THE WASHINGTON RAMBLE

By ARA Executive Director
Michael P Smith

In union with the “National Military Veterans Alliance” (NMVA) we continue to raise the visibility of the USFSPA issue to our federal elected representatives. NMVA has a firm presence and recognition in Congress. ED will continue to attend as many NMVA meetings as possible representing ARA interests coupled with “Hill” visits and Congressional testimony.

NMVA believes USFSPA should be dealt with as State issue; MD’s US Senator is not supportive. When asked about this, State Legislators say “USFSPA is a Federal issue.” ARA can make headway at the State level with bills introduced to repeal USFSPA. NMVA focused on the Federal side of military issues vice State. HB 1110, 1111 and 1218 are pending in the Hawaii State Legislature

A new NMVA co-chair was selected. Ms Jody Nyalko of Gold Star Mothers is the new Co-Chair for a two-year term. CAPT Puzon left the Alliance to head a State Department section.

AAFES & NEXCOM may become extinct; executive positions have been civilianized (for eventual DECA operation outsourcing to a contractor??)

THE CORRY REPORT

By Charles E. Corry, Ph.D., F.G.S.A Founder: Equal Justice Foundation

You can’t fix stupid!

Few citizens and even fewer elected officials and bureaucrats are able to distinguish between possibility and probability. As a result extremely unlikely events are often used to impose destructive laws and regulations on the general population.

The constant refrain of why these insane laws and crushing regulations are required is to preserve public safety, particularly that of our children, despite voluminous research showing children are safest with their birth parents.

But as Ayn Rand pointed out in 1957: “There’s no way to rule innocent men. The only power government has is the power to crack down on criminals. Well, when there aren’t enough criminals, one makes them. One declares so many things to be a crime that it becomes impossible for men to live without breaking laws.”

Only rarely is there any attempt to measure whether the law or regulation solved the problem. Quite often there is convincing evidence that the unintended consequences made the human condition worse. If there is any measure of effectiveness it is commonly used as a basis for new laws and regulations, and always as a basis for more money and enforcement.

As my friend Erin Pizzey famously said

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I am still convinced, service personnel suicides, linked to their troubled military marriages and military divorce actions, must eventually persuade the Pentagon to direct unit commanders to formally train all personnel in their charge, regarding USFSPA provisions. In fact, we are experiencing movement in this direction, with the announcement of a proposal to scrap the military retirement system non-contributory defined benefit program, for the 17% who are invited to participate in it, in favor of a defined contribution retirement system for all personnel. When that happens, all financial strings are cut on final divorce day.

We defacto support HB1110, 1111 and 1218 enforcement in the Hawaii State Legislature. These bills, supported by the Oahu Veterans Council, enforce 10 USC 1408(a)(4)(B).

If the Pentagon calls for repeal of 10 USC 1408(c)(4) and (d)(2), we must respectfully call for:

a. relocation of (c)(4) to 50 USC App 501 (SCRA) and
b. repeal all of 10 USC 1408(d), except for the first 20 words in paragraph (d)(1); alimony and child support enforcement issues existed before USFSPA added property settlement enforcement to the equation.

We are urging NMVA to question Congress lack of concern, regarding equal justice for service personnel who are abused by their spouses, in 10 USC 1408(h). We support relocation of 10 USC 1408(h)(7) to 10 USC 1408(c) or simply defining a former husband or wife as “unremarried” in 10 USC 1408(a)(6).

Our Redlands office provides literature for our RAD field operations: Our USFSPA military divorce action, full disclosure, message is always received enthusiastically by these audiences. We missed opportunities to bring our message to Mystic Lake MN, NAS Whidbey Island WA and Fort Leavenworth KS, last year; I plan to attend the Mystic Lake JRAD this year, and we need another volunteer to support Monty at Nellis. If Whidbey and Leavenworth may haven’t given up on us, we can try again, this fall. These efforts involve donning an ARA ball-cap (advertised on our website), manning our information table, from 8am till noon, on the designated day, distributing literature provided by our Redlands office and just being there for the audience. Travel expenses are tax-deductable to the IRS.

