse (or former spouse) beneficiary. Reductions to retired pay (i.e., SBP premiums) are not considered taxable income. In 1999, Congress expanded the generosity of the SBP by enacting the so-called "paid-up" provision. Under this language, reductions in retired pay made to cover the retiree's share cease when two conditions are met: (1) the retiree reaches age 70, and (2) the retiree has participated in the SBP for 360 months. As enacted, these provisions became effective October 1, 2008.[17]

[16] Combat Related Special Compensation (CRSC) is not technically considered retired pay, however some retirees may waive all or a portion of retired pay in order to receive this special pay. For more information see, CRS Report R40589, *Concurrent Receipt: Background and Issues for Congress*, by Kristy N. Kamarck.

[17] P.L. 105-261, 112 Stat. 2045 Oct. 17, 1998. P.L. 106-65; 113 Stat. 667; Oct. 5, 1999. These laws extended this provision to participants in the RSFPP. Furthermore, P.L. 105-261; 112 Stat. 2045, Oct. 17, 1998, created an open enrollment that allowed persons not currently participating in the SBP to enroll subject to certain restrictions. P.L. 106-65 extended the paid-up provision to these "*late*" enrollees, provided they paid the total premiums that would have been withheld from their retired pay, had they been participating since they first became eligible. In addition, from April 1, 1992 through March 31, 1993, retirees who initially rejected coverage were afforded a one-year opportunity to enroll. This late enrollment required greater withholdings on retired pay. (See P.L. 102-190; 105 Stat.1388; Dec. 5, 1991) Lastly, P.L. 105-85; 111 Stat. 1797; Nov. 18, 1997, created a one-year opportunity for participants to discontinue SBP coverage, subject to certain restrictions.

Table 3. Application of Computation Formulas

by date and retirement type

Type of Retirement	Original *or* Flat-Rate Formula	Flat-Rate Formula Only
Members who entered service **prior to** March 1, 1990, and are entitled to regular retired pay	√	
Members who entered service **on or after** March 1, 1990, and are entitled to regular retired pay		√
Members who are entitled to disability retired pay (Chapter 61)	√	
Members who are entitled to disability retired pay (Chapter 1223)	√	

Source: 10 U.S.C. §1452.

Original Computational Formula

Under this method, the retiree's contribution to the total cost of providing the SBP benefit is computed as 2.5% of a threshold amount (indexed to inflation) of base retired pay plus 10% of the remaining base amount of retired pay. This contribution is withheld from the retiree's total monthly retired pay.[18] For example, a hypothetical retiree who is eligible for the original formula receives a monthly base amount of military retired pay of $1,616 as an E-5 with 20 years of service.[19] The cost of providing survivor protection for this retiree is $101. In other words, $101 is deducted from this hypothetical retiree's base amount of monthly retired pay of $1,616 to insure that upon the retiree's death, his or her surviving spouse will receive a monthly survivor benefit of 55% of his or her base amount of retired pay, or $888 per month. If the retiree received more than $1,616 per month in total military retired pay—say as an E-8 with 20 years of service, or $2,557—but elected to provide less than the maximum coverage (by using $1,616, rather than total retired pay, as the base amount), the computation of costs and benefits would remain the same. If an individual's retired pay increases as the result of cost-of-living adjustments (COLAs), the amount deducted from his or her retired pay and the potential SBP benefit to his or her designated survivor usually will increase proportionately as well.[20]

Table 4. Computation of Survivor Benefit Plan Costs to a Hypothetical Retiree for Spouse Only Coverage

1.	Enter base amount of retired pay.	$1,616.00
2.	Enter $803, or total retired pay if less than $803 (threshold amount).	$803.00
3.	Multiply the figure in line two by 2.5%.	$20.00

[18] If total retired pay is less than the threshold per month, the base amount must be equal to total retired pay. Sec. 714 of P.L. 99-145, the FY1986 DOD Authorization Act, provided that the base amount shall be increased by the same percentage amount and at the same time as across-the-board increases in military basic pay after October 1, 1985. The basic pay index will apply only to retirees whose retired pay is computed on the basis of basic pay rates in effect on or after the date of the basic pay increase.

[19] Military retired pay in this instance is calculated using 2017 pay tables found at Defense Finance and Accounting Service (DFAS), Military Pay Charts - 1949 to 2018, at https://www.dfas.mil/militarymembers/payentitlements/military-pay-charts.html.

[20] The index used to adjust retired pay COLA is the CPI-W; the index for urban wage earners and clerical workers. It represents the buying habits of approximately 32% of the non-institutional population of the United States, Military Compensation Background Papers, Seventh Edition, November 2011, p. 637.

4.	Subtract $803 from line one. If line one is less than $803 enter zero.	$813.00
5.	Multiply line four by 10%.	$81.00
6.	Add lines three and five.	$101.00

Note: Figures are rounded down to the nearest dollar. Line six is the cost of survivor protection under the spouse only coverage. The payment to the beneficiary is 55% of base amount military retired pay, or $888.

Flat-Rate Formula

The National Defense Authorization Act for Fiscal Years 1990 and 1991 (P.L. 101-189) revised and simplified the computational formula for determining SBP withholdings.[21] Under this new formula, SBP withholdings are computed to be 6.5% of the base amount of retired pay.[22] A retiree with $1,616 (E-5, 20 years of service) as his or her base amount of retired pay would have $105.00 ($1,616 x 0.065) withheld in order to provide the same level of protection under the Flat-Rate method.

The basic benefit is not affected by the type of computational formula used.

Effects of Lump Sum Retirement Payment on SBP

The FY2017 NDAA (P.L. 114-92) established a new Blended Retirement System (BRS) for military members entering service on or after January 1, 2018. This legislation, for the first time, authorized a lump sum payment of a portion of the member's retired pay upon retirement.[23] The lump sum may either be 25% or 50% of the discounted present value of retired pay entitlement for the time between the date of retirement and the date of Social Security eligibility. In addition, the retiree is to continue to receive a monthly annuity of the remaining percentage of retired pay (75% or 50%) to which they are otherwise entitled.

A participant in SBP who elects the lump sum payment is to have coverage at the full base amount unless the member elects to reduce the base amount. The full base amount will be equal to the amount of the retiree's *unreduced* monthly retired pay.[24] As such, "SBP premiums for members who elect lump sums under BRS will be equivalent to what they would have been without the lump sum, and consequently, the survivors' annuities will be equivalent to what they would have been without the lump sum."[25]

Premiums are to be deducted from the portion of retired pay that the member continues to receive after the lump sum payment. As an example, consider two retirees with base monthly retired pay of $1,616. In this example, both retirees have an SBP monthly premium of $101. If one of the

[21] This legislation also provided for the re-computation of survivor annuities in the case of a member who dies on active duty while qualified to apply for retired pay, or who serves at least 20 years, but is not eligible to receive retired pay as a commissioned officer because he/she has not served at least 10 years as a commissioned officer. Under this language, effective March 1, 1990, the survivor annuity would be computed based on the grade in which the member was serving at the time of death, unless he/she would have been entitled to be retired in a higher grade.

[22] 10 U.S.C. 1452(a).

[23] For more information on the Blended Retirement System (BRS) and the lump sum payments, see CRS Report RL34751, *Military Retirement: Background and Recent Developments*, by Kristy N. Kamarck; and CRS Report R40589, *Concurrent Receipt: Background and Issues for Congress*, by Kristy N. Kamarck.

[24] Under Secretary of Defense (Comptroller), *Financial Management Regulation DOD 7000.14-R*, Department of Defense, Volume 7B: Military Pay Policy and Procedures - Retired Pay, March 2018.

[25] Department of Defense Office of the Actuary, *Statistical Report of the Military Retirement System (MRS) Fiscal Year 2017*, released July 2018.

retirees elects a 50% lump sum, he or she will receive an $808 monthly annuity, less the $101 premium payment for a total of $707 monthly. The retiree who does not elect the lump sum will have a monthly annuity of $1,515 ($1,616 with a deduction of $101). However, in both cases, a spouse survivor would receive a survivor annuity of $889 ($1,616 x 0.55). Because the SBP premium is a larger percentage of the monthly annuity for those who take part of their retirement as a lump sum, it may discourage some participation in the program.

