

104TH CONGRESS  
2D SESSION

# H. R. 3511

To provide additional pension security for spouses and former spouses, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 1996

Mrs. LOWEY (for herself, Ms. FURSE, Mrs. SCHROEDER, Ms. ROYBAL-ALLARD, and Mr. LAFALCE) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Government Reform and Oversight, Transportation and Infrastructure, and Economic and Educational Opportunities, 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 provide additional pension security for spouses and 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 “Women’s Pension Eq-  
5 uity Act of 1996”.

1 **SEC. 2. MODEL SPOUSAL CONSENT FORM AND QUALIFIED**  
2 **DOMESTIC RELATIONS ORDER.**

3 (a) MODEL SPOUSAL CONSENT FORM.—

4 (1) AMENDMENT TO INTERNAL REVENUE  
5 CODE.—Section 417(a) of the Internal Revenue  
6 Code of 1986 is amended by adding at the end the  
7 following new paragraph:

8 “(7) CONSENT FORM.—The Secretary shall de-  
9 velop a form not later than January 1, 1997, for the  
10 spousal consent required under paragraph (2)  
11 which—

12 “(A) is written in a manner calculated to  
13 be understood by the average person, and

14 “(B) discloses in plain form whether—

15 “(i) the waiver is irrevocable, and

16 “(ii) the waiver may be revoked by a  
17 qualified domestic relations order.”.

18 (2) AMENDMENT TO ERISA.—Section 205(c) of  
19 the Employee Retirement Income Security Act of  
20 1974 (29 U.S.C. 1055(c)) is amended by adding at  
21 the end the following new paragraph:

22 “(8) The Secretary of the Treasury shall de-  
23 velop a form not later than January 1, 1997, for the  
24 spousal consent required under paragraph (2)  
25 which—

1           “(A) is written in a manner calculated to  
2           be understood by the average person, and

3           “(B) discloses in plain form whether—

4                   “(i) the waiver is irrevocable, and

5                   “(ii) the waiver may be revoked by a  
6           qualified domestic relations order.”.

7           (b) MODEL QUALIFIED DOMESTIC RELATIONS  
8 ORDER.—

9           (1) AMENDMENT TO ERISA.—Section 206(d)(3)  
10          of the Employee Retirement Income Security Act of  
11          1974 (29 U.S.C. 1056(d)(3)) is amended by adding  
12          at the end the following new subparagraph:

13          “(O) The Secretary shall develop a form not later  
14          than January 1, 1997, for a qualified domestic relations  
15          order—

16                   “(i) which meets all the requirements of sub-  
17          paragraph (B)(i), and

18                   “(ii) the provisions of which focus attention on  
19          the need to consider the treatment of any lump sum  
20          payment, qualified joint and survivor annuity, or  
21          qualified preretirement survivor annuity.”.

22          (2) AMENDMENT TO INTERNAL REVENUE  
23          CODE.—Section 414(p) of the Internal Revenue  
24          Code of 1986 is amended by adding at the end the  
25          following new paragraph:

1           “(13) The Secretary of Labor shall develop a  
2 form not later than January 1, 1997, for a qualified  
3 domestic relations order which—

4                   “(A) which meets all the requirements of  
5 paragraph (1)(A), and

6                   “(B) the provisions of which focus atten-  
7 tion on the need to consider the treatment of  
8 any lump sum payment, qualified joint and sur-  
9 vivor annuity, or qualified preretirement survi-  
10 vor annuity.”.

11           (c) PUBLICITY.—The Secretary of the Treasury and  
12 the Secretary of Labor shall include publicity for the  
13 model forms required by the amendments made by this  
14 section in the pension outreach efforts undertaken by each  
15 Secretary.