At your service,
Dennis Egge; President, ARA BOD

LETTERS TO THE EDITOR

USC 42 659 compliments to some extent USC 5301. USC 42 section 659 - Consent by United States to income withholding, garnishment, and similar proceedings for enforcement of child support and alimony obligations, This is where they are using 5CFR 581. This is civil service personnel and the like by treating disabled veterans as employees of the VA. If the question is what came first the chicken or the egg? It was USC 38 section 5301! USC 42 section 659 allows in general all federal entities and the like to legally withhold from employment, except for those payments which are not remunerated. VA compensation and waivers of retire pay to VA are excluded. Retiree waiver is covered under Title 10 section 1408 pursuant Mansell v Mansell. The interpretation is coming under scrutiny as attorneys argue that anything past this is open game. Again, this is what they want people to believe. Remember the VA cannot garnish per USC 42 section 659 nor can they attach or seize USC 38 section 659. When the courts realize this they go for garnishment under 5 CFR 581, Tricky, ugh?

I just wanted to update you on the outcome of my divorce. Judge Stephen Davis of the Delta County Michigan Circuit Court, upheld my constitutional rights as a disabled combat veteran. No alimony is due to my ex-wife. I am able to keep my home as it is equipped to assist me in my disability and was purchased with VA loan. The child support is only what is due to the child according to my SSI. The Judge in this case agreed that My disability benefits were not divisible as an asset or Income such as retirement. I worked hard on my own behalf in obtaining information in my case, but my attorney has been an aggressive asset in this case. Her professionalism and knowledge has been my ace in the hole. She followed my case closely and researched as much as she could. I am happy with this outcome as I owe no alimony or child support out of my Disability Compensation. I now have time to heal and work on my wounds as the stress of the divorce caused me greater health issues. I pray our Judges and Lawyers will see they have a system to work and do justice in because a veteran fought for them. We veterans sacrificed many years and suffered injury to make America a better place. To give just opportunity to all with freedom. This was distorted when they attacked the very soldier that suffers loss for their gain monetarily. It is unjust and thievery for any outcome that harms the veteran. Thieves belong to be punished more harshly than the veteran they attack and forget. We used to be the United States of America. We are now referred to as America as we are not united anymore. All for them self at the expense of others.

Continued on Page 4
DFAS REPORT

DFAS paid military retirement benefits to the accounts of deceased former military spouses less than 1 percent of the time. DFAS suspended payments upon receiving unconfirmed death notices and appropriately terminated former spouses’ accounts after receiving confirmed death notices. For accounts receiving payments after a former spouse’s death, DFAS refunded the amount due the retiree in less than 1 year, 90 percent of the time.

Guidance for Terminating Payment to Former Spouses United States Code. Title 10 U.S.C. 1408, March 18, 2004, “Payment of Retired or Retainer Pay in Compliance with Court Orders,” states that payment from the retired pay will terminate in accordance with the terms of the court order. However, it should not be later than the date of death of the member or the date of death of the former spouse receiving the payments.

Office of Management and Budget. Office of Management and Budget 92-04, “Guidance for Termination of Federal Benefits to Deceased Beneficiaries,” January 15, 1992, states that Federal Agencies that pay benefits should access the SSA database listing deceased individuals and match the data against their own payment files to identify deceased beneficiaries monthly.

Payment of retirement benefits. DFAS appropriately disbursed military retirement benefits to 99 percent of the former military spouses on record in pay active status as of September 30, 2004. It paid approximately $625 million in benefits to former spouses during that fiscal year. Although 99 former military spouses (1 percent), from a total universe of 77,863 accounts, were identified as deceased on the SSA Death Master File, only 14 were still being paid as of the date of our audit. When we brought the 14 reported deaths to DFAS managers’ attention, they suspended the accounts and stopped monthly payments. The overpayments on these accounts during the period of 1999 through 2005 totaled approximately $242,000. Prior to our audit, DFAS had properly either suspended or terminated the remaining 85 accounts. DFAS mailed COE letters to the 14 former military spouses whose eligibility was in question. One former military spouse confined to barracks, and restrained from seeing his little one. If the mother so much as suggests she won’t testify against the soldier DHS/CPS threatens to take the kids and put them in foster care, and it is not an idle threat. If the mother then takes the stand and testifies in favor of the father DHS/CPS tells the court she is not providing adequate protection for the children and he is kept under restraint and away from his children.