Enrollment Changes and "Open Season"

SBP elections made at the time of retirement are generally irrevocable, with a few exceptions. Circumstances under which a member may voluntarily terminate participation in SBP include the following.

- Upon request between the 25th and the 36th month of retirement (with spouse concurrence).[26]
- Upon a VA rating of totally disabled.[27]
- If an election was made while the member was deemed mentally incompetent and then subsequently determined to be mentally competent.[28]
- Upon divorce from a designated beneficiary (depending on requirements imposed by a court-ordered decree).[29]

Those who do not have eligible beneficiaries at the time of retirement, but later marry or have children may enroll within a year of initial eligibility.

There are rare situations when the SBP will have a limited open enrollment period, sometimes referred to as an *open season*. These are typically authorized by Congress along with significant benefit changes. When open enrollment does occur, it usually requires a buy-in equal to the amount of all premium payments since the time of retirement. This may be cost prohibitive for some participants, since the accumulated premium amounts for a given individual may be quite substantial. See the description of past open enrollment seasons in the text box below.[30]

[26] 10 U.S.C. §1448a.

[27] The retiree must have a service-connected disability rated by the Department of Veterans Affairs (VA) as totally disabling for 10 or more continuous years; or at least five continuous years from the last date of active duty.

[28] 10 U.S.C. §1449.

[29] For more details, see https://www.dfas.mil/retiredmilitary/provide/sbp/change.html, and CRS Report RL31663, *Military Benefits for Former Spouses: Legislation and Policy Issues*, by Kristy N. Kamarck.

[30] As a result of the Supreme Court case, *United States v. Windsor*, June 26, 2013, certain parts of Defense of Marriage Act (DOMA) of 1996 (P.L. 104-199) were deemed unconstitutional. The U.S. federal government now recognizes same-sex marriages that are legally performed under state law. On September 5, 2013, the Department of Defense issued implementing guidance extending SBP coverage to same-sex spouses of military members and retirees. Military retirees who were married to a same-sex spouse on or before June 26, 2013, may now obtain spouse coverage in the Survivor Benefit Plan. Depending on the retiree's circumstances, enrollment for their spouse may be automatic or the retiree may need to elect spouse coverage. Either way, retirees must have taken action by June 25, 2014. To qualify for SBP, the marriage must have taken place in a state that recognizes same-sex marriages. See DFAS, Same-Sex Marriage SBP at https://www.dfas.mil/retiredmilitary/provide/sbp/same-sex-sbp.html; and DFAS Newsletter, Survivor Benefit Plan Opportunity Open for Military Retirees with Same-sex Spouses at https://www.dfas.mil/retiredmilitary/newsevents/newsletter/sbpforsamesexspss.html.

SBP Open Enrollment Seasons

The Uniformed Services Survivor Benefits Amendments of 1980 (P.L. 96-402**)**, enacted on October 9, 1980, amended SBP. One of the provisions in this act, known as the *Forgotten Widows Survivor Benefit Plan*, provided payment of an annuity to a widow or widower of a military member who died on active duty before September 21, 1972, and who was eligible for retirement at death. As part of this change to law, Congress authorized an SBP open season reenrollment period from October 1981 to September 1982.

The National Defense Authorization Act for FY1992 and FY1993, (P.L. 102-190**), Section 653. Survivor Benefit Plan**. The FY1992 and FY1993 NDAA was enacted on December 5, 1991. This Act allowed an open season enrollment from April 1, 1992, through March 31, 1993, for military retirees who initially rejected SBP coverage. This late enrollment required greater withholdings on retired pay.

The National Defense Authorization Act for FY1998 (P.L. 105-85), Section 641. One-year opportunity to discontinue participation in Survivor Benefit Plan. The FY1998 NDAA, enacted on November 18, 1997, created a one-year opportunity for participants to discontinue SBP coverage, subject to certain restrictions including written consent from the participant's spouse to permanently withdraw from the SBP.

Strom Thurmond National Defense Authorization Act for FY1999 (P.L. 105-261**), Section 642. Survivor Benefit Plan open enrollment period**. Section 642 of the FY1999 NDAA, enacted on October 17, 1998, created an open enrollment that allowed persons not currently participating in the SBP to enroll subject to certain restrictions. This law extended the paid-up provision to these "late" enrollees, provided they paid the total premiums that would have been withheld from their retired pay, had they been participating since they first became eligible. The open enrollment period was March 1, 1999, through February 29, 2000.

The National Defense Authorization Act for FY2005 (P.L. 108-375), Section 645. One-year open enrollment period for Survivor Benefit Plan commencing October 1, 2005. The FY2005 NDAA was enacted on October 28, 2004. This Act allowed for SBP enrollment from October 1, 2005 to September 30, 2006. The reason for the open enrollment was a major change in compensation available under the plan. Previously, survivors of military retirees who were over age 62 received 35% of their spouse's military retiree pay, instead of 55%. The reduction was intended to factor in Social Security benefits that survivors receive. The NDAA for FY2005 gradually phased out the reduction over four years (from 2004-2008), allowing survivors over 62 to receive 5% more of military retiree pay per year, until April 2008, when they would have reached the full 55% offered.

The National Defense Authorization Act for FY2016, (P.L. 114-92), Section 641. Death of former spouse beneficiaries and subsequent remarriages under the Survivor Benefit Plan. The last SBP open season specifically changed the rules for retirees who initially purchased former spouse coverage, but whose former spouse has died and the retiree wanted to cover a current spouse. As a result, the Defense Finance and Accounting Service (DFAS) held an open season for eligible retirees to retroactively enroll their current spouse in the SBP. This open season enrollment period ran from November 25, 2015, until November 24, 2016.

Eligible Beneficiaries

Six separate types of beneficiary coverage are available under the SBP for eligible members.

- Spouse only.
- Spouse and child(ren).
- Child(ren) only.
- Persons with an insurable interest.
- Former spouse.
- Former spouse and child(ren).[31]

[31] In certain instances, the annuity may be paid to the representative of a legally incompetent survivor (P.L. 102-190; 105 Stat. 1389; December 5, 1991).

Spouse Only Coverage

To be eligible for spouse only coverage, the intended SBP beneficiary must be a widow or widower who was (1) married to the retiree at the time of retirement or death (if death occurs on active duty), (2) married to the deceased retiree for at least one year prior to the retiree's death, or (3) the parent of a child born of a post-retirement marriage. For spouse-only coverage, withholding is calculated by the flat-rate or original formulas as discussed in the previous section.

Remarriage

A surviving spouse (or eligible former spouse) may become ineligible to receive SBP benefits, if he or she remarries. Eligibility for SBP benefits when remarriage occurs depends on the age at remarriage and the date that such a remarriage occurs (see **Table 5**). A surviving spouse (or eligible former spouse) becomes ineligible to receive SBP benefits if he or she remarries prior to reaching age 60, if such a remarriage took place *prior to* November 14, 1986 (remarriage after age 60 does not affect receipt of an SBP benefit). A surviving spouse (or eligible former spouse) becomes ineligible to receive SBP benefits if he or she remarries prior to reaching age 55 if such a remarriage took place *on or after* November 14, 1986 (remarriage after age 55 for these beneficiaries does not affect receipt of SBP payments). If the second marriage is terminated by death, annulment, or divorce, the original SBP benefit may be reinstated subject to certain restrictions. The surviving spouse of two or more deceased military retirees (each a participant in the SBP) may select and receive the more financially advantageous benefit.

Table 5. Eligibility for SBP After Remarriage

Surviving Spouse or Eligible Former Spouse

Date of Remarriage	Surviving Spouse or Eligible Former Spouse Age at Remarriage	Eligibility
Prior to Nov. 14, 1986	Age less than 60	Not eligible for benefit
	Age 60 or older	Eligible for SPB
On or after Nov. 14, 1986	Age less than 55	Not eligible for benefit
	Age 55 or older	Eligible for SBP

Source: 10 U.S.C. §1450.

Spouse and Child(ren) Coverage[32]

Under spouse and child(ren) coverage, upon the retiree's death, SBP benefits are first paid to the surviving spouse. If the surviving spouse predeceases the retiree, dies after becoming eligible to receive SBP benefits, or becomes ineligible to receive SBP benefits (through remarriage, for example), the SBP benefits are then to be paid directly to the designated child or children. If there is more than one child, the SBP benefits are paid in equal shares to each child for as long as he or she remains eligible.

