

Military Benefits After a Divorce for Discharged Service Members

For the purposes of the information on this page, a discharged service member is someone who has either an honorable or general discharge designation on their DD214.

The information on this page is meant to be general information and not legal advice. Please consult an attorney for specific questions.

Does anything happen to a retiree's pay in a divorce?

Yes. Retirement pay may be divided by a court order as part of a divorce agreement. There is no minimum amount of time the couple had to have been married for pay to be divided. If the service member does not pay child support or alimony, the court may order that the retirement pay be garnished (taken out of their checks). 10 U.S.C. § 1408(c)



When do health and commissary benefits end for an ex-spouse after a divorce?

It depends on:

1. How long the marriage has lasted
2. How long the service member was in active-duty, and
3. How many year the marriage and service overlapped.

20/20/20 Rule (20 years married/ 20 years in service/ 20 years overlap):

No loss of Tricare coverage or commissary benefits for the ex-spouse. Benefits remain the same as if the marriage was not ended.



20/20/15 Rule

(20 years married/ 20 years in service/ 15 years overlap):

The ex-spouse is eligible for 1 year of Tricare coverage after the divorce is finalized, but loses commissary benefits.

Ex-spouses that do not qualify under the 20/20/20 or 20/20/15 lose benefits at midnight on the day the divorce is finalized.

They may purchase Continued Health Care Benefits for 3 years.



Are ex-spouses entitled to VA Disability payments after a divorce?

Yes, VA Disability payments may be divided by a court order as part of a divorce agreement.

38 U.S.C. § 5301(a)(3)(A) VA Disability payments may also be garnished if the service member does not make court-ordered child support or alimony payments.

Rose v. Rose, 481 U.S. 619 (1987), 42 U.S.C. § 659

Is there a way that my ex-spouse can get their portion of my retirement pay directly from the military?

Yes. If the marriage lasted at least 10 years and active-duty service was also at least 10 years long, the 10/10 Rule applies. If the 10/10 Rule does not apply, then the payments would have to be made to the court and then paid out to the ex-spouse. Under the 10/10 Rule, direct payments should be in the state court order that divides the retiree's pay. These payments would be made by the Defense Finance Accounting System (DFAS). 10 U.S.C. § 1408(d)(2)



What happens to the money put into our Thrift Savings Plan?

Money that was contributed to a Thrift Savings Plan (TSP) may be divided by a court order as part of a divorce agreement.

10 U.S.C. § 1408 (c)