Since DHS caseworkers are known to write out the restraining orders themselves without troubling the court, and the Army follows the civilian lead in these cases, the soldier has few options unless he can afford a competent attorney (scarce as hen’s teeth) willing to fight DHS. All this ruins the soldier’s military career and he is often chaptered out of the military and loses all benefits.

The Denver Post has been running a series of articles describing problems with DHS and reforms proposed by the Colorado Department of Human Services for many months. Predictably, Commissioner Clark has fought bitterly against any reforms or intrusions into her domain. Because DHS bases its approach to child abuse on fear and making parents afraid of losing their children, only about 10% of parents who may actually need help are in contact with DHS. The EJF has previously noted that from 1995 to 2002 twelve children died in El Paso County. But after eight years of Sallie Clark, and the expenditure of at least $500 million by the county DHS, eleven children died in just the year 2011 in this county, often while at the tender mercy of DHS.

In response to this disgrace, Commissioner Clark formed a CYA commission to investigate the problems that she is responsible for. Since this commission is largely composed of the bureaucrats responsible for the problems, their proposed solution is entirely predictable: more money and more bureaucrats with more children taken from their parents. It is also quite predictable that if Sallie Clark is reelected that more children will die needlessly as essential reforms will not be undertaken.

Sallie Clark and El Paso County, Colorado, are not the only places with a local despot destroying families and children. This is an election year and it is your local and state races that will have the greatest impact on your future.
LETTERS TO THE EDITOR
Continued from page 2

Brian Everstine’s Feb 6 article, “Rise in suicides leads to 1-day standdown” discusses the joint memorandum by AF CoS Gen Schwartz and CMSAF Roy directing major commands to require all units schedule a one-day stand-down to “refocus on resiliency.”

Although the memo doesn’t provide detail what each base should do, one generic prong of the policy letter states, “urging leaders to pay special attention to airmen experiencing relationship difficulties.” Most relationship difficulties are instituted by high-tempo deployments and are kept festering by long-term deployments. When a marital relationship breaks down irretrievably, usually one spouse doesn’t want divorce - this is usually the potential suicide person.

According to Las Vegas, Nevada Attorney at Law, Marshal Willick, “Zoo keepsers “put their lives on the line,” as do construction workers, cops, fire-fighters, and a host of others… The source of the disability is simply irrelevant to the distribution of benefits and burdens after such a disability. If there is disability income, it is the separate property of the individual receiving it, meant to compensate for future lost wages – but it is income. Sorting out who should get, and pay, what, among the individual facts of individual cases, is what divorce courts are for.” OFFE National Chairman, Gene D. Simes takes issue with Willick’s statement. Who gets veteran’s disability compensation, when they get it, and how much they receive is the duty and responsibility of the Department of Veterans Affairs, not Marshal Willick or some civil court judge. Simes proposes this question; since the veteran’s disability compensation and Purple Heart Medal are both ‘awarded’ for the same combat incident, does that mean an former spouse is entitled to receive half of the veteran’s Purple Heart Medal as well as their disability compensation?

I am retired US Army E-7 (Jun 2006). I was recently divorced in a German court (Feb 2011). Both myself and Ex spouse currently live and work in Germany for many years. I as a contractor, she as a DOD civilian. My retirement was not split in the divorce and now the Ex is taking me back to a US court to ask for 1/2 disposable retired pay. My question is regarding C-4 jurisdiction as required by USFSPA. I moved overseas while still on terminal leave. I was stationed in TN once and moved my DFAS state of legal residence there and left it until retirement even tho I have not lived in TN since 1998. In Jan 2010 I planned to move back to FL, so I moved my drivers license and voter registration to FL and that is still current. I did not move back there and only spent 2 weeks there before returning to Germany. The ex will not tell me where she is planning to file lawsuit, but I expect TN. I plan to fight the lawsuit on improper jurisdiction because I do not consider myself a resident of any US state. It’s confusing I know. Can you offer any guidance. Ex makes over 4K / mo more than I do now, she does not NEED this money. Referrals to competent legal counsel in TN, specifically Memphis area? Thank you.

