The Washington Ramble

By Dennis Egge
ARA President

Our Executive Director, Mike Smith is on travel, while Congress has been in recess. We hear about the new defined contribution military retirement system being discussed by the congressional National Defense Authorization Act (NDAA) 2016 conference committee but nothing about relief for USFSPA casualties.

It’s my feeling that the Pentagon’s new “thank you for your service” military retirement system provisions will prospectively render most USFSPA provisions moot. It is like the return of the California Kniss v. Kniss decision: This family court decision required that all military divorce action financial issues be addressed in the final decree. It was eventually depublished and all material evidence has been destroyed.

As the National Military/Veteran’s Alliance (NMVA) designated USFSPA issue delegate, we brief our peer delegates and urge them to share our concerns for the ever-growing legion of USFSPA casualties and military divorce action related self-inflicted deaths. This law effortlessly undermines everything the US Army’s strong bonds efforts.

The New Year will bring an election campaign, a somewhat reorganized Congress and potentially, a new administration. ARA members who take the long view regarding USFSPA reform, do share their concerns, constructively, with representatives elected to represent their interests in their respective State Legislatures. Introducing USFSPA reform legislation, designed to limit its affectivity in their family/domestic law jurisdictions, sends a clear USFSPA reform message to members of that State’s congressional delegation. Contrary to the 97th Congress USFSPA decision, six States protect their government employees’ pensions from involuntarily redistribution, by court order, to their former spouses.

Maintaining a thoughtful dialog regarding USFSPA reform, with our State Legislators, is essential to our ultimate objective.

The Blain Report

After months of official silence, the Defense Department on June 8th sent to Capitol Hill its formal recommendation for transforming military retirement benefits, a move that is likely to clear the way for major changes to become law. The Pentagon is officially backing a “blended” system that would shrink the size of the current pension by about 20 percent yet supplement that benefit by offering government contributions to individual retirement investment accounts.

The proposed system would provide for the first time a modest retirement benefit for the vast majority of service members who leave the military before reaching 20 years of service needed to qualify for the traditional pension. The Defense Department’s recommendations are mostly similar to the legislation that
QUESTION: I retired in 2011, and subsequently divorced my spouse (20/20/20), who gets 50% of my retirement. I remarried in 2014 (again in the same fair and equitable division state that doesn’t require 10/10, I think). Now my new spouse and I are headed for divorce. Can she take any of my retirement?

RESPONSE (Lt Col Marsha Thole):

The answer to your question lies in your state’s family law statutes, and is a question for an attorney who knows military divorce law in your state. Since your first spouse was a 20/20/20, DFAS only pays out up to 50% of your disposable MRP, and up to 65% when child support is ordered. In cases I have read, this does not mean that a court cannot award a percentage to another spouse. That would mean you would be paying the second spouse directly. Of course, your state statute might say something differently. But again, those are attorney questions and you can also call DFAS.

Many people have a misunderstanding of the 10/10 rule. First, in order to receive any social security based on the spouse’s income, the marriage must have lasted at least 10 years, regardless of your military service. Second, the DoD 10-year marriage overlap requirement is for the involuntary direct allotment for the receipt of MRP. Many SMs mistakenly think they do not have to share their MRP if they haven’t been married for 10 years—not true.

When the 100th Congress House Foreign Affairs Committee Chair invited his counterpart Armed Services committee to join his efforts to free military personnel from USFSPA tyranny, they tacitly said “no.” Albert Einstein said, “Repeating past behavior while expecting a different outcome is insanity.” I get it; do you? We have much work to do; I stress the “we” part.

My email address and telephone numbers are published on our website and in every edition of our newsletter. I encourage you to join me in the harsh light of political reality for the duration. That being, when the USFSPA collapses, like the Berlin Wall.

At your service,
Dennis Egge, ARA National President
Inquiries

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As in any divorce, the court looks at many factors: income of both parties, ages of the parties, employment record, ability to work, education, health, etc. Since you were retired at the time of your marriage to spouse #2, there is no 20/20/20 eligibility. Could the court award something else, such as from other income or even from the remainder of your MRP? Courts do anything they want. Whether DFAS would even pay out an award of some monetary value in a voluntary allotment from your MRP, since the federal law says that it will pay out only up to 50%, is a question for DFAS.

In a 2-year marriage, usually the parties go their separate ways, dividing the household goods, joint accounts, etc. Consult with your attorney, but to be safe, make sure that the divorce decree mentions SBP (if appropriate) and your MRP, and that she is not taking either, since that would indicate those subjects have been addressed. (Your state may have other rules regarding citing assets that are not being divided.)

The rate of divorce for second marriages is 67 percent. If, however, the person has failed to understand the reasons for the first divorce, no amount of time between it and the second marriage will matter. Even if one party is supposedly responsible for 97 percent of the marriage’s failure, the other party has to understand his/her role in the remaining 3 percent, if another divorce is to be avoided. You might want to take a breather from marriage for the time being!

