

## **Military Pensions and Divorce – A Radical Rewrite?**

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Two Department of Defense appropriations bills before the House and Senate will, if enacted, rewrite the law governing division of military pensions upon divorce by revoking the power granted to states to divide military pensions and cutting back the share which a former spouse will receive.

For example, assume that John Doe retires as a sergeant major (E-9) from the Army after thirty years of service. He and Jane Doe were divorced ten years ago. Since John and Jane were married for twenty years of service, under the current law Jane would receive 50% of  $\frac{2}{3}$  ( $\frac{20}{30}$ ) of John's actual retirement pay.

Under the proposed law, Jane would only be entitled to 50% of John's retirement pay as a sergeant first class (E-7) which was John's rank after twenty years. The loss to Jane (and the windfall to John) is substantial when calculated. To make matters worse, there is no cost of living adjustment allowing Jane's share to rise over time since all such adjustments would injure to John's benefit.

Finally, the proposed law would permit no exceptions by allowing divorcing parties to settle their case in a different manner (even though over 90% of divorces cases are settled). This so-called "fixed benefit" division is opposed by the American Bar Association and the American Academy of Matrimonial Lawyers as a major intrusion upon courts, lawyers, service members, former spouses and retirees.

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