I found your contactara@rocketemail.com email address on an Army website and was hoping you could answer a quick question. My wife and I are discussing divorce. She is a soldier, I am a civilian. I know according to the USFSPA I’m entitled to a percentage of her retirement, but I don’t want it. Is there a way to waive my right to that money or is it just a matter of not filing for it in the 90 day period?

I was referred to your site for information. I am an ADAF Captain who was divorced after 10 years of marriage. My ex-husband was also in the AF and was active duty for 7 of our 10 years. He retired at 26.5 years of service. He was previously married for 17 years and his first spouse was awarded 47% retirement in the settlement. When we divorced, I had requested that we leave each others retirement alone, but he refused. I was awarded 11.9% of his retirement, but because we don’t meet the 10/10 rule, cannot collect direct payment from DFAS. My ex spouse states that the law does not allow him to pay more than 50% of his retirement and that he cannot and will not pay me more than 3% as he is protected by law from doing so. All of the research I have found states that DFAS won’t pay out more than 50% and that the member is responsible for paying directly any amount over 50% in the event of multiple ex spouses and a court order must be honored. I am trying to find out who is correct? I have not been paid in the two years since our divorce and my Attorney passed away 2 months ago. I can retire as early as 1 year from now, and he is already looking to collect on my retirement. His amount is not set yet, just waiting for me to retire. Can you help me or guide me to someone who can? I am trying to avoid going back to court if at all possible. I cringe at taking his retirement, but feel that his insistence on taking mine spurs me into insisting I be paid by him. He will collect a larger percentage as I was active the entire ten years we were married. Thank you for any help or guidance you can give me.

ATTENTION
SERVICE MEMBERS AND SPOUSES

Trying to make your way through the USFSPA maze?
Need assistance in working with your attorney?
Want to learn how to save money throughout your divorce process?

Marsha Thole, co-author of Divorce and the Military II, and a defreed paralegal has worked with clients and attorneys since 1994.
Free initial consultation.

CONTACT MARSHA THOLE
at (505) 856-2080 or contactara@rocketmail.com
2012 ARA BOD SYNOPSIS

Our members voted in full support of candidates published on the ballot in our January 2012 newsletter. Current BOD officers all agreed to serve another year.

Our “Divorce and the Military II” is still the only complete military divorce action survival guide available to divorcing military personnel and their spouses. A publisher’s draft supplement for our book exists and a long overdue chapter 12 review is planned; each ARA Director should own a copy of DATM2. Our Executive Director has provided copies to all NMVA Delagates. Amazon, Divorce Source and our own website are popular points of DATM2 sale. US Almanac ended their DATM2 distribution agreement with AAFES and NEXCOM a year ago: We are pursuing an acceptable business agreement with an approved AAFES and NEXCOM distributor.

Our www.americanretirees.org/ website modernization project is proceeding without fanfare. The central point is to keep it current and the improve user experience.

Our 2011 revenues were slightly under budget and our expenses slightly over but in spite of tight economic times, we are holding our own.

Stalwart founding member, Alan Leach is still filling in for former Treasurer Robert Farrar, until we find his relief. We are grateful for Robert’s fine work and Alan’s willingness to pick up this baton, temporarily.

Our Redlands office administration and newsletter team remains on-board, they are due a pay-raise.

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<th>Statistical Data Concerning the Impact of the Uniformed Services Former Spouses’ Protection Act on Retired Members of the Uniformed Services: U.S. Army; U.S. Navy; U.S. Marine Corps; U.S. Air Force; U.S. Coast Guard; Commissioned Corps of NOAA; Commissioned Corps of PHS</th>
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**Note:**
1. Data provided by DFAS, Cleveland, Oh; USCG PPC Topeka, KS; PHS PSC Bethesda, MD
2. Report compiled for ULSG by James M. Solberg - solly@att.net
3. PHS PSC data base does not contain “length of time” data, a 293 total
4. Data for “length of time” over 16 years adjusted due to DFAS program limitations.