[32] The term "child" includes an adopted child, a stepchild, foster child, or recognized natural child who lived with the participant in a regular parent-child relationship. It may be necessary for the child to prove dependency in order to be eligible to receive an SBP annuity.

The cost of this coverage is additive to that of spouse-only coverage, and is determined on an actuarial basis, taking into account the age of the retiree, the spouse, and the youngest child.[33] For example, a retiree who is 45 years old, with a spouse who is 40 years old (i.e., 5 full years younger than the retiree) and a child age 10, would have to pay a small additional amount of the base amount of retired pay to cover a child or children in addition to the amount paid for spouse-only coverage. Since the cost of coverage is computed on an actuarial basis, it is subject to change.

A child becomes ineligible for an SBP benefit upon reaching age 18 (or 22, if a full-time student).[34] A child who marries becomes ineligible to receive SBP benefits regardless of age.[35] An eligible child who is or becomes incapacitated (either physically or mentally) may continue to receive SBP benefits for the duration of the incapacitation if the condition existed prior to the child's 18th birthday.[36]

Child(ren) Only Coverage

Under child(ren)-only coverage, SBP benefits are paid directly to the surviving child(ren) of a deceased military retiree regardless of whether or not there is a surviving spouse. Eligibility under this coverage is subject to the same restrictions for a child, or children, under spouse and child(ren) coverage. (Under certain circumstances, spouse coverage can be restored if a spouse later becomes eligible.) The cost of this coverage is also computed on an actuarial basis (and therefore subject to modification).[37] For example, a military retiree who is 45 years old, has a child age 10, and elects maximum coverage, would have approximately 2.5% of his or her base amount of retired pay withheld in order to provide, at the time of his or her death, an SBP survivor benefit for the surviving child. Child-only coverage is less expensive due to the limitation on the number of years—until age 18 or 22, under most circumstances—a beneficiary remains eligible to receive SBP benefits.

Persons with an Insurable Interest

Insurable interest coverage may be selected only if there is neither a spouse nor a dependent child at the time of retirement. Under this coverage a beneficiary is defined as "a natural person with an insurable interest" in the retiree.[38] Included in this category are relatives of the retiree, such as a parent, sibling, or a child who may not qualify for SBP beneficiary status under spouse-only,

[33] Costs that are actuarially determined are based on known life expectancy rates, as well as interest and inflation assumptions.

[34] A child who becomes ineligible because he or she reaches age 18 and then later becomes a full-time student prior to attaining age 22 may become eligible to receive SBP benefits while a full-time student.

[35] A married child who, prior to being married, was eligible to receive SBP benefits will not become eligible to receive these benefits anew if the marriage ends by divorce. If, however, the marriage is terminated as the result of an annulment, SBP eligibility may be reinstated.

[36] Section 624. Survivor Benefit Plan Annuities for Special Needs Trusts Established for the Benefit of Dependent Children Incapable of Self-Support was passed on December 19, 2014, in the Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (FY15 NDAA), P.L. 113-29. This section amended Title 10, U.S. Code, Sections 1448, 1450, and 1455. According to the DFAS Special Needs Trust: What you need to know about Special Needs Trust (SNT) at https://www.dfas.mil/retiredmilitary/provide/sbp/special-needs-trust.html, Section 624 gives military members and retirees the option to direct payment of a SBP Annuity for a dependent child to a SNT. A SNT is a legal instrument specifically designed for the benefit of a person with a disability. In some cases, this may preserve the beneficiary's eligibility for other federal or state benefits.

[37] There is no cost for eligible children of members who die on active duty.

[38] 10 U.S.C. §1448(b)(1).

spouse and child(ren), or child(ren)-only provisions. Nonrelatives, such as a business partner, may also be covered. Unlike other SBP options, insurable interest must be elected at the maximum level.

The cost of insurable interest coverage is (1) 10% of the base amount of military retired pay *plus* (2) 5% of total base amount of retired pay for each *full* five years that the named beneficiary is younger than the retiree. Insurable interest coverage is thus more expensive than other types of coverage. However, the total cost to the retiree cannot exceed 40% of total military retired pay. In other words, a retiree who seeks to provide insurable interest coverage to a person 30 or more years younger would have the maximum of 40% of the base amount of military retired pay withheld.

According to language contained in the National Defense Authorization Act for FY1995, insurable interest coverage could be voluntarily discontinued (except in those cases where a former spouse is being covered). Retirees discontinuing this coverage, who later remarry or acquire dependents, could again participate in the SBP under another allowable beneficiary category.[39]

Former Spouse Coverage[40]

A military member may choose, or may be required by a court order, to provide SBP coverage for a former spouse, depending on when the divorce occurred. This election may occur as part of or incident to a divorce-related property settlement. For divorces occurring before November 14, 1986, federal law explicitly states that *no court was authorized to order* a member or retiree to provide SBP protection to a former spouse. If a retiree voluntarily decides, *in writing*, to provide benefits to a former spouse, this decision must be honored by the retiree. A retiree who elected spouse-only or spouse and child(ren) coverage, and was subsequently divorced before November 14, 1986, may switch to former spouse coverage for the (now) ex-spouse. This latter change in coverage must be elected within one year of the date the divorce decree becomes final.

If a divorce occurs on or after November 14, 1986, however, *a court may order* a member or retiree to provide SBP protection as part of, or incident to, a divorce. According to changes in law implemented by the FY1987 DOD Authorization Act (P.L. 99-661 §641), "A court order may require a person to elect (or to enter into an agreement to elect) ... to provide an annuity to a former spouse (or to both a former spouse and child)."[41] This language does not require courts to make such an order but gives them the freedom to do so.

The FY1986 DOD Authorization Act (P.L. 99-145) included a change in former spouse coverage which provided that military retirees and "former spouses ... covered under the insurable interest category [could] ... elect jointly to switch to spouse coverage at the maximum level within one year [and it provided] current participants who had the option of electing former spouse coverage in the past and chose not to do so, the option of electing former spouse coverage."[42] Those

[39] U.S. Congress, House Conference Committee, *National Defense Authorization Act for Fiscal Year 1995*, H.Rept. 103-701, 103rd Cong.2nd Sess., S. 2182, Aug. 12, 1994: 132-133. (P.L. 103-337) It is expected that this change will affect approximately 3,000 of the more than 900,000 SBP participants; Rick Maze, "Survivor Benefit Plan ...," *Air Force Times*, Sept. 12, 1994: 20.

[40] For more information on issues affecting former spouses, see CRS Report RL31663, *Military Benefits for Former Spouses: Legislation and Policy Issues*, by Kristy N. Kamarck.

[41] 10 U.S.C. §1550(f)(4).

[42] U.S. Congress, House Conference Committee, *Department of Defense Authorization Act*, 1986. H.Rept. 99-235, S. 1160. 99th Cong., 1st Sess., July 29, 1985: 443, (Hereinafter cited as Conference Committee, DOD 1986 Authorization.) at https://congressional.proquest.com/congressional/docview/t49.d48.13651_h.rp.235?accountid=12084.

electing former spouse coverage after March 1, 1986, have the cost of this coverage and benefit amount computed in the same manner as in the case of spouse only coverage.

Because a retiree may provide only one type of SBP coverage for one category of beneficiary, election of coverage for a former spouse can have the effect of denying SBP protection to a second or future spouse. However, it is not clear whether courts have the authority to divide SBP benefits between a former spouse and a current or subsequent spouse. In other words, although the services will provide SBP benefits to only one category of beneficiary (former spouse, for example), it is not clear whether or not a court, as part of an equitable divorce property settlement, has the authority to divide SBP benefits between a former spouse (designated to receive them in this example) and a current or subsequent spouse.

The FY2000 National Defense Authorization Act provided for the "effectuation of intended SBP annuity for [a] former spouse when not elected by reason of [the] untimely death of [the] retiree."[43] This language pertains to any retiree who, on or after August 21, 1983, agreed to (or was required by a court to) provide SBP coverage to a former spouse, but who died within 21 days of making such an agreement (or being so required). Under this language, the former spouse of such a retiree is deemed to have been covered effective November 5, 1999.

Former Spouse and Child(ren) Coverage

Coverage for a former spouse and child(ren) was added as part of the FY1987 NDAA.[44] This coverage is provided on the same terms as spouse and child(ren) coverage described above.

