

# HOUSE BILL 1185

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CF SB 850

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By: **Delegate Anderson**

Introduced and read first time: February 18, 2010

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Marital Property – Military Pensions**

3 FOR the purpose of requiring a court that transfers ownership of an interest in a  
4 military pension under certain provisions of law to base the transfer on the rank  
5 and years of service of the member of the military on the day the annulment or  
6 divorce decree is granted using the current value of the rank and years of  
7 service at the time of retirement; establishing that an interest in the portion of  
8 a military pension derived from military service by a member of the military  
9 before a marriage may not be considered marital property; establishing that an  
10 interest in the portion of a military pension derived from pay increases  
11 attributable to promotion or additional time served by a member of the military  
12 after an annulment or a divorce decree is granted may not be considered marital  
13 property; and generally relating to marital property and military pensions.

14 BY repealing and reenacting, with amendments,  
15 Article – Family Law  
16 Section 8–203  
17 Annotated Code of Maryland  
18 (2006 Replacement Volume and 2009 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Family Law**

22 8–203.

23 (a) In a proceeding for an annulment or an absolute divorce, if there is a  
24 dispute as to whether certain property is marital property, the court shall determine  
25 which property is marital property:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) when the court grants an annulment or an absolute divorce;

2 (2) within 90 days after the court grants an annulment or divorce, if  
3 the court expressly reserves in the annulment or divorce decree the power to make the  
4 determination; or

5 (3) after the 90-day period if:

6 (i) the court expressly reserves in the annulment or divorce  
7 decree the power to make the determination;

8 (ii) during the 90-day period, the court extends the time for  
9 making the determination; and

10 (iii) the parties consent to the extension.

11 (b) **[In] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IN**  
12 **this subtitle, a military pension shall be considered in the same manner as any other**  
13 **pension or retirement benefit.**

14 **(C) (1) IF A COURT TRANSFERS OWNERSHIP OF AN INTEREST IN A**  
15 **MILITARY PENSION UNDER THIS SUBTITLE, THE COURT SHALL BASE THE**  
16 **TRANSFER ON THE RANK AND YEARS OF SERVICE OF THE MEMBER OF THE**  
17 **MILITARY ON THE DAY THE ANNULMENT OR DIVORCE DECREE IS GRANTED**  
18 **USING THE CURRENT VALUE OF THE RANK AND YEARS OF SERVICE AT THE TIME**  
19 **OF RETIREMENT.**

20 **(2) AN INTEREST IN THE PORTION OF A MILITARY PENSION**  
21 **DERIVED FROM MILITARY SERVICE BY THE MEMBER OF THE MILITARY BEFORE**  
22 **A MARRIAGE MAY NOT BE CONSIDERED MARITAL PROPERTY.**

23 **(3) AN INTEREST IN THE PORTION OF A MILITARY PENSION**  
24 **DERIVED FROM PAY INCREASES ATTRIBUTABLE TO PROMOTION OR ADDITIONAL**  
25 **TIME SERVED BY THE MEMBER OF THE MILITARY AFTER AN ANNULMENT OR A**  
26 **DIVORCE DECREE IS GRANTED MAY NOT BE CONSIDERED MARITAL PROPERTY.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2010.