NAUS REPORT

By JACK W. KLIMP President
Lieutenant General, US Marine Corps, Retired

The National Association for Uniformed Services fully supports legislation that provides equity in military divorce cases for all parties involved. The pejorative “legal note,” you submitted from Marshal Willick, reflects what NAUS and ULSG have fought against for years in our efforts to reform the Uniformed Services Former Spouse Protection Act.

NAUS favors an approach to rebalance the USFSPA and we welcome the resurgence of interest to address some of the inequities with this law and in particular, to attempt to make it fairer for all parties. At a minimum, NAUS believes the following actions need to be taken to bring an improved measure of fairness to current law:

- Eliminate the “for life” provision. All other government programs end division of retired pay upon remarriage of the former spouse.
- Eliminate the “windfall” provision. A military members pay level at the time of divorce should be the gauge rather than the final pay grade.
- Prohibit awarding of any division of pay prior to the retirement of the military member.
- Strict Federal enforcement of the USFSPA protection of Disability Pay.

NAUS firmly believes that these are the minimum steps that need to be taken to make the USFSPA fairer for all involved.

CONTACT YOUR CONGRESSIONAL REPRESENTATIVES
FREE OF CHARGE AT:
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Shared Parenting Introduced As the Youth School Dropout Reduction and Crime Prevention Act

By Brandon D. Jones, Fathers and Families of Washington

Senator Jim Kastama introduced shared parenting legislation, SB 5317, in Washington State, as the youth school dropout reduction and crime prevention act of 2011. The summary of the legislation states, that one way to lower dropout rates, increase high school graduation rates, and reduce instances of crime involving children is to increase the involvement of the second parent, mostly fathers, in the daily lives of their children, especially in the educational arena... that a rebuttable presumption in favor of a shared parenting arrangement following dissolution or legal separation is in the best interests of the children involved in society. This is the cheapest investment that taxpayers and the legislature can make to help our children in that the cost of this legislation is about as close to zero that any legislature can claim.

In an interview Senator Kastama gave about shared parenting he said that one of the problems is that, “people view physical stability as more important that emotional stability. Children need the other parent in their life for emotional stability. “ The legislation has been referred to the Committee on Human services Services & Corrections. While it is not expected to move out of committee this session, Fathers and Families understands the legislation will be pre-introduced next session.

Senator Jim Kastama has been Washington legislature’s leading advocate for shared parenting throughout his political career. He has represented the 25th Legislative District since 1996 and chairs the Senate Economic Development, Trade and Innovation Committee.

Paternity Fraud Legislation Introduced in Washington and California

Information provided by Brandon D. Jones, Fathers and Families of Washington and California

Representative Noreen Walsh has introduced an act relating to authorizing the termination of all legal responsibilities of a nonparent if genetic testing shows by clear and convincing evidence that a man is not the genetic father of a child, HB 2683. At the same time in California, Senator Rod Wright introduced paternity fraud legislation that provides the courts the discretion to set aside paternity judgments in the interest of justice and the best interests of the child, SB 1260.

Current laws in California and Washington only allow a presumed father a two year period to challenge paternity, whether established by, marriage, paternity declaration or default. The only significant insight into the number of false paternity establishments comes from the American Associations of Blood Banks published that there is a 30% elimination rate in DNA paternity testing nationwide.

Within the military community it is predicted to be in the 38 to 43 percent range. Washington state ranks number 5 nationally in overall Veteran population.

