

105TH CONGRESS  
1ST SESSION

# H. R. 2537

To amend title 10, United States Code, to revise the rules relating to the court-ordered apportionment of the retired pay of members of the Armed Forces to former spouses, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 1997

Mr. STUMP introduced the following bill; which was referred to the Committee on National Security, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 10, United States Code, to revise the rules relating to the court-ordered apportionment of the retired pay of members of the Armed Forces to former spouses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Uniformed Services  
5 Former Spouses Equity Act of 1997”.

1 **SEC. 2. TERMINATION OF PAYMENTS UPON REMARRIAGE**  
2 **OF FORMER SPOUSE.**

3 (a) IN GENERAL.—Section 1408(c) of title 10, Unit-  
4 ed States Code, is amended by adding at the end the fol-  
5 lowing new paragraph:

6 “(5) Payment from the monthly disposable retired  
7 pay of a member to a former spouse of the member pursu-  
8 ant to this section shall terminate upon the remarriage  
9 of that former spouse, except to the extent that the  
10 amount of such payment includes an amount other than  
11 an amount resulting from the treatment by the court  
12 under paragraph (1) of disposable retired pay of the mem-  
13 ber as property of the member or property of the member  
14 and his spouse. Any such termination shall be effective  
15 as of the last day of the month in which the remarriage  
16 occurs.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall apply with respect to marriages termi-  
19 nated by court orders issued before, on, or after the date  
20 of the enactment of this Act. In the case of such a court  
21 order issued before the date of the enactment of this Act,  
22 such amendment shall apply only with respect to amounts  
23 of a member’s retired pay that are payable for months  
24 beginning more than 180 days after the date of the enact-  
25 ment of this Act.

1 **SEC. 3. AWARD OF RETIRED PAY TO BE BASED ON RETIR-**  
2 **EE'S LENGTH OF SERVICE AND PAY GRADE**  
3 **AT TIME OF DIVORCE.**

4 (a) IN GENERAL.—Section 1408(c) of title 10, Unit-  
5 ed States Code, as amended by section 2, is further  
6 amended by adding at the end the following new para-  
7 graph:

8 “(6) In the case of a member as to whom a final de-  
9 cree of divorce, dissolution, annulment, or legal separation  
10 is issued before the date on which the member begins to  
11 receive retired pay, the disposable retired pay of the mem-  
12 ber that a court may treat in the manner described in  
13 paragraph (1) shall be computed based on the pay grade,  
14 and the length of service of the member while married,  
15 that are creditable toward entitlement to basic pay and  
16 to retired pay as of the date of the final decree. Amounts  
17 so calculated shall be increased by the cumulative percent-  
18 age of increases in retired pay between the date of the  
19 final decree and the effective date of the member's retire-  
20 ment.”.

21 (b) IMPLEMENTATION.—With respect to payments to  
22 a former spouse from a member's disposable retired pay  
23 pursuant to court orders issued before the date of the en-  
24 actment of this Act, the Secretary shall—

25 (1) within 90 days of such date, recompute the  
26 amounts of those payments in accordance with para-

1 graph (5) of section 1408(c) of title 10, United  
 2 States Code, as added by subsection (a); and

3 (2) within 180 days of such date, adjust the  
 4 amount of disposable retired pay payable to that  
 5 former spouse accordingly.

6 (c) EFFECTIVE DATE.—The amendment made by  
 7 subsection (a) shall apply with respect to court orders is-  
 8 sued on or after June 25, 1981.

9 **SEC. 4. LIMITATION ON TIME FOR SEEKING DIVISION OF**  
 10 **RETIRED PAY.**

11 (a) IN GENERAL.—Subsection (c)(4) of section 1408  
 12 of title 10, United States Code, is amended to read as  
 13 follows:

14 “(4) A court may not after the date of the enactment  
 15 of the Uniformed Services Former Spouses Equity Act of  
 16 1997 treat the disposable retired pay of a member in the  
 17 manner described in paragraph (1) unless—

18 “(A) the court has jurisdiction over the member  
 19 by reason of (i) the member’s residence, other than  
 20 because of military assignment, in the territorial ju-  
 21 risdiction of the court, (ii) the member’s domicile in  
 22 the territorial jurisdiction of the court, or (iii) the  
 23 member’s consent to the jurisdiction of the court;  
 24 and

1           “(B) the member’s spouse or former spouse ob-  
2           tains a court order for apportionment of the retired  
3           pay of the member not later than (i) two years after  
4           the date of final decree of divorce, dissolution, an-  
5           nulment, or legal separation, including a court or-  
6           dered, ratified, or approved property settlement inci-  
7           dent to such a decree, or (ii) the end of the six-  
8           month period beginning on the date of the enact-  
9           ment of the Uniformed Services Former Spouses  
10          Equity Act of 1997, whichever is later.”.

11          (b) EFFECTIVE DATE.—The amendment made by  
12          subsection (a) shall apply with respect to final decrees of  
13          divorce, dissolution, annulment, or legal separation issued  
14          on or after June 25, 1981.

15       **SEC. 5. LIMITATION ON APPORTIONMENT OF DISABILITY**

16                       **PAY WHEN RETIRED PAY HAS BEEN WAIVED.**

17          (a) IN GENERAL.—Subsection (e)(4) of section 1408  
18          of title 10, United States Code, is amended by adding at  
19          the end the following new subparagraph:

20               “(C) Notwithstanding any other provision of law, a  
21          court may not treat as part of the disposable retired pay  
22          of a member under this section or as part of amounts to  
23          be paid pursuant to legal processes under section 459 of  
24          the Social Security Act (42 U.S.C. 659) amounts which  
25          are deducted from the retired pay of such member as a

1 result of a waiver of retired pay required by law in order  
2 to receive compensation under title 38.”.

3 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—Sec-  
4 tion 459(h) of the Social Security Act (42 U.S.C. 659(h))  
5 is amended—

6 (1) in paragraph (1)(A)(ii)—

7 (A) by inserting “or” at the end of sub-  
8 clause (III);

9 (B) by striking out “or” at the end of sub-  
10 clause (IV) and inserting in lieu thereof “and”;  
11 and

12 (C) by striking out subclause (V); and

13 (2) in paragraph (2)—

14 (A) by redesignating subparagraphs (E)  
15 and (F) as subparagraphs (F) and (G), respec-  
16 tively; and

17 (B) by inserting after subparagraph (D)  
18 the following new subparagraph:

19 “(E) are paid by the Secretary of Veterans  
20 Affairs as compensation for a service-connected  
21 disability under title 38, United States Code,  
22 when military retired pay has been waived in  
23 order to receive such compensation;”.

24 (c) EFFECTIVE DATE.—The amendments made by  
25 subsections (a) and (b) shall apply to court orders and

1 legal processes issued on or after June 25, 1981. In the  
2 case of a court order or legal process issued before the  
3 date of the enactment of this Act, such amendments shall  
4 apply only with respect to retired pay payable for months  
5 beginning on or after the date of the enactment of this  
6 Act.