Coverage for Military Members Retired from the Reserve Components

As with the Survivor Benefit Plan for active duty retirees, retirement eligible members of the reserves (Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve and Coast Guard Reserve) and National Guard (Army National Guard and Air National Guard) may elect to provide SBP protection for their survivors. However, when the SBP was created, members of the Reserve Components were not eligible to receive Reserve Component retired pay until age 60, regardless of the age at which they actually would retire. Therefore the structure of the Reserve Component SBP (RC-SBP) is different from that applicable to active duty members.[45]

Prior to 1978, Reserve Component personnel could not provide survivor protection for an eligible beneficiary until they were eligible to draw retired pay, then at age 60. In 2008, Congress modified the law to allow reservists on extended active duty to reduce the age at which they can begin to receive retired pay. This reduction was limited to no less than 50 years of age.[46] Legislation passed in 1978 allows Reserve Component members to decide whether and how they will participate in the RC-SBP when they are notified of retirement eligibility (not yet eligible to receive retired pay)—in almost all cases, many years before reaching age 60 if based on active duty credit.

Reserve Component members who are not yet eligible to receive retired pay and who are retirement eligible (a.k.a., "gray area retirees") may elect to provide SBP protection under one of three options. The costs and amount of coverage available depend on the option selected and the

[43] P.L. 106-65 §657. 113 Stat. 668; Nov. 5, 1999.

[44] P.L. 99-661 §641, 100 Stat. 3885, Nov. 14, 1986.

[45] "Reserve Components" refers to both Reserve and National Guard personnel.

[46] P.L. 110-181 §647, January 28, 2008.

category of beneficiary. A prospective Reserve Component retiree must select one of the following RC-SBP options within 90 days of being notified of retirement eligibility:

> **Option A.** The retiree may decline RC-SBP protection. Should the retiree die before reaching eligibility to draw retired pay, no RC-SBP benefit will be paid. The retiree will again be offered the opportunity to participate in the SBP when they become eligible to receive retired pay.
>
> **Option B.** The retiree may elect RC-SBP coverage such that survivor payments will begin on (1) the date of the retiree's death or (2) the date the retiree would have become eligible to receive retired pay, whichever is later.
>
> **Option C.** The retiree may elect, under this option, to provide an RC-SBP benefit that would begin immediately following the death of the retiree, regardless of the retiree's age at the time of death.

Under option A, the costs and types of coverage available once the retiree becomes eligible to receive retired pay are the same as under the active duty SBP. Under options B and C, the cost of RC-SBP protection is shared by the retiree, the government, and the beneficiary. The retiree's portion is paid through deductions in retired pay when the retiree becomes eligible to receive retired pay. The beneficiary's or beneficiaries' share (the *add-on premium*) is paid through a reduction in the annuity.[47] The costs of the add-on premium under options B and C depend on the type of coverage (see active duty retirees), as well as the age of the retiree and selected beneficiary(ies).

Under certain circumstances, an RC-SBP benefit may be paid to the eligible surviving spouse, dependent child(ren), or former spouse of a member of the Reserve Components who dies

> (1) before being notified that he or she had completed the years of service required to be eligible for Reserve Component retired pay; or
>
> (2) during the 90-day period beginning on the date of notification that the member had completed the years of service required for eligibility for Reserve Component retired pay, if he or she had not already rejected participation in the RC-SBP.

The income payable is equal to 55% of retired pay that the member would have been entitled to receive had the member been retired and at least age 60 at the time of death.[48]

Coverage for Military Members Serving on Active Duty

Under the original SBP, an SBP benefit was payable to an eligible spouse, dependent child(ren), eligible former spouse, or eligible former spouse and dependent child(ren) following the death of an active duty member. This benefit was paid if the deceased active duty servicemember, at the time of death,

> (1) was eligible to receive retired pay; or
>
> (2) was a commissioned officer, had completed 20 years of service, but was not yet eligible to retire as a commissioned officer.[49]

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[47] If the member dies before meeting age and service requirements the add-on premium for the pre-age 60 coverage is taken as a reduction in the annuity.

[48] See DFAS RC-SBP Overview at https://www.dfas.mil/retiredmilitary/provide/RC-SBP.html; RC-SBP Benefit Amount at https://www.dfas.mil/retiredmilitary/provide/RC-SBP/benefitamount.html; and RC-SBP Benefit Cost at https://www.dfas.mil/retiredmilitary/provide/RC-SBP/benefitcost.html.

[49] Former enlisted personnel or warrant officers who are commissioned must complete at least 10 years of active duty

The SBP benefit payable to the survivor of such a deceased active duty member is equal to 55% of the amount of retired pay that the deceased servicemember would have been eligible for had he or she elected maximum coverage and retired on the day of his or her death.

Legislation has expanded the coverage to the survivors of individuals who die while on active duty and who are *not* retirement-eligible, effective September 10, 2001.[50] This annuity for an active duty (non-retirement-eligible member) is determined by assuming the individual would have been eligible to retire under Section 1201, Title 10 United States Code, with a total disability.[51]

In 2003, Congress allowed for these benefits to be paid to the surviving children, if any, of an active member who dies.[52] This provision was made effective November 23, 2003. As part of the National Defense Authorization Act for Fiscal Year 2007, Congress replaced the November 23, 2003, effective date with October 7, 2001.[53]

SBP and Dependency and Indemnity Compensation

In the early 1970s, during the debate prior to the original authorization of the SBP program, lawmakers sought to integrate the program within the existing system of federal benefits available to servicemembers and their families, namely, Social Security and VA benefits.[54] The House committee report to accompany the SBP bill laid out the "philosophical basis" for the benefit's design and integration with existing benefits; (1) to provide full survivor coverage in cases where no Social Security or VA benefits are payable and (2) to provide supplemental survivor coverage in cases where Social Security or VA benefits are insufficient to provide a reasonable level of support.[55]

Prior to the enactment of the FY2020 NDAA, when a surviving spouse (or surviving former spouse) was entitled to both SBP and VA Dependency and Indemnity Compensation (DIC),[56] SBP law required that the SBP benefit be reduced, dollar for dollar, by the amount of the DIC

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as commissioned officers before they are allowed to retire as commissioned officers. Section 523, P.L. 101-510, Nov. 5, 1990, reduced the ten-year minimum to eight years, through October 1, 1995, to assist in the drawdown of the Armed Forces. This section was later amended. P.L. 107-314P.L. 102-484.

[50] P.L. 107-107, 115 Stat. 1151 et seq.; Dec. 28, 2001.

[51] Under these provisions, the member's death must be in the line of duty.

[52] P.L. 108-136, Nov. 24, 2003.

[53] U.S. Congress. Conference Committee, *National Defense Authorization Act for Fiscal Year 2007*, H.Rept. 109-702, 109th Cong., 2nd Sess., H.R. 5122, September 29, 2006: 748.

[54] U.S. Congress, House Committee on Armed Services, *Establishing a Survivor Benefit Plan for Members of the Armed Forces in Retirement and for Other Purposes*, report to accompany H.R. 10670, 92nd Cong., 1st sess., September 16, 1971, H.Rept. 92-481. U.S. Congress, Senate Committee on Armed Services, *Establishing a Survivor Benefit Plan for Members of the Armed Forces in Retirement, and for Other Purposes*, report to accompany S. 3905, 92nd Cong., 2nd sess., September 6, 1972, S. Rept. 92-1089.

[55] U.S. Congress, House Committee on Armed Services, *Establishing a Survivor Benefit Plan for Members of the Armed Forces in Retirement and for Other Purposes*, 92nd Cong., 1st sess., September 16, 1971, H.Rept. 92-481, pp. 7 & 11.