16 **SEC. 3. EXTENSION OF TIER II RAILROAD RETIREMENT**  
17 **BENEFITS TO SURVIVING FORMER SPOUSES**  
18 **PURSUANT TO DIVORCE AGREEMENTS.**

19           (a) IN GENERAL.—Section 5 of the Railroad Retire-  
20 ment Act of 1974 (45 U.S.C. 231d) is amended by adding  
21 at the end the following new subsection:

22                   “(d) Notwithstanding any other provision of law, the  
23 payment of any portion of an annuity computed under sec-  
24 tion 3(b) to a surviving former spouse in accordance with  
25 a court decree of divorce, annulment, or legal separation

1 or the terms of any court-approved property settlement  
2 incident to any such court decree shall not be terminated  
3 upon the death of the individual who performed the service  
4 with respect to which such annuity is so computed unless  
5 such termination is otherwise required by the terms of  
6 such court decree.”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall take effect on the date of the enactment  
9 of this Act.

10 **SEC. 4. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS,**  
11 **AND FORMER SPOUSES OF FEDERAL EM-**  
12 **PLOYEES WHO DIE BEFORE ATTAINING AGE**  
13 **FOR DEFERRED ANNUITY UNDER CIVIL**  
14 **SERVICE RETIREMENT SYSTEM.**

15 (a) BENEFITS FOR WIDOW OR WIDOWER.—Section  
16 8341(f) of title 5, United States Code, is amended—

17 (1) in the matter preceding paragraph (1) by—

18 (A) by inserting “a former employee sepa-  
19 rated from the service with title to deferred an-  
20 nuity from the Fund dies before having estab-  
21 lished a valid claim for annuity and is survived  
22 by a spouse, or if” before “a Member”; and

23 (B) by inserting “of such former employee  
24 or Member” after “the surviving spouse”;

25 (2) in paragraph (1)—

1 (A) by inserting “former employee or”  
2 before “Member commencing”; and

3 (B) by inserting “former employee or”  
4 before “Member dies”; and

5 (3) in the undesignated sentence following para-  
6 graph (2)—

7 (A) in the matter preceding subparagraph  
8 (A) by inserting “former employee or” before  
9 “Member”; and

10 (B) in subparagraph (B) by inserting  
11 “former employee or” before “Member”.

12 (b) BENEFITS FOR FORMER SPOUSE.—Section  
13 8341(h) of title 5, United States Code, is amended—

14 (1) in paragraph (1) by adding after the first  
15 sentence “Subject to paragraphs (2) through (5) of  
16 this subsection, a former spouse of a former em-  
17 ployee who dies after having separated from the  
18 service with title to a deferred annuity under section  
19 8338(a) but before having established a valid claim  
20 for annuity is entitled to a survivor annuity under  
21 this subsection, if and to the extent expressly pro-  
22 vided for in an election under section 8339(j)(3) of  
23 this title, or in the terms of any decree of divorce  
24 or annulment or any court order or court-approved

1 property settlement agreement incident to such de-  
2 cree.”; and

3 (2) in paragraph (2)—

4 (A) in subparagraph (A)(ii) by striking “or  
5 annuitant,” and inserting “annuitant, or former  
6 employee”; and

7 (B) in subparagraph (B)(iii) by inserting  
8 “former employee or” before “Member”.

9 (c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—  
10 Section 8339(j)(3) of title 5, United States Code, is  
11 amended by inserting at the end the following:

12 “The Office shall provide by regulation for the appli-  
13 cation of this subsection to the widow, widower, or surviv-  
14 ing former spouse of a former employee who dies after  
15 having separated from the service with title to a deferred  
16 annuity under section 8338(a) but before having estab-  
17 lished a valid claim for annuity.”.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall take effect on the date of the enactment  
20 of this Act and shall apply only in the case of a former  
21 employee who dies on or after such date.

