By Michael P. Smith
ARA Executive Director


The National Military Veterans Alliance disagrees with the notion that equal justice exists for married personnel and their dependent spouses, in Uniformed Services Former Spouses Protection Act (USFSPA) provisions. Because the Pentagon cannot accept the notion that if personnel in its charge are not trained and equipped to defend themselves, effectively, in a military divorce, friendly-fire, action, their pound of psychologists and prescriptions remedy is a tragically failed policy.

A Senior NCO (pay grade E-7 and above) is involved in over 60% of military divorce actions, and only 30% of all military personnel who choose suicide are single. The rest leave surviving dependent spouses for the Commander in Chief to care for.

The National Military Veterans Alliance USFSPA legislative reform goals for the 113th Congress echo ours. These are posted on our respective websites. We are calling for inclusion of a mandated ounce of prevention USFSPA awareness for all in-processing personnel, in our Commander-in-Chief’s new Transition Assistance Program.

By Karen Jowers

Even as the services move to halt or reduce funding for tuition assistance for active-duty troops, no changes have been mentioned in a separate tuition program for military spouses. The My Career Advancement Accounts program is being evaluated with all other programs as the Defense Department looks to scrub $46 billion from its spending plan for the rest of this fiscal year, said a DoD spokeswoman, Navy Cmdr. Leslie Hull-Ryde. Unlike active-duty tuition assistance, which is handled separately by each branch of service, MyCAA is administered at the DoD level. About $70 million was budgeted for the MyCAA program for this fiscal year, which ends Sept. 30. To date, officials have spent 39 percent of those funds. Last fiscal year, MyCAA was fully funded, providing about $66 million for tuition for about 37,000 military spouses. The cost of active-duty tuition assistance for all services totals well over $500 million per year. The MyCAA program, which provides tuition assistance to eligible military spouses in lower ranks, is important to defense officials, to spouses of active-duty troops in paygrades E-1 to E-5, W-1 and W-2, and O-1 and O-2. They’re eligible for a maximum lifetime MyCAA benefit of $4,000, with an annual fiscal-year cap of $2,000. Waivers of the annual cap are possible for licensure and certificate programs if upfront tuition costs exceed $2,000, although the lifetime $4,000 cap still applies.
LETTERS TO THE EDITOR

Military spouses often sacrifice in furtherance of their spouses’ military careers. But marriage is like a business partnership and far from perfect. Couples rise together, and presumably fall together. But nowhere does a spouse retain their charge who are not properly trained to survive their military divorce, friendly fire action, probably won’t. Roughly 60% of USFSPA casualty-count are senior enlisted personnel.

The US Army’s Premarital Interpersonal Choices and Knowledge briefings and our Commander in Chief’s new mandatory universal Transition Assistance Program both fail to disclose USFSPA inequities. Obviously, all in-processing military personnel would benefit from this equal justice under the law knowledge.

Unit commanders, who write “I regret to inform you” letters to surviving dependent spouses and loved ones, know USFSPA provisions should define a former husband or wife as “un-remarried” and “exclude(s)” retain pay in its definition of military retired pay.

Only military personnel convicted of abusing their dependent spouses know USFSPA provisions do not provide equal protection under the law for military person-...
2013 Board of Directors Meeting Report

By President Dennis N. Egge

Due to a schedule conflict, we conducted the 2013 Board of Directors meeting via teleconference on Monday, March 18th, instead of the usual second Saturday of March in our Legal Counsel’s office.

Ballots we received indicate continued member satisfaction with our Board’s performance; we are all grateful for that. Directors who attended this meeting re-elected me as your President, Michael Smith as our Executive Director, Jim Noone as our Legal Counsel and Bob Balick as our Intel/Marketing Director, until 2016.

I was invited to present our USFSPA reform arguments to all four Hawaii Congressional delegation and one Illinois Representative on Tuesday, March 5th and Thursday, March 7th. It is the week for us to storm the Hill with our full disclosure message. Many other veteran support organizations were also there. Consider making appointments to bring our message to our congressional representatives, but don’t plan to do more than three per day.