[56] DIC provides a tax-free cash benefit to eligible survivors of servicemembers who have died on active duty or during training and to eligible survivors of veterans who have died due to service-connected disabilities or, in certain cases, non-service-connected disabilities. For more information, see CRS Report R40757, *Veterans' Benefits: Dependency and Indemnity Compensation (DIC) for Survivors*, by Scott D. Szymendera; and DFAS Understanding SBP, DIC and SSIA at https://www.dfas.mil/retiredmilitary/survivors/Understanding-SBP-DIC-SSIA.html.

benefit.[57] If the surviving spouse's DIC benefit was less than the SBP benefit, then the surviving spouse received a reduced SBP benefit in an amount that, when combined with the DIC benefit, equaled the unreduced SBP benefit. If the surviving spouse's DIC benefit was equal to or greater than the SBP benefit, then no SBP benefit was payable and the surviving spouse received only the DIC benefit. The partial or full reduction in the SBP benefit due to receipt of DIC was commonly known as the *SBP-DIC offset*. In lieu of receiving full SBP benefits, surviving spouses and surviving former spouses subject to the SBP-DIC offset were eligible to receive a refund of the deceased retiree's SBP premiums based on the amount of the offset.

In 2003, Congress provided the option for surviving spouses to elect to provide benefits to a servicemember's surviving child or children. There is no DIC offset for children who are designated as the SBP recipient. As such, it was frequent practice for younger surviving spouses of active duty personnel to designate their children, if any, as the recipient of the SBP benefit. Unmarried children remain eligible to receive SBP until they reach age 18 or 22 (if a student); or for life if mentally or physically incapacitated and if the incapacitating condition existed prior to age 18. Eligibility for SBP terminated if the child married. The FY2020 NDAA repealed the option to transfer the benefit to a child when there is an eligible surviving spouse.

Special Survivor Indemnity Allowance (SSIA)

Most un-remarried surviving spouses who receive both an annuity from DOD as a beneficiary of the SBP and from the VA's DIC have had their SBP payments reduced by the amount of DIC.[58] Effective 2009, Congress created the Special Survivor Indemnity Allowance (SSIA) to partially compensate for that reduction.[59] The original authorization provided an additional $50 per month to those subject to the offset. This amount was scheduled to be increased by $10 each year until 2014, when it would reach $100. The benefit was scheduled to sunset in 2016. During the 111th Congress, SSIA was made more generous in that, for the years 2014 through 2017, the amount would increase from $150, to $200, $275, and finally, $310, after which the benefit was to terminate on October 1, 2017.[60] However, Section 621 of the NDAA for FY2018 (P.L. 115-91) permanently authorized the SSIA. The amount of SSIA is also adjusted for Cost of Living Allowances for each calendar year, beginning in 2019.[61] In 2020, the monthly SSIA benefit was $323. Both the SBP annuity and the SSIA are taxable, while DIC is not taxable income. The amount received under SSIA may not be greater than the amount of the SBP offset.

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[57] 10 U.S.C. §1450(c).

[58] For more on the SBP-DIC offset, see CRS Report R40757, *Veterans' Benefits: Dependency and Indemnity Compensation (DIC) for Survivors*, by Scott D. Szymendera.

[59] P.L. 110-181, January 28, 2008. See Section 644. Special survivor indemnity allowance for persons affected by required Survivor Benefit Plan annuity offset for Dependency and Indemnity Compensation. SSIA was later extended to survivors of active duty members. P.L. 110-417 § 631, October 14, 2008. See also CRS Report RL34590, *FY2009 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Lawrence Kapp; see section "Extension to Survivors of Certain Members who die on Active Duty of Special Survivor Indemnity Allowance for Persons Affected by Required Survivor Benefit Plan Annuity Offset for Dependency and Indemnity Compensation."

[60] P.L. 111-31, June 22, 2009, See Title II—Special Survivor Indemnity Allowance for Surviving Spouses of Armed Forces Members.

[61] 10 U.S.C. §1450(m). Defense Finance and Accounting Service, 2020 Cost of Living Adjustment and Pay Schedule, https://www.dfas.mil/retiredmilitary/newsevents/newsletter/2020-COLA-and-Pay-Schedule.html. See also CRS Report R44923, *FY2018 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck, Lawrence Kapp, and Barbara Salazar Torreon.

Repeal of the SBP-DIC Offset

Over the past few decades, Congress has introduced several bills that would eliminate the SBP-DIC offset completely. Supporters of a full repeal referred to the offset as the "widow's tax", and argued that the benefits are different types of compensation,

> There are two different survivor benefits. The SBP is a purchased annuities benefit, or type of insurance benefit. This is purchased out-of-pocket by military retirees for their surviving spouses. The SBP is our service members' earned benefit, not an entitlement received from the DOD. The other benefit is DIC. DIC is an indemnity payment, received from the VA. DIC serves as an indemnity payment for death. Since death is the ultimate disability the surviving spouses should be entitled to concurrent receipt of both SBP and DIC.[62]

Military spouse advocates argued that the inability for families to receive both benefits in full creates financial hardship. In addition, advocates for repeal of the offset argued that the two benefits have a different purpose,

> "The NCOA believes strongly that SBP and DIC payments are paid for different reasons. Just as military retired pay and VA disability compensation compensates for different reasons. SBP is insurance purchased by the retiree from his or her employer, the DOD [Department of Defense], and is intended to preserve a portion of service-earned retired pay for the survivor upon the retiree's death for any reason. DIC is a special indemnity compensation paid to the survivor by the VA when a member's service has caused his or her premature death."[63]

Lastly, changes in how the offset was applied based on the status of the beneficiary (i.e., age, remarriage age, child, or spouse) led to confusion and charges of inequitable treatment among eligible recipients.[64]

On the other hand, some point to long-standing laws preventing receipt of two benefits from the government for the same qualifying event or period of service (also known as *double-dipping)*. One argument is that because the federal government pays the full DIC cost and subsidizes the SBP coverage, allowing survivors to receive both SBP and DIC is inherently unfair to the taxpayer. Some contend that repealing the SBP-DIC offset would allow certain survivors to *triple dip* in that they could receive full SBP and DIC benefits as well as Social Security benefits from the federal government for the same period of employment.[65] Some note that when a beneficiary becomes eligible for DIC, the SBP premiums are returned to the beneficiary.

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[62] U.S. Congress, Joint Veterans Affairs, *Statement of Gold Star Wives of America, Inc.*, Presented by Misty J. Brenner, 115th Cong., 1st sess., March 9, 2017.

[63] U.S. Congress, House Committee on Armed Services, Subcommittee on Military Personnel, *Concurrent Receipt of Survivor Benefit Plan and Dependency and Indemnity Compensation*, 114th Cong., 1st sess., December 9, 2015, p. 11.

[64] For more on these topics, see CRS Report WPD00018, *What is the "Widow's Tax"? Understanding the Military Survivor Benefit Plan and Veterans' Dependency and Indemnity Compensation.*, by Kristy N. Kamarck, CRS Insight IN11112, *The Kiddie Tax and Military Survivors' Benefits*, by Sean Lowry and Kristy N. Kamarck, and CRS Legal Sidebar LSB10316, *Eliminating the SBP-DIC Offset for Surviving Spouses of Military Servicemembers: Current Proposals and Related Issues*, by Mainon A. Schwartz.

[65] The federal government pays half of the total Social Security payroll tax levied on the servicemember's covered earnings. Initially, SBP benefits were offset due to receipt of Social Security benefits. However, the Social Security offset was eliminated for certain survivors in the 1980s and was eliminated for all survivors effective April 1, 2008. For a broader discussion of the debate surrounding Social Security benefits and SBP, see the Military Compensation Background Papers, 8th Edition, pp. 731-741. See also U.S. Congress, Senate Committee on Veterans' Affairs, *Benefits for Survivors: Is America Fulfilling Lincoln's Charge to Care for the Families of Those Killed in the Line of Duty*, 109th Cong., 1st sess., February 3, 2005, S. Hrg. 109-32, p. 87.

The 116th Congress, via Section 622 of the FY2020 NDAA, repealed the SBP-DIC offset with a 3-year phase-out period. In December 2019, the Congressional Budget Office (CBO) estimated that the phased repeal of the SBP-DIC offset and the SSIA would increase direct spending by $4.68 billion between FY2020 and FY2029.[66]During the phase-out period, the benefits are to be calculated as follows:

> A) During the period beginning on January 1, 2020, and ending on December 31, 2020, the amount that the annuity otherwise payable under this section would exceed such dependency and indemnity compensation.
>
> (B) During the period beginning on January 1, 2021, and ending on December 31, 2021, the amount that the annuity otherwise payable under this section would exceed two-thirds of such dependency and indemnity compensation.
>
> (C) During the period beginning on January 1, 2022, and ending on December 31, 2022, the amount that the annuity otherwise payable under this section would exceed one-third of such dependency and indemnity compensation.
>
> (D) On and after January 1, 2023, the full amount of the annuity under this section.[67]

During the first year of the repeal, starting on January 1, 2020, the full offset still applies, meaning that beneficiaries would not see a change in benefits. The FY2020 NDAA did not repeal the SSIA; however, following the full repeal of the offset on January 1, 2023, the SSIA would no longer apply. Under this legislation, there will be no retroactive benefits paid to survivors, and the government is not authorized to recoup premium payments that were previously refunded to recipients.

