

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 August 2025

DOCKET NUMBER: AR20240012891

APPLICANT REQUESTS: termination of survivor's benefit program (SBP).

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

FACTS:

1. The applicant states he did not select SBP. Defense Finance Accounting Service (DFAS) representative states "immediate coverage means SBP." The applicant and his spouse were not advised of this during the signing of his retirement paperwork.

2. The applicant provides, and his service records show:

- Having had prior enlisted service, he enlisted in the Army National Guard on 29 November 2006.
- He entered active duty on 21 October 2012. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was released from active duty and transferred to ARNG on 11 October 2013. He completed 11 months and 21 days net active service.
- He married VC__ on 1 January 2017.
- His Notification of Eligibility for Retired Pay at age 60 (20-year Letter), 1 March 2019 shows he had completed the required years of qualifying reserve service and was eligible for retired pay on application at age 60 and he was eligible to participate in the Reserve Component (RC)SBP.
- His NGB Form 22 (Report of Separation and record of Service), 30 April 2019 shows he was discharged for retirement and transferred to the retired reserve.
- Orders 162-885, 11 June 2019 discharged the applicant and assigned him to the Retired Reserve. Effective date: 30 April 2019.
- ARNG Current Annual Statement, 5 August 2019 shows 4381 total points for retired pay and 20 years and 2 days creditable service for retired pay.
- His initial certification shows reduced age retirement, Option C spouse only by default.
- Data for Payment of Retired Personnel, 20 November 2023 shows married, Option C-previously elected or defaulted to immediate RCSBP coverage.

- Orders C01-490170, 8 January 2024, U.S. Army Human Records Command (HRC) show he was retired and placed on the retired list, 22 August 2024.

3. A DFAS email, 5 May 2025 states, "I do not have an auto election form completed for this member".

BOARD DISCUSSION:

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. The applicant enlisted in the ARNG on 29 November 2006. On 20 November 2023, he endorsed DD Form 2656 electing "Option C – previously elected or defaulted to immediate RCSBP coverage." He was retired on 22 August 2024. The available evidence reflects there is no indication in the applicant's records that he properly opted out of SBP within 90 days of the notification. As a result, he was auto-enrolled in full and immediate SBP coverage. This was an irrevocable election. The applicant failed to decline SBP with his spouse's concurrence in 2019. The DD Form 2656 was properly filled out in 2024 showing he previously elected or defaulted to immediate RC SBP coverage. The Board noted the applicant has a one-year window to terminate SBP between his 2nd and 3rd anniversary following retirement. The Board concluded the applicant's election was not in error or injustice and 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. Public Law 92-425, the SBP, enacted 21 September 1972, provided 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. This law also provides that every member having a spouse and/or child(ren), who retired/transfers to the retired list on or after that date, is automatically covered under SBP at the maximum rate unless he/she elected otherwise before retirement or transfer to the retired list.

2. Public Law 95-397, the RCSBP, enacted 30 September 1978, provided a way for those who had qualified for reserve retirement but were not yet age 60 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 of it until the date of the member's 60th birthday; (C) elect that a beneficiary receive an annuity immediately upon their death if before age 60. A member must make the election within 90 days of receiving the notification of eligibility to receive retired pay at age 60 or else wait until he/she applies for retired pay and elect to participate in the standard SBP.

3. Title 10, U.S. Code, section 1448, requires notice to a spouse if a member elected not to participate in the SBP. The statute also provided for automatic enrollment for spouse coverage at the full base amount unless a member affirmatively declined to participate in the SBP prior to receiving retired pay.

4. Public Law 99-145, enacted 8 November 1985 but effective 1 March 1986, required written concurrence by the spouse in a member's decision to decline the SBP or elect spouse coverage at less than the full base amount.

5. Public Law 105-85, enacted 18 November 1997, established the option to terminate SBP participation. Retirees have a 1-year period beginning on the second anniversary of the date on which their retired pay started to withdraw from the SBP. The spouse's concurrence is required. No premiums will be refunded to those who opt to disenroll. The effective date of termination is the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

6. Public Law 106-398, enacted 30 October 2000, required written spousal consent for a Reserve service member to delay making an RCSBP election until age 60. The law is applicable to cases where 20-year letters have been issued after 1 January 2001. In other words, failure to elect an option upon receipt of the 20-year letter results in the default election of Option C.

7. Department of Defense Instruction 1332.42 (Survivor Annuity Program Administration) states a member may elect to discontinue participation by submitting a DD Form 2656-2 (SBP Termination Request) during the period that is more than 2 years but less than 3 years after the first date of entitlement to receive retired pay. The member must submit the request no earlier than the 1st day of the 25th month, and no later than the last day of the 36th month from the date of entitlement to retired pay, with spousal concurrence if applicable. A member electing to terminate coverage is not eligible for continuation in the Program; however, the member has 30 days after submitting a request to discontinue participation to revoke the request.

//NOTHING FOLLOWS//