

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 August 2025

DOCKET NUMBER: AR20240008826

APPLICANT REQUESTS: to change his Survivor Benefit Plan (SBP) coverage to his current spouse.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- DD Form 2656 (Data for Payment of Retired Personnel)

FACTS:

1. The applicant states, in pertinent part:

- When he received his 20-year letter in 2012, he did not chose a beneficiary
- When he completed his retirement packet, he chose his current spouse as the beneficiary Je- C.S. D-
- He remarried in April 2022, which is one year from the time he retired
- He was not aware he had to add his current spouse to the SBP within one year of marriage
- By having his 26-year-old child as the beneficiary is unjust to his spouse and young child

2. The applicant provides, his service records show, and Defense Finance Accounting Service (DFAS) provides:

- On 16 April 2001, he took the oath of office as a Reserve Commissioned Officer
- On 24 May 2010, he divorced K- D. D-, their marriage certificate and the separation agreement was not provided and was not in his record
- On 17 May 2012, he received his Notification of Eligibility (NOE), which notified him he had completed the required years of qualifying Reserve service and was eligible for retired pay at age 60. He had 90 days to make an RCSBP election; he elected RCSBP coverage for "child only"
- On 14 August 2012, he married J- R. C. T-

- On 7 May 2020, he and J- R.C. T- divorced; in the separation agreement there was no requirement for former spouse SBP coverage. They had no children together
  - On 18 January 2022, orders were published transferring him to the Retired Reserve effective 16 April 2022
  - On 15 March 2022, he and Je-C.S. D- were married
  - On 6 June 2023, he completed a Data for Payment of Retired Personnel, which shows his spouse is Je- C.S. D-; on this document; it also reflects he has previously declined to make an SBP election until he was eligible to receive retired pay; therefore, he elected coverage for “spouse only” for SBP coverage
  - On 29 June 2023, he completed an Application for Retied Pay Benefits
  - On 29 June 2023, he completed a Data for Payment of Retired Personnel, which shows his spouse was still Je- C.S. D-; this document also states, he had previously declined to make an SBP election, and he now elected SBP coverage for “spouse only”
  - On 7 December 2023, he was notified his application for retired pay had been approved
  - On 7 December 2023, Orders were published placing him on the retired list effective 16 May 2024
  - On 23 April 2025, he completed a SBP Election Change Certificate due to his spouse having a child, changing his SBP election to “spouse and child(ren)”
3. On 11 June 2025, DFAS responded to a request for information stating, the applicant has SBP “child only” coverage, which is the election he made in 2012.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on public law, policy, and regulation. Upon review of the applicant's petition and available military records, the Board determined the applicant failed to provide a complete copy of his 1 June 2010 divorce decree and did not elect spouse-only coverage within one year of the subsequent marriage.
2. The Board determined the applicant failed to designate his current spouse as his SBP beneficiary in a timely manner based on public law. The Board determined there is a lack of evidence of an error or injustice. Based on this, the Board denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
xxx	xxx	xxx	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.



X //SIGNED//

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Department of Defense Instruction 1332.42, Enclosure 3, paragraph 7, provides that a member who does not have a spouse or dependent child when the member becomes eligible to participate and who later marries or acquires a dependent child may elect to participate in the Program by submitting a signed, written election that is received by the Secretary concerned within the 1-year period after acquiring the first spouse or dependent child. An election under this paragraph is irrevocable unless otherwise provided by law.
2. Public Law 92-425, enacted 21 September 1972, established the SBP. The SBP provides that military members on active duty could elect to have their retired pay reduced to provide for an annuity after death to surviving dependents. An election, once made, was irrevocable except in certain circumstances. Elections are made by category, not by name. The election must be made before the effective date of retirement or coverage defaults to automatic spouse coverage. Since its creation, the SBP has been subjected to a number of substantial legislative changes.
3. Public Law 95-397, the RCSBP, enacted 30 September 1978, provided a way for those who qualified for Non-Regular (Reserve) retirement but were not yet age 60 (and eligible to participate in the SBP) to provide an annuity for their survivors should they die before reaching age 60. Three options are available: (A) elect to decline enrollment and choose at age 60 whether to start SBP participation; (B) elect that a beneficiary receive an annuity if they die before age 60 but delay payment until the date of the member's 60th birthday; or (C) elect that a beneficiary receive an annuity immediately upon their death if before age 60. If death does not occur before age 60, the RCSBP costs for Options B and C are deducted from the member's retired pay (costs for Option C being the more expensive). Once a member elects either Option B or C in any category of coverage, that election is irrevocable. Option B and C participants do not make a new SBP election at age 60. They cannot cancel SBP participation or change options they had in the RCSBP; the RCSBP automatically converts to SBP coverage. If RCSBP Option B or C is elected, there is a Reserve Component cost added to the basic cost of the SBP to cover the additional benefit and assured protection should the member die prior to age 60.
4. Public Law 99-145, enacted 8 November 1985, permitted a previously participating retiree, upon remarriage, to elect not to resume spouse coverage or to increase reduced coverage for the latter spouse (requiring a payback with interest of SBP premiums prior to the first anniversary of remarriage). Changes must be made prior to the first anniversary of remarriage or the previously suspended coverage resumes by default on the first day of the month following the first anniversary of the remarriage, with costs owed from that date.

5. DoDI 1332.45 provides the following, which means that if a member does not enroll for spouse coverage when they get married for the first time following receipt of a Twenty Year Letter or retirement, he or she forfeits coverage for that spouse and all future spouses (emphasis added).

a. 4.4a(4) Declining spouse coverage in any of the situations described in Paragraphs 4.4.b. through 4.4.d. will terminate eligibility for spouse coverage for that spouse and any future spouse(s).

b. 4.4d. Marriage After Retirement or NOE When There Was Not an Eligible Spouse or Former Spouse When Initially Electing SBP or RC-SBP Coverage

- A covered participant who did not have a spouse or former spouse when he or she was initially eligible to make an election to participate in SBP or RC-SBP, who later marries, may elect within 1 year of marriage to cover the new spouse (note that coverage is not automatic).

//NOTHING FOLLOWS//