At your service, Dennis Egge; President ARA

LETTERS

including getting into one of the NDAA’s. After my Dad passed away, my Mom had to recertify every year that she was still alive for his SBP. She lived just over 6 years after he passed away. Her next (last) cert came in just after she died. I sent it back with a copy of her death certificate.

Wyoming State legislature modified their property division legislation to exclude military disability pay from division in a divorce. Wyoming now joins Arizona in having specific legislation protecting disability pay in a divorce – efforts to have a number of other states adopt similar legislation this year are proceeding well. If there is no such initiative in your state, let’s get one started!

Has the USFSPA ever been challenged on the grounds that: If I die, my current spouse will get SBP payments, but those payments will be suspended if she remarries before the age of 55. It is totally illogical for an ex to continue to get payments when a current doesn’t as remarriage doesn’t affect USFSPA.

Domestic Partner Benefits

Retired Defense Secretary Leon Panetta formally extended a set of military benefits to same-sex partners of service members Monday. The outgoing Secretary refused to offer similar benefits to unmarried opposite-sex partners. The list of newly available benefits includes dependent identification cards, commissary and exchange privileges, emergency leave, joint duty assignments, space-available travel on military aircraft and childcare.

The move came, Panetta said, after a “careful and deliberative review” of benefits currently provided to service members. The military services will try to implement the new benefits by August 31. The changes will require policy revisions, training and in some cases technical upgrades. The ready-to-retire Secretary is prohibited from extending certain benefits enjoyed by married couples in the military under federal law. These include health care and housing allowances.

Annual Member Conference

If 70 or more ARA members express interest in attending this event it will be re-established. We included this survey question and provided a space for you to indicate your preferred venue, on the ballot included in the January edition of our newsletter. Inside the DC Beltway and Norfolk, Virginia were mentioned as preferred venues but less than 70 participated in this survey. If you would be interested in attending an ARA member conference in Las Vegas, Nevada the second half of September, just email your approval to me at contactara@rocketmail.com and I’ll get busy working on it.

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?

Then consider the services of a degreed paralegal who can work with you and your attorney.

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

CONTACT MARSHA THOLE

at (505) 856-2080 or contactara@rocketmail.com
The 112th Congress adjourned without doing further harm to our nation’s 106,675 USFSPA casualties. Measures to proscribe USFSPA provisions are advancing quietly in state legislatures. This focus is meant to re-establish equal justice for divorcing military personnel and their dependent spouses. Please ensure your email and telephone contact information is current; we will advise when it is important for you to communicate with our respective members of congress and state legislatures. Send current contact information to me at contactara@rocketmail.com.

Opponents of the Massachusetts life-alimony reform law are mounting their attack. Stay tuned for announcements urging you to weigh in with your concerns to your legislature’ representatives.

Florida alimony reform advocates are still in Tallahassee, Florida. We will advise when Florida ARA member support, in the form of letters, emails and phone calls to your respective legislators will be beneficial.

The Hawaii State Legislature is hearing a proposal that will remove a disabled veterans compensation as a form of income in divorce actions. We will advise, when your support is needed.

### 2012 USFSPA CASUALTY REPORT

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These data, provided by DFAS, USCG PSC and PHS PSC, clearly illustrate the negative impact of UNIFORMED SERVICES FORMER SPOUSES PROTECTION ACT provisions on U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, personnel, and NOAA and PHS officer corps personnel. These provisions clearly create the tension that inspires military divorce actions in target community households. Heightened operations tempo, serves as the catalyst.

Senior enlisted personnel serving in pay-grade E7-10 account for 50% of all USFSPA casualties.

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Uniformed Services Former Spouse Protection Act (USFSPA) reform proposals for the 113th Congress

Goal: Identify and correct these USFSPA inequities

✓ Insert “unremarried” before “former husband or wife” in 10 USC 1408(a)(6). This aligns US FSPA with other federal employee FSPA provisions and eliminates significant military divorce action abuse by state jurisdiction.

✓ Delete “retainer pay” in 10 USC 1408(a)(7). This authorizes the pentagon to define retainer pay, specifically, as current compensation for indefinite services, provided by subject personnel, to their service chief.