The FY2020 NDAA also repealed the option to transfer SBP benefits to a child in the case where a servicemember is killed on active duty and there is an eligible surviving spouse. In cases where a surviving spouse had transferred benefits to a child or children, the benefit would be restored to an eligible surviving spouse as of December 31, 2022.[68]

Considerations for Congress

As Congress continues its oversight of SBP, some continued considerations include adequacy of the benefit, program costs, participation, and relative equity for participants.

Adequacy of Benefits

In the FY2017 NDAA, Congress asked for an independent assessment of the SBP program, in particular to "(1) describe the purposes of SBP and how it interacts with other federal programs to provide financial stability and resources for survivors, (2) compare benefits under SBP with benefits available to government and private-sector employees, (3) evaluate the effectiveness of SBP in providing survivors with intended benefits, and (4) assess the feasibility and advisability

[66] Congressional Budget Office, *Estimated Effects on Direct Spending and Revenues for S. 1790, the National Defense Authorization Act for Fiscal Year 2020, as Posted on the Website of the House Committee on Rules on December 9, 2019*, Table 1, https://www.cbo.gov/publication/55943.

[67] P.L. 116-92 §622, December 20, 2019.

[68] A spouse may be ineligible for reinstatement of benefits due to remarriage before age 55.

of providing survivor benefits through alternative insurance products commercially available for similar purposes."[69]

The study, published in 2018, found that for military widows (i.e., widows for whom SBP is the main source of survivor benefits), the SBP benefit accounts for 34%-48% of their total income (depending on whether Social Security benefits are also received).[70] In general, the amount of the SBP benefit was found to be comparable to other federal benefits and more generous than similar private-sector plans.[71] The study also found that on average, military widows receiving survivor benefits have similar average total income, poverty rates, and participation in public assistance programs as those widows receiving private-sector survivor benefits from companies and unions. On the other hand, nonmilitary widows receiving survivor benefits from federal, state, or local government pension plans had higher average total income, lower poverty rates, and lower participation in public assistance programs relative to military widows.[72]

Program Costs

CBO estimates that the number of survivors eligible for both SBP and DIC will continue to grow over the next decade. As SBP is subsidized by the government, an increase in eligible benficiaries would increase federal budget obligations.[73] In FY2016, the estimated government subsidy was 44.6%.[74] The Military Compensation and Retirement Modernization Commission (MCRMC), established by Congress in the FY2013 NDAA, had proposed an option to address dissatisfaction with the SBP-DIC offset while keeping program costs lower. The MCRMC recommended adding a new SBP option under which servicemembers would fully fund the SBP costs (by raising premiums), but would no longer be subject to the offset. This option would have higher costs for the servicemember, but would provide a greater overall benefit under certain circumstances.[75] With the enactment of the FY2020 NDAA, the offset will no longer apply as of January 1, 2023. Nevertheless, decreasing federal government subsidies for SBP premiums remains a cost-saving option. This option would not affect families who have a member die on active duty, as they do not pay premiums into the program. Other cost-saving mechanisms could include,

[69] P.L. 114-328 §648.

[70] James Hosek, et al., *An Assessment of the Military Survivor Benefit Plan*, RAND Corporation, Santa Monica, CA, 2018, Figure 4.5, p. 65, https://www.rand.org/content/dam/rand/pubs/research_reports/RR2200/RR2236/RAND_RR2236.pdf. The study was limited to widows aged 40 or older.

[71] Ibid., p. xiv.

[72] The report authors noted that the reasons for the better outcomes for these widows was unclear, given that the generosity of other government benefits compared favorably to the SBP. However, the discrepancy could be related to unobserved characteristics of the deceased servicemember (e.g., wages prior to death) within the study.

[73] Congressional Budget Office, *Cost Estimate for H.R. 553, Military Surviving Spouses Equity Act*, As introduced in the House of Representatives on January 15, 2019, June 25, 2019, https://www.cbo.gov/system/files/2019-06/hr553.pdf.

[74] James Hosek, et al., *An Assessment of the Military Survivor Benefit Plan*, RAND Corporation, Santa Monica, CA, 2018, p. xi. The DOD Office of the Actuary also provides a subsidy calculator at https://actuary.defense.gov/Survivor-Benefit-Plans/.

[75] Military Compensation and Retirement Modernization Commission, *Final Report*, January 29, 2015, p. 44, https://ia800305.us.archive.org/14/items/FinalReportOfTheMilitaryCompensationAndRetirementModernization/MCRMC-FinalReport-29JAN15-HIGH.pdf#page=62.

- Reducing the maximum SBP benefit (currently 55% of base retired pay for military members and 50% of base retired pay for certain federal civilians),[76]
- Raising the remarriage age for eligibility (currently age 55) to be consistent with other federal benefits like Social Security (age 60) or DIC (age 57),
- Requiring servicemember contributions (premiums) while on active duty prior to retirement,[77] or
- Capping the maximum monthly benefit that a survivor could receive across all federal income security programs.

Participation and Equity

Any changes to raise premiums or decrease the benefit for survivors might also have the consequence of decreasing retiree participation in the program, and in particular among those with lower household earnings. Current participation rates are higher among retired officers than enlisted personnel (see **Table 2**). Retired officers' households may have higher income security due to higher average retired pay. For example, in 2018, a retired O-6 had average monthly retired pay of $5,565 while an E-7 average retired pay was $1,969.[78] The current premium for most retiring members is calculated at 6.5%. While this is applied uniformly across ranks, SBP premiums may consume a higher proportion of *disposable* income in households with lower earnings. Raising SBP premiums further could discourage participation among households that could benefit the most from additional income security. Congress could also consider lowering premiums for those below a certain income threshold to encourage higher participation.

In addition, Congress may consider SBP benefits in the context of changes to other military compensation or federal benefits and tax law. For example, changes to how retired pay is calculated and authorization for lump sum payment of retired pay under the new Blended Retirement System may affect participation in SBP (see report section on "Effects of Lump Sum Retirement Payment on SBP"). Other changes to tax law, Social Security, or VA benefits may affect the total compensation that survivors receive.

[76] See CRS Report RS21029, *Survivor Benefits for Families of Civilian Federal Employees and Retirees*, by Katelin P. Isaacs

[77] These premiums could be refunded if the servicemember did not complete enough qualifying years of service to be eligible for retired pay.

[78] DOD Office of the Actuary, *Statistical Report on the Military Retirement System*, Fiscal Year Ended September 30, 2018, May 2019, p. 144, https://actuary.defense.gov/Portals/15/Documents/MRS_StatRpt_2018%20v5.pdf?ver=2019-05-14-220629-787.

