

110TH CONGRESS  
1ST SESSION

# H. R. 1589

To amend title 10, United States Code, to repeal the offset from surviving spouse annuities under the military Survivor Benefit Plan for amounts paid by the Secretary of Veterans Affairs as dependency and indemnity compensation, to repeal the optional annuity authority for the dependent children of a member when there is an eligible surviving spouse, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2007

Mr. BROWN of South Carolina (for himself and Mr. TOM DAVIS of Virginia) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to repeal the offset from surviving spouse annuities under the military Survivor Benefit Plan for amounts paid by the Secretary of Veterans Affairs as dependency and indemnity compensation, to repeal the optional annuity authority for the dependent children of a member when there is an eligible surviving spouse, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Military Surviving  
3 Spouses Equity Act”.

4 **SEC. 2. REPEAL OF DEPENDENCY AND INDEMNITY COM-  
5 PENSATION OFFSET FROM SURVIVOR BEN-  
6 EFIT PLAN SURVIVING SPOUSE ANNUITIES  
7 AND OPTIONAL ANNUITY AUTHORITY.**

8 (a) REPEAL.—Subsections (c), (e), and (k) of section  
9 1450 of title 10, United States Code, and subsection (e)(2)  
10 of section 1451 of such title are repealed.

11 (b) RECOUPMENT OF CERTAIN AMOUNTS PRE-  
12 VIOUSLY REFUNDED TO SPB RECIPIENTS.—

13 (1) REPAYMENT REQUIRED.—A surviving  
14 spouse who is in receipt of an SBP annuity that is  
15 in effect before the effective date of the amendments  
16 made by subsection (a) and that is adjusted by rea-  
17 son of such amendments and who had previously re-  
18 ceived an SBP retired pay refund shall repay an  
19 amount determined under paragraph (2). Any such  
20 repayment shall be made in the same manner as a  
21 repayment under subsection (k)(2) of section 1450  
22 of title 10, United States Code, as in effect on the  
23 day before the effective date of such amendments.

24 (2) AMOUNT OF REPAYMENT.—The amount of  
25 a repayment under paragraph (1) shall be the  
26 amount that bears the same ratio to the amount of

1 that refund as the surviving spouse's life expectancy  
2 (determined in accordance with standard actuarial  
3 practices) bears to the anticipated total duration of  
4 the annuity (determined as the sum of such life ex-  
5 pectancy and the duration of the annuity already re-  
6 ceived)

7 (3) WAIVER OF REPAYMENT.—The Secretary of  
8 Defense may waive the requirement that a surviving  
9 spouse make a repayment under paragraph (1) if  
10 the Secretary determines that—

11 (A) hardship or other circumstances make  
12 repayment unwarranted; or

13 (B) requiring repayment would otherwise  
14 not be in the best interests of the United  
15 States.

16 (4) DEFINITIONS.—In this subsection:

17 (A) The term “SBP annuity” means an  
18 annuity under the program established under  
19 subchapter II of chapter 73 of title 10, United  
20 States Code.

21 (B) The term “SBP retired pay refund”  
22 means a refund under subsection (e) of section  
23 1450 of title 10, United States Code, as in ef-  
24 fect before the effective date of the amendments  
25 made by subsection (a).

1 (c) REPEAL OF OPTIONAL ANNUITY AUTHORITY.—  
2 Subsection (d) of section 1448 of title 10, United States  
3 Code, is amended—

4 (1) in paragraph (1), by striking “Except as  
5 provided in paragraph (2)(B), the Secretary” and  
6 inserting “The Secretary”; and

7 (2) by striking paragraph (2) and inserting the  
8 following new paragraph:

9 “(2) PAYMENT OF ANNUITY TO DEPENDENT  
10 CHILDREN WHEN NO ELIGIBLE SURVIVING  
11 SPOUSE.—In the case of a member described in  
12 paragraph (1), the Secretary concerned shall pay an  
13 annuity under this subchapter to the member’s de-  
14 pendent children under section 1450(a)(2) of this  
15 title when there is no eligible surviving spouse.”.

16 (d) RESTORATION OF ELIGIBILITY FOR PREVIOUSLY  
17 ELIGIBLE SURVIVING SPOUSES.—

18 (1) RESTORATION.—The Secretary of Defense  
19 shall restore eligibility for an annuity under sub-  
20 chapter II of chapter 73 of title 10, United States  
21 Code, to any eligible surviving spouse who, before  
22 the effective date of the amendments made by sub-  
23 section (c), agreed to transfer payment of such an-  
24 nuity to a surviving child or children of a member  
25 of the Armed Forces under section 1448(d)(2)(B) of

1 such title, as in effect before such effective date.  
2 Such eligibility shall be restored whether or not pay-  
3 ment to such child or children subsequently was ter-  
4 minated due to loss of dependent status or death.

5 (2) DEFINITION.—In this subsection, the term  
6 “eligible surviving spouse” includes a person who  
7 was previously eligible for payment of such annuity  
8 as the spouse of a member of the Armed Forces and  
9 is unremarried after the death of the member, is re-  
10 married after having attained age 55, or whose sec-  
11 ond or subsequent marriage has been terminated by  
12 death, divorce, or annulment.

13 (e) EFFECTIVE DATE AND APPLICATION OF AMEND-  
14 MENTS.—

15 (1) EFFECTIVE DATE.—The amendments made  
16 by this section shall take effect on the later of—

17 (A) October 1, 2007; and

18 (B) the date of the enactment of this Act.

19 (2) APPLICABILITY.—The amendments made  
20 by subsections (a) and (c) shall apply with respect  
21 to payment of annuities under subchapter II of  
22 chapter 73 of title 10, United States Code, for  
23 months beginning on or after the effective date of  
24 such amendments under paragraph (1).