These two bills will benefit involved children, by providing the access to their actual paternal fathers and extended family; be more likely to have increasing the likelihood of an accurate family medical history, thus allowing physicians to better treat acute illnesses and prevent or prepare for genetic illnesses and conditions; and allowing them to develop a relationship with their fathers who may otherwise not have been aware of them.
WHEREAS, the Uniform Services Spouse Protection Act, (Public Law 97-252, 10 USC 1408) effective June 25, 1981, is an extremely important compensation measure for former spouses of retired military personal, and;

WHEREAS, the Act is now viewed by divorcing military personnel as an “open door” for the individual state jurisdictions to divide military retired pay, and;

WHEREAS, the adverse consequences of the Act impose severe financial hardships on divorced retired military personnel and their second families, and;

WHEREAS, the adverse consequences to divorcing military personnel include:

• reopening of divorce cases that were settled prior to the enactment of the Act,
• the retroactive partitioning of retired pay;
• continuation of payments after the former spouse remarries;
• absence of a grandfather clause to protect retired pay earned prior to the 1981 effective date;
• allowing the former spouse to receive a pay benefit that was earned by the military member after the divorce was final (e.g., subsequent promotions); i
• inclusion of disability compensation; and
• payments to former spouses being required prior to the military member’s actual retirement,

NOW; THEREFORE BE IT RESOLVED, The Retired Enlisted Association supports the principle that spouses of military personnel have a right to adequate support within the context of the Supreme Court decision of McCarty vs. McCarty (military retired/retainer pay is not marital property) and Mansell vs. Mansell (VA disability is not included in disposable income), and;

BE IT FURTHER RESOLVED, the Association fully supports legislation that will correct the inequities in the current Act that lead to the adverse consequences herein described.

Examples of federal government retirement plans that have termination provisions upon remarriage of the dependent former spouse:

✓ Foreign Service Retirement and Disability System (FSRDS) payments of

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OPERATION FIRING FOR EFFECT (OFFE) RALLY IN LAS VEGAS

Muster at 0800 in Freedom Park on May 15th. For more information, contact Gene Simes at (315) 986-7322.
Does Your Massachusetts Divorce Decree Award Indefinite Alimony?

Contact Massachusetts Alimony Reform movement President, Steve Hitner at 508-335-0069, to examine the possibility of successfully modifying your decree! Again - Steve will only review Massachusetts divorce decrees awarding indefinite alimony.

He is also offering to help craft in-progress divorce decrees under the new Massachusetts’ alimony reform law’s provisions. He may be charging for these services.

AMERICAN RETIREES ASSOCIATION

Membership dues and book order instructions

Annual membership dues: $25.00

Single copy “Divorce and the Military” price: $19.95

ARA Member discount book prices:

1 copy: $15.95
2-9 copies: $14.95 each
11+ copies: $13.95 each

Non-ARA member discount book prices

6-10 copies: $18.95 each
11+ copies: $17.95 each

Contact our office for bulk order prices (24+ copies)

Telephone: 909-557-0107
Fax: 909-335-2711
Email: araredlands@yahoo.com

How to contact those who represent your interests in Congress

The right to “petition” government in this manner was secured by our Founding Fathers. As Sam Adams famously wrote, “It does not require a majority to prevail, but rather an irate, tireless minority keen to set brush fires in people’s minds.” At the end of the day, anger focused on a noble objective trumps stubborn opposition.

Call (800) 862-5530 or (866) 220-0044, toll-free, the Capitol Operator will answer: Simply ask them to connect you to your elected U.S. House or Senate representative(s) or a cognizant committee member.

IS DIVORCE AND THE MILITARY II ON YOUR MILITARY EXCHANGE BOOKSHELF?

If NOT, please advise me: My objective is to assure all service personnel have an opportunity to read this military divorce survival guide before they marry and divorce.

My email address and telephone number is contactara@rocketmail.com and 202-609-9948, respectively.

Thank you for your service,
Dennis Egge; President,
American Retirees Association BOD
AMERICAN RETIREEs ASSOCIATION
Membership dues/book order instructions and form

Annual membership dues are $25.00
The single copy price for our book “Divorce and the Military II” is $19.95 plus shipping and handling.
ARA Member Discount prices: 1 copy $15.95; 2-9 copies $14.95 each; 10+ copies $13.95 each
Non-ARA Member Discount prices are: 1-5 copies $18.95; 6-10 copies $17.95 each; 11+ copies $16.95 each
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