Appendix A. Legislative History of the Survivors Benefit Plan Table

Table A-1. Legislative History of the Survivors Benefit Plan

Public Law (P.L.), Date and Title	Sections and Highlight(s) of the Legislation
P.L. 92-425, September 21, 1972 Armed Forces Survivor Benefit Plan, establishment	To amend Chapter 73 of Title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes. Subchapter I.—Retired Serviceman's Family Protection Plan (RSFPP) Subchapter II.—Survivor Benefit Plan (SBP) Note: This Act repealed the RSFPP and established SBP, Established that until age 62, payment is 55 percent of the base amount. At age 62 or older, the payment is reduced, dollar-for-dollar, by Social Security entitlements resulting from a servicemember's military service performed after 1956 (Social Security offset). COLAs are applied to the base amount and annuity. Established active duty death coverage for surviving spouses if a servicemember had 20 or more years of active service. Annuity was reduced by Dependency and Indemnity Compensation (DIC) awarded by the VA if a servicemember death is service-connected. Suspended payments for surviving spouses remarrying before age 60.
P.L. 93-155, November 17, 1973 Defense Appropriation Authorization Act, 1974	Extended the enrollment deadline until March 20, 1974.
P.L. 93-406, September 2, 1974 Employee Retirement Income Security Act of 1974	Sec. 205, Joint and survivor annuity requirement. TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE RELATING TO RETIREMENT PLANS Subtitle B—Other Amendments to the Internal Revenue Code Relating to Retirement Plans Sec. 2008. Certain armed forces survivor annuities.
P.L. 94-496, October 14, 1976 Armed Forces Survivor Benefit Plan	Effective October 1, 1976 An act to amend Title 1, United States Code, to make certain changes In the Survivor Benefit Plan provided for under subchapter II of Chapter 73 of Title 10, United States Code, and for other purposes.
P.L. 95-397, September 30, 1978 Uniformed Services Survivor Benefits Amendments of 1978	TITLE II—ANNUITIES UNDER SURVIVOR BENEFIT PLAN Sec. 201. Definition of Base Amount Sec. 202. Application of Survivor Benefit Plan Sec. 203. Payment of Annuity Sec. 204. Amount of Annuity Sec. 205. Reduction in Retired Pay Sec. 206. Notification Sec. 207. Technical and Conforming Amendments Sec. 208. Transition Sec. 209. Minimum Income for Certain Survivors

Public Law (P.L.), Date and Title	Sections and Highlight(s) of the Legislation
P.L. 96-402, October 9, 1980 Uniformed Services Survivor Benefits Amendments of 1980	Effective December 1, 1980 To amend Title 10, United States Code, to remove certain inequities in the Survivor Benefit Plan provided for under chapter 78 of each title, and for other purposes.
P.L. 97-35, August 13, 1981 Omnibus Budget Reconciliation Act of 1981	TITLE II—ARMED SERVICES AND DEFENSE-RELATED PROGRAMS Subtitle B—Military Compensation Sec. 212. Open Enrollment Period for Survivor Benefit Plan. Established a one year open enrollment period (October 1, 1981 to September 30, 1982) for servicemembers entitled to retirement pay before August 13, 1981.
P.L. 97-252, September 8, 1982 Department of Defense Authorization Act, 1983	TITLE X—FORMER SPOUSES' PROTECTION Sec. 1003. Annuities under the Survivor Benefit Plan TITLE XI—GENERAL PROVISIONS SEC. 1119. Open Enrollment Period for Reserves under the Survivor Benefit Plan.
P.L. 98-525, October 19, 1984 Department of Defense Authorization Act, 1985	PART E—BENEFITS FOR SURVIVORS AND FORMER SPOUSES Sec. 641. Elimination of certain Social Security offsets from the Survivor Benefit Plan. Sec. 642. Authority to initiate payments under survivor annuity programs when the participant is missing. Sec. 643. Clarification of authority to enforce certain court orders in connection with the payment of retired or retainer pay to former spouses. Sec. 644. Clarification of authority to elect former spouses as beneficiaries under the Survivor Benefit Plan. Sec. 645. Miscellaneous rights and benefits for former spouses.
P.L. 99-145, November 8, 1985 Department of Defense Authorization Act, 1986	Effective March 1, 1986 TITLE VII—SURVIVOR BENEFIT PLAN IMPROVEMENTS PART A—GENERAL PROGRAM CHANGES Sec. 711. Establishment of two-tier benefit system and elimination of Social Security offset. Sec. 712. SBP coverage for members who die after 20 years of service. Sec. 713. Annuity for survivors of certain retirement-eligible reservists. Sec. 714. Indexing of threshold amount for calculation of reduction of retired pay. Sec. 715. SBP coverage upon remarriage. Sec. 716. Option to cover both a former spouse and dependent children of a member. Sec. 717. Authority to repay refunded SBP deductions in installments. Sec. 718. Effective date of DIC offset. Sec. 719. Technical amendments to SBP statute. PART B—PROVISIONS RELATING TO RIGHTS FOB SPOUSES AND FORMER SPOUSES Sec. 721. Spousal concurrence for elections. Sec. 722. Clarification of status of spousal agreements. Sec. 723. Former spouse coverage to be provided in spouse category rather than insurable Interest category. Sec. 724. Notice of elections available. PART C—EFFECTIVE DATE AND REPORT Sec. 731. Effective date. Sec. 732. Report on establishing needs-based survivor benefit annuity program for surviving spouses of certain retired reservists.

Public Law (P.L.), Date and Title	Sections and Highlight(s) of the Legislation
P.L. 99-348, July 1, 1986 Military Retirement Reform Act of 1986	TITLE III—MISCELLANEOUS RETIREMENT PROVISIONS Sec. 301. Survivor Benefit Plan annuities. Sec, 302. Report on reserve retirement system. Sec. 303. Definition. Sec, 304. Technical and conforming amendments. Sec. 305. Codification of permanent limitations on retired and retainer provided in appropriation Acts. Sec. 306. Repeal of limitation on payments to accrual fund for fiscal year 1986.
P.L. 99-576, October 28, 1986 Veterans' Benefits Improvement and Health-Care Authorization Act of 1986	TITLE I—COMPENSATION INCREASES AND OTHER COMPENSATION MATTERS Sec. 102, Additional compensation for dependents. Sec. 104. Dependency and indemnity compensation for surviving spouses. Sec. 105. Dependency and indemnity compensation for children. Sec. 106. Supplemental dependency and indemnity compensation for children.
P.L. 99-661, November 14, 1986 National Defense Authorization Act (NDAA) for FY1987	TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS PART D—BENEFITS FOR SURVIVORS AND FORMER SPOUSES Sec. 641. Court-ordered survivor annuities for former spouses. Sec. 642. Annuity for a dependent child. Sec. 643. Age at which remarriage terminates spouse survivor benefit. Sec. 644. Revision of definition of disposable retired pay for purposes of court orders. Sec. 645. Revision of open period to elect former spouse and child coverage. Sec. 646. Extension of medical benefits for certain former spouses.
P.L. 101-189, November 29, 1989 NDAA for FY1990 and 1991	TITLE XIV—MILITARY SURVIVOR BENEFIT PLAN Sec. 1402. Revised premium computation for Survivor Benefit Plan annuities. Sec. 1403. Correction of annuity computation for survivors of certain retirement-eligible officers dying while on active duty. Sec. 1404. Program to provide supplemental spouse annuity for military retirees. Sec. 1405. Open enrollment period.
P.L. 101-510, November 5, 1990 NDAA for FY1991	TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFIT PART D—MISCELLANEOUS Sec. 631. Delay in effective date of optional high-tier Survivor Benefit Plan coverage and open enrollment period. TITLE XIV—GENERAL PROVISIONS PART H—CODIFICATION or CERTAIN PROVISIONS or LAW AND TECHNICAL AMENDMENTS Sec. 1484. Technical and clerical amendments. (1) OTHER LAWS —— (4) Title X1V of P.L. 101-189 (103 Stat. 1577 et seq.) is amended as follows: (A) Section 1404(a)(2) is amended by striking out "Spouse Coverage for Survivor Benefit Plan Participants" in the matter to be inserted (effective on October 1, 1991) by the amendment made by that section and inserting in lieu thereof "Survivor Benefit Plan."
P.L. 101-508, November 15, 1990	TITLE VIII—VETERANS' PROGRAMS Subtitle A—Compensation, DIC, and Pension SEC. 8005. COST-OF-LIVING INCREASES IN COMPENSATION RATES.

