

FOOTE Notes on Retirement

Military Retirements

1. A spouse may lose certain survivor rights in a military pension if the final division order is not prepared within one year of the judicial property settlement, even if the property settlement says that she gets the Sims portion of all benefits. There is a special application process for the SBP in military plans.
2. The proper venue for the division of a military retirement plan is the domicile of the military member, which is not necessarily the proper venue for the division of the rest of the community property. A military member can force bifurcation of the case with respect to this one issue.
3. A spouse who is awarded the Sims portion of all military benefits pursuant to a Final Division Order may nonetheless be deprived of a portion of the benefits, if the military member has a disability rating. Make sure that the property settlement guards against this possible deprivation of rights. It should be done in the property settlement, not the subsequent military division order.
4. Make sure that a National Guard / Reserve 20 year pension is not divided by the Sims formula. Guard pensions are divided by a point system which varies from year to year.