

Because women reach retirement with fewer pension benefits and retirement assets of their own, they rely more heavily than men upon their spouse's pension benefits. Nearly nine out of ten (87%) older married women, compared to just about one-third (35%) of older married men, rely on their spouse's pension income while both are still alive. Among widowed persons, 21% of widows compared to just 5% of widowers receives pension benefits based on the pension of a deceased spouse.

Many important advances to protect spousal rights to public and private pension benefits were adopted in the 1980s, including the Retirement Equity Act of 1984. However, many gaps in the law remain. Four provisions of the Pension Security and Transparency Act of 2005 (S. 1783) will improve women's retirement security by closing certain loopholes and improving spousal pension rights.

- **Offering of Optional Joint-and-Survivor Annuity (OJSA)** – Under current law, defined benefit plans (and certain others) must provide a qualified joint-and-survivor annuity (QJSA) of at least 50% of the participant's pension benefit. The survivor annuity is paid for by reducing the worker's retirement benefit while alive. Some plans offer only a 50% QJSA, some offer only the option of a higher QJSA (such as 66% or 75%), and many plans offer several options. In plans that offer only a high QJSA (e.g., 75%), some retirees may be dissuaded from selecting a QJSA if it means a big reduction in their retirement benefit. In plans that offer only a low QJSA (e.g., 50%), workers who wish to elect more protection for a surviving spouse do not have that option. The OJSA provision would require plans to offer their retiring married employees at least two joint-and-survivor annuity options — one low and one high option — giving retirees the opportunity to choose better protection for a surviving spouse.
- **Recognition of Subsequently Issued Court Orders** – Often, divorced spouses do not receive a share of their spouse's pension either because they had no lawyer and didn't know to ask, or because their lawyer was not knowledgeable about dealing with pensions. However, even if a former spouse in this situation later becomes aware of possible entitlement to a share of the pension, and succeeds in convincing a domestic relations court to issue a new court order or modify the old one, some pension plans refuse to recognize such subsequently issued orders. This provision would require pension plans to abide by a qualified domestic relations order (QDRO) regardless of when it is issued.
- **Railroad Retirement Pensions for Divorced Spouses** – Two provisions would remove barriers that now prevent some former spouses of Railroad Retirement employees from receiving pension benefits even when they have been awarded by a divorce court.
  - ✓ **Divorced Spouse Benefits Based on Court Order, Not Worker's Retirement Decisions** – At divorce, the former spouse of a Railroad employee may be awarded a share of the worker's Tier I benefits (roughly comparable to Social Security) and a share of the worker's Tier II benefits (roughly comparable to a pension). However, despite the terms of the court order, a divorced spouse may not begin collecting either benefit until the employee-spouse actually retires and begins collecting benefits, making the divorced spouse's retirement security dependent upon the retirement decisions of the employee-spouse. This provision would permit the former spouse to begin collecting court-awarded benefits when the employee-spouse becomes *eligible* to retire.
  - ✓ **Continuation of Tier II Benefits for Divorced Widows** – In an intact couple, a surviving spouse continues to collect Tier II benefits after the employee-spouse dies. But no Tier II benefits are payable to divorced widows, even if Tier II benefits were awarded upon divorce and the divorced spouse was collecting them while the employee was alive. This provision would enable divorced widows also to continue collecting court-awarded Tier II benefits.