22 **SEC. 5. COURT ORDERS RELATING TO FEDERAL RETIRE-**  
23 **MENT BENEFITS FOR FORMER SPOUSES OF**  
24 **FEDERAL EMPLOYEES.**

25 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

1           (1) IN GENERAL.—Section 8345(j) of title 5,  
2 United States Code, is amended—

3           (A) by redesignating paragraph (3) as  
4 paragraph (4); and

5           (B) by inserting after paragraph (2) the  
6 following new paragraph:

7           “(3) Payment to a person under a court decree, court  
8 order, property settlement, or similar process referred to  
9 under paragraph (1) shall include payment to a former  
10 spouse of the employee, Member, or annuitant.”.

11           (2) LUMP-SUM BENEFITS.—Section 8342 of  
12 title 5, United States Code, is amended—

13           (A) in subsection (c) by striking “Lump-  
14 sum benefits” and inserting “Subject to sub-  
15 section (j), lump-sum benefits”; and

16           (B) in subsection (j)(1) by striking “the  
17 lump-sum credit under subsection (a) of this  
18 section” and inserting “any lump-sum credit or  
19 lump-sum benefit under this section”.

20           (b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—  
21 Section 8467 of title 5, United States Code, is amended—

22           (1) by redesignating subsection (c) as sub-  
23 section (d); and

24           (2) by inserting after subsection (b) the follow-  
25 ing new subsection:

1 “(c) Payment to a person under a court decree, court  
2 order, property settlement, or similar process referred to  
3 under subsection (a) shall include payment to a former  
4 spouse of the employee, Member, or annuitant.”.

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall take effect on the date of the enactment  
7 of this Act.

8 **SEC. 6. PREVENTION OF CIRCUMVENTION OF COURT**  
9 **ORDER BY WAIVER OF RETIRED PAY TO EN-**  
10 **HANCE CIVIL SERVICE RETIREMENT ANNU-**  
11 **ITY.**

12 (a) CIVIL SERVICE RETIREMENT AND DISABILITY  
13 SYSTEM.—(1) Subsection (c) of section 8332 of title 5,  
14 United States Code, is amended by adding at the end the  
15 following:

16 “(4) If an employee or Member waives retired pay  
17 that is subject to a court order for which there has been  
18 effective service on the Secretary concerned for purposes  
19 of section 1408 of title 10, the military service on which  
20 the retired pay is based may be credited as service for  
21 purposes of this subchapter only if, in accordance with  
22 regulations prescribed by the Director of the Office of Per-  
23 sonnel Management, the employee or Member authorizes  
24 the Director to deduct and withhold from the annuity pay-  
25 able to the employee or Member under this subchapter,

1 and to pay to the former spouse covered by the court  
2 order, the same amount that would have been deducted  
3 and withheld from the employee's or Member's retired pay  
4 and paid to that former spouse under such section 1408.”.

5 (2) Paragraph (1) of such subsection is amended by  
6 striking out “Except as provided in paragraph (2)” and  
7 inserting “Except as provided in paragraphs (2) and (4)”.

8 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

9 (1) Subsection (c) of section 8411 of title 5, United States  
10 Code, is amended by adding at the end the following:

11 “(5) If an employee or Member waives retired pay  
12 that is subject to a court order for which there has been  
13 effective service on the Secretary concerned for purposes  
14 of section 1408 of title 10, the military service on which  
15 the retired pay is based may be credited as service for  
16 purposes of this chapter only if, in accordance with regula-  
17 tions prescribed by the Director of the Office of Personnel  
18 Management, the employee or Member authorizes the Di-  
19 rector to deduct and withhold from the annuity payable  
20 to the employee or Member under this subchapter, and  
21 to pay to the former spouse covered by the court order,  
22 the same amount that would have been deducted and with-  
23 held from the employee's or Member's retired pay and  
24 paid to that former spouse under such section 1408.”.

1           (2) Paragraph (1) of such subsection is amended by  
2 striking out “Except as provided in paragraph (2) or (3)”  
3 and inserting “Except as provided in paragraphs (2), (3),  
4 and (5)”.

5           (c) EFFECTIVE DATE.—The amendment made by  
6 subsection (a) shall take effect on January 1, 1997.

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