

## CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

## EFFECTIVE DATE

Section applicable to any individual who, on or after Jan. 8, 1988, is married to a participant or former participant, see section 261(b)(1) of Pub. L. 100-238, set out as an Effective Date of 1988 Amendment note under section 4054 of this title.

## ABOLITION OF HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Committee on Post Office and Civil Service of House of Representatives abolished by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. References to Committee on Post Office and Civil Service treated as referring to Committee on Government Reform and Oversight of House of Representatives, see section 1(b) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

**§ 4069a. Retirement benefits for certain former spouses****(a) Eligibility; percentage of benefits**

Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

- (1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or
- (2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

**(b) Disqualification**

A former spouse shall not be entitled to benefits under this section if—

- (1) the former spouse remarries before age 55; or
- (2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this subchapter with at least 5 years occurring while the participant was a member of the Foreign Service.

**(c) Period of entitlement; construction with other provisions; application approval and payment**

(1) The entitlement of a former spouse to benefits under this section—

(A) shall commence on the later of—

- (i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this subchapter; or
- (ii) the first day of the month in which the divorce or annulment involved becomes final; and

(B) shall terminate on the earlier of—

- (i) the last day of the month before the former spouse dies or remarries before 55 years of age; or
- (ii) the date the benefits of the participant terminates.

(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this subchapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

(3) Benefits under this section shall be treated the same as an annuity under section 4054(a)(7) of this title for purposes of section 4046(h) of this title or any comparable provision of law.

(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after December 22, 1987. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before December 22, 1987.

**(d) "Benefits" defined**

For the purposes of this section, the term "benefits" means—

- (1) with respect to a participant or former participant subject to this part, the annuity of the participant or former participant; and
- (2) with respect to a participant or former participant subject to part II, the benefits of the participant or former participant under that part.

**(e) Effect of section on annuity**

Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this subchapter.

**(f) Former spouses of United States Information Agency and Agency for International Development employees**

Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant

to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development, shall be entitled to benefits under this section if—

(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

(2) the marriage included at least five years during which the employee was assigned overseas.

(Pub. L. 96-465, title I, §830, as added Pub. L. 100-204, title I, §188(a), Dec. 22, 1987, 101 Stat. 1369; amended Pub. L. 101-246, title I, §146(a), Feb. 16, 1990, 104 Stat. 37.)

#### CODIFICATION

Another section 830 of the Foreign Service Act of 1980 was enacted by Pub. L. 100-238 and is classified to section 4069-1 of this title.

#### AMENDMENTS

1990—Subsec. (f). Pub. L. 101-246 added subsec. (f).

#### TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

### § 4069a-1. Retirement benefits for certain former spouses

#### (a) Eligibility; percentage of benefits

Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

#### (b) Disqualification

A former spouse shall not be entitled to benefits under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this subchapter with at least 5 years occurring while the participant was a member of the Foreign Service.

#### (c) Period of entitlement; construction with other provisions; application approval and payment

(1) The entitlement of a former spouse to benefits under this section—

(A) shall commence on the later of—

(i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this subchapter; or

(ii) the first day of the month in which the divorce or annulment involved becomes final; and

(B) shall terminate on the earlier of—

(i) the last day of the month before the former spouse dies or remarries before 55 years of age; or

(ii) the date of the benefits of the participant terminates.

(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this subchapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

(3) Benefits under this section shall be treated the same as an annuity under section 4054(a)(7) of this title for purposes of section 4046(h) of this title or any comparable provision of law.

(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.

#### (d) "Benefits" defined

For the purpose of this section, the term "benefits" means—

(1) with respect to a participant or former participant subject to this part, the annuity of the participant or former participant; and

(2) with respect to a participant or former participant subject to part II, the benefits of the participant or former participant under that part.

#### (e) Effect of section on annuity

Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this subchapter.

(Pub. L. 96-465, title I, §831, as added Pub. L. 100-238, title II, §204(a), Jan. 8, 1988, 101 Stat. 1770.)

#### REFERENCES IN TEXT

For the effective date of this section, referred to in subsec. (c)(4), see Effective Date note set out below.