✓ Relocate 10 USC 1408(c) to the Service Member’s Civil Relief Act (50 USC App 501 Et Seq). This adds clarity to the subject referenced cornerstone section of the US Code.

✓ Eliminate all but the first 20 words, in 10 USC 1048(d)(1) from language in 10 USC 1408(d). This preserves DFAS authority to enforce military divorce action alimony and child support orders and eliminates the mistaken notion that military retired pay is jointly earned marital property by another name.

✓ Provide reciprocal protection for military personnel who are abused by their dependent military spouses in 10 USC 1408(h). The Cox II commission advised key members of congress and pentagon officials, regarding this inequity. We are not aware if they ever responded.

✓ Replace the term “RETIRED” with “INDEFINITE” on the DD FORM 2 issued to qualified military personnel. This change will officially acknowledge and reinforce the spirit and intent and US Supreme decision, regarding the military rules and regulations that govern the lives of subject personnel.

✓ Subject dependent military spouses (who hold the DD FORM 1173 privilege and ID card) to UCMJ provisions. The need to hold all members of the military family to the same legal standard is patently obvious to all but the target audience.

✓ Require jurisdictions to resolve all USFSPA related issues in the final divorce decree. Kniss v Kniss accomplished this mission in a California jurisdiction; it was subsequently de-published.

Objectives:

☞ Encourage and authorize DoD unit commanders to adequately brief all in-processing personnel, regarding USFSPA provisions and their possible implications to a military career and tragic service personnel suicides.

☞ Call on the 113th Congress to hear supporting and opposing arguments, regarding the USFSPA provisions, prior to the markup of the 2014 National Defense Authorization Act.

☞ Identify members of Congress who are “ready, willing and able” to address the current problems that exist for all parties that currently exist within the USFSPA.

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ATTENTION MEMBERS

As a reminder, to keep our records up to date, please advise our Redlands office when your contact information changes by calling 909-557-0107 or by sending an email message to contactara@rocketmail.com.

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How to contact those who represent your interests in Congress

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.

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Find your NMVA delegate’s contact information at http://nmva.us/?page_id=7
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Annual membership dues are $25.00
The single copy price for our book “Divorce and the Military II” is $19.95 (shipping & handling included)
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Oregon Military Divorce Computes Marital Share with Highest Pay Grade

By Former Military Spouse

An Oregon military divorce case filed, February, 13, 2013 has ruled that the proper calculation of the marital share of the division of military pension be based on the service member’s highest pay grade. This is a big win from the perspective of the military spouse and can set precedent for future divorce cases.

Army Divorce: Malpass vs Malpass Case Law Information:
- Husband (service member) joined the Army in 1997
- Year of marriage: 2000
- Year of divorce: 2010
- Expectations at time of divorce: husband to serve another seven (7) years in the Army and then retire
- Original ruling: division of military retired pay computed based on date of divorce

2013 Outcome:
Daniel Margolin of Stephens Margolin P.C., Portland, Oregon (representing the military spouse) successfully argued that the highest pay grade should be used to calculate the division of a military pension regardless of the date of divorce.

Details:
The military spouse filed an objection to the military retirement pay division being calculated based on the day of marriage dissolution:

Wife objected, arguing that the pension should be divided in accordance with our opinion in Kiser and Kiser, 176 Or App 627, 32 P3d 244 (2001) (rejecting the husband’s suggestion that the trial court award the wife 50 percent of the monthly payout that he would receive if he retired at the date of dissolution.” 176 Or App at 631 (emphasis added). We rejected that approach, stating that, “when retirement benefits have not matured and are thus not presently liquid, it is equitable to look to the value of the benefit at retirement.”

Citing Kiser, we concluded that the court erred: “[U]nder Oregon law, the marital portion of [the] husband’s pension must be calculated as a fraction of the entire actual pension, rather than as a fraction of a hypothetical pension amount.”

The original decision was reversed and remanded that the marital share of husband’s military pension be computed as a fraction of the entire actual pension and adjust wife’s survivor benefits accordingly.

You can read most of the case here:
http://www.morelaw.com/verdicts/case.asp?n=A146655&s=OR&d=59492
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