Public Law (P.L.), Date and Title	Sections and Highlight(s) of the Legislation
Omnibus Budget Reconciliation Act of 1990	VA limited payment of DIC to widows who do not remarry (effective November 1, 1990)
P.L. 102-190, December 5, 1991 NDAA for FY1992 and FY1993	Sec. 653. Survivor Benefit Plan. Sec. 654. Payment of survivor annuity to a representative of a legally incompetent person.
P.L. 102-484, October 23, 1992 NDAA for FY1993	Sec 643. Modification to Survivor Benefit Plan open enrollment period. (b) SBP ANNUITIES. — (1) Effective on the first day of the first month after a member or former member of the Armed Forces retired under a provision of law referred to in subsection (a)(l) attains 62 years of age or, in the event of death before attaining that age, would have attained that age, the base amount applicable under Section 1447(2) of Title 10, United States Code, to any Survivor Benefit Plan annuity provided by that member or former member shall be recomputed.
P.L. 102-568, October 29, 1992 Veterans' Benefits Act of 1992	TITLE I—Reform of the Dependency and Indemnity Compensation Program Sec. 102. Reform in payment formula. Sec. 103. Exception to operation of OBRA provision. Sec. 104. GAO report relating to the provision of benefits to survivors of veterans and members of the Armed Forces.
P.L. 103-337, October 5, 1994 NDAA for FY1995	Sec. 637. SBP premiums for reserve-component child-only coverage. Sec. 638. Discontinuation of insurable interest coverage under Survivor Benefit Plan.
P.L. 105-85, November 18, 1997 NDAA for FY1998	Sec. 641. One-year opportunity to discontinue participation in Survivor Benefit Plan. Sec. 642. Time in which change in survivor benefit coverage from former spouse to spouse may be made. Sec. 643. Review of Federal former spouse protection laws. Sec. 644. Annuities for certain military surviving spouses. Sec. 645. Administration of benefits for so-called minimum income widows.
P.L. 105-178, June 9, 1998 Transportation Equity Act for the 21st Century	Effective October 1, 1998. Sec. 8207. Eligibility of certain remarried surviving spouses for reinstatement of dependency and indemnity compensation upon termination of that remarriage. Sec. 8208. Extension of prior revision to offset rule for Department of Defense special separation benefit program.
P.L. 105-261, October 17, 1998 Strom Thurmond NDAA for FY1999	Sec. 641. Paid-up coverage under Survivor Benefit Plan. Sec. 642. Survivor Benefit Plan open enrollment period. Sec. 643. Effective date of court-required former spouse Survivor Benefit Plan coverage effectuated through elections and deemed elections.
P.L. 106-65, October 5, 1999 NDAA for FY2000	Sec. 643. Conforming Amendments. (a) Conforming Amendment to Survivor Benefit Plan Provision—(1) Section 1451(h)(3) of Title 10, United States Code, is amended by inserting "OF CERTAIN MEMBERS" after "RETIREMENT". (2) Section 1452(i) of such title is amended by striking "When the retired pay" and inserting "Whenever the retired pay". Subtitle E—Other Matters Relating to Military Retirees and Survivors Sec. 654. Credit toward paid-up SBP coverage for months covered by make-up premium paid by persons electing SBP coverage during special open enrollment period.

Public Law (P.L.), Date and Title	Sections and Highlight(s) of the Legislation
	Sec. 656. Extension of authority for payment of annuities to certain military surviving spouses. Sec. 657. Effectuation of intended SBP annuity for former spouse when not elected by reason of untimely death of retiree.
P.L. 106-398, October 30, 2000 Floyd D. Spence NDAA for FY2001	Sec. 655. Reserve component Survivor Benefit Plan spousal consent requirement. Sec. 656. Sense of Congress on increasing Survivor Benefit Plan annuities for surviving spouses age 62 or older. Sec. 657. Revision to special compensation authority to repeal exclusion of uniformed services retirees in receipt of disability retired pay.
P.L. 107-107, December 28, 2001 NDAA for FY2002	Sec. 641. Contingent authority for concurrent receipt of military retired pay and veterans' disability compensation and enhancement of special compensation authority. Sec. 642. Survivor Benefit Plan annuities for surviving spouses of members who die while on active duty and not eligible for retirement.
P.L. 108-136, November 24, 2003 NDAA for FY2004	Sec. 641. Phase-in of full concurrent receipt of military retired pay and veterans' disability compensation for certain military retirees. Sec. 642. Revisions to combat-related special compensation program. Sec. 644. Survivor Benefit Plan annuities for surviving spouses of Reserves not eligible for retirement who die from a cause incurred or aggravated while on inactive-duty training. Sec. 645. Survivor Benefit Plan modifications. Sec. 646. Increase in death gratuity payable with respect to deceased members of the Armed Forces. Sec. 647. Death benefits study.
P.L. 108-375, October 28, 2004 NDAA for FY2005	Sec. 644. Phased elimination of two-tier annuity computation for surviving spouses under Survivor Benefit Plan. Sec. 645. One-year open enrollment period for Survivor Benefit Plan commencing October 1, 2005.
P.L. 110-181, January 28, 2008 NDAA for FY2008	Sec. 643. Recoupment of annuity amounts previously paid, but subject to offset for dependency and indemnity compensation. Sec. 644. Special survivor indemnity allowance for persons affected by required Survivor Benefit Plan annuity offset for dependency and indemnity compensation.
P.L. 110-417, October 14, 2008 Duncan Hunter NDAA for FY2009	Sec. 631. Extension to survivors of certain members who die on active duty of special survivor indemnity allowance for persons affected by required Survivor Benefit Plan annuity offset for dependency and indemnity compensation. Sec. 632. Correction of unintended reduction in survivor benefit plan annuities due to phased elimination of two-tier annuity computation and supplemental annuity.
P.L. 111-31, June 22, 2009 Family Smoking Prevention and Tobacco Control Act	DIVISION B—FEDERAL RETIREMENT REFORM ACT TITLE II—SPECIAL SURVIVOR INDEMNITY ALLOWANCE FOR SURVIVING SPOUSES OF ARMED FORCES MEMBERS Sec. 201. Increase in monthly amount of special survivor indemnity allowance for widows and widowers of deceased members of the Armed Forces affected by required Survivor Benefit Plan annuity offset for dependency and indemnity compensation.
P.L. 112-239 January 2, 2013 NDAA for FY2013	Sec. 641. Repeal of requirement for payment of Survivor Benefit Plan premiums when participant waives retired pay to provide a survivor annuity under Federal Employees Retirement System and terminating payment of the Survivor Benefit Plan annuity.
P.L. 113-67, December 26, 2013	Sec. 703. Pension Benefit Guaranty Corporation Premium Rate Increases.

Public Law (P.L.), Date and Title	Sections and Highlight(s) of the Legislation
The Bipartisan Budget Act of 2013	
P.L. 113-291, December 19, 2014 Howard P. "Buck" McKeon NDAA for FY2015	Sec. 624. Survivor Benefit Plan annuities for special needs trusts established for the benefit of dependent children incapable of self-support. Note: This Act amends Section 1450 of Title 10, United States Code, to set up special needs trusts for sole benefit of certain dependent children.
P.L. 114-92, November 25, 2015 NDAA for FY2016	Sec. 641. Death of former spouse beneficiaries and subsequent remarriages under the Survivor Benefit Plan.
P.L. 114-328, December 23, 2016 NDAA for FY2017	Sec. 642. Equal benefits under Survivor Benefit Plan for survivors of reserve component members who die in the line of duty during inactive-duty training. Sec. 643. Authority to deduct Survivor Benefit Plan premiums from combat-related special compensation when retired pay not sufficient. Sec. 644. Extension of allowance covering monthly premium for Servicemembers' Group Life Insurance while in certain overseas areas to cover members in any combat zone or overseas direct support area. Sec. 646. Extension of authority to pay special survivor indemnity allowance under the Survivor Benefit Plan. Sec. 648. Independent assessment of the Survivor Benefit Plan.
P.L. 115-91, December 12, 2017 NDAA for FY2018	Sec. 621. Permanent extension and cost-of-living adjustments of special survivor indemnity allowances under the Survivor Benefit Plan. Sec. 622. Adjustments to Survivor Benefit Plan for members electing lump sum payments of retired pay under the modernized retirement system for members of the uniformed services.
P.L. 115-232, August 13, 2018 John S. McCain NDAA for Fiscal Year 2019	Sec. 622. Technical corrections in calculation and publication of special survivor indemnity allowance cost of living adjustments.
P.L. 116-92, December 20, 2019 NDAA for FY2020.	Sec. 622. Repeal of SBP-DIC offset with three-year phase out. Repeal of optional child(ren) annuity and restoration of eligibility to eligible spouses.

Sources: Congress.gov; and Chapter 73-Annuities Based on Retired or Retainer Pay in *Title 10, United States Code Armed Forces (As Amended Through January 7, 2011*), 112th Congress, 1st Session, Committee Print No. 2A, July 2011, pp. 762-807.

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Acknowledgments

This report draws on previous CRS reports authored by David Burelli. Sandra Delaney, CRS intern, assisted with the update of this report.

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