NOTE: Keep in mind that neither ARA nor (our paralegal consultant) Lt Col Thole is an attorney and do not give legal advice. Lt Col Thole does work with attorneys and their clients. The comments herein are not legal advice, and you should consult with your own legal counsel if you have questions.

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# National Military and Veterans Alliance

## Uniformed Services Former Spouse Protection Act (USFSPA)

**Legislative Agenda for the 112th Congress**

**Goal:** Identify, address and correct USFSPA inequities

**Objectives:**
- Continue discussions with DoD, regarding the urgent need to adequately brief all personnel on the US-FSPA and its possible implications to a military career.
- Work to identify members of Congress to introduce meaningful legislation to address many of the problems, for all parties, that currently exist within the USFSPA

### American Logistics Association
(len@ala-national.org)

### American Military Retirees Association
(info@amra1973.org)

### American Military Society
(800) 379-6128

### American Retirees Association
Contactara@rocketmail.com

### American WWII Orphans Network
Awon@aol.com

### American Veterans (AMVETS)
Amvets@amvets.org

### Armed Forces Marketing Council
Riprowan@aol.com

### Catholic War Veterans
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### Gold Star Wives of America
info@goldstarwives.org

### Japanese American Veterans Association
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### Korean War Veterans Association
BillHutton@kwva.org

### Legion of Valor
Pconran@cox.net

### Military Order of the Foreign Wars
Spackmanj@yahoo.com

### Military Order of the Purple Heart
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### Military Order of the World Wars
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### National Association for Uniformed Services
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### National Gulf War Resource Center
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### Naval Enlisted Reserve Association
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### Naval Reserve Association
Legislat@navy-reserve.org

### Paralyzed Veterans of America
info@pva.org

### Reserve Enlisted Association
info@reaus.org

### Reserve Officers Association
Dmccarthy@roa.org

### Society of Military Widows
Benefits@militarywidows.org

### The Retired Enlisted Association
Treaq@trea.org

### Tragedy Assistance Program for Survivors
info@taps.org

### TREA Senior Citizen League
(800) 333-8725

### Uniformed Services Disabled Retirees
DegreedInfantry@yahoo.com

### Veterans of Foreign Wars
Info@vfw.org

### Vietnam Veterans of America
Communications@vva.org

### Women in Search of Equity
Lindylove@aol.com

Share your USFSPA reform concerns with those your dues support.

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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.
ARA receives inquiries from service members (SM), spouses, attorneys, and even relatives.
A breakdown, in terms of categories, includes the following:

1. Inquiries from people who have asked questions too late — their divorce case has been adjudicated, and they failed to ask their attorneys their questions before the divorce was final. In all these questions, we have to ask: Why didn’t you ask your attorney that question? This type of inquiry is asked most often. (Rule #1: Be an active participant in your own divorce! Ask questions when you don’t understand something.)

2. In a few cases, people are actually asking questions before the fact, trying to gather information before they file for divorce. In some of those inquiries, no matter which party asks, it still surprises us to see how little information people know about the USFSPA and divorce in general, and their lack of incentive to educate themselves.

3. In the last category are questions from people who have been divorced for several or even many years, now wanting to either stop the payments from the military retired pay (MRP), (inquiry from SM) or get more money (from the ex-spouse). On rare occasions, some cases can be reopened, and Lt Col Thole can refer people to expert lawyers in that regard.

Where do your elected State and Federal Government representatives stand on the USFSPA reform issue?
FIND THEM ALL AT HTTP://WWW.USAGOV/CONTACT/ELECTED.SHTML
share your USFSPA reform sentiments with them and share their responses with us!

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Over the past 30+ years we have been blessed by financial contributions and pledges from generous members to our operating budget. Consequently, our annual $25 membership dues have remained unchanged, despite ever increased operating expenses. All such contributions and pledges received are acknowledged by our Redlands office, in writing. Thank you, again, for always being there for us,

Dennis Egge; ARA National President.

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 reference guide before they marry and divorce. My email address is araredlands@yahoo.com.

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 (shipping & handling included)
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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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The Blain Report
Continued from page 1

lawmakers are hammering out in the annual defense policy bill, the NDAA.

The military’s recommendations include:
• Shrinking the size of the current pension by 20 percent
• Automatically creating TSP accounts for all personnel and beginning government contributions equal to 1 percent of basic pay.
• Automatically setting personnel’s voluntary personal contributions to the TSP at 3 percent of basic pay.
• Allowing personnel to opt out of that 3 percent voluntary contribution of basic pay only after completing financial literacy training at their first duty station.
• Allowing the TSP to “vest” and be legally transferred to individual service members after two years of service.
• Beginning the government’s dollar-for-dollar match of individual personnel out-of-pocket TSP contributions, up to 5 percent of basic pay, after individual personnel complete four years of service.
• Allowing the individual military services to offer “continuation pay” to boost retention in specific career fields for personnel between eight and 16 years of service.
• Allowing government contributions to TPS accounts to continue for the duration of service. (Initial proposals called for stopping those payments after 20 years of service.)

The result would provide government funding up to 6 percent of basic pay for those personnel who agree to contribute up to 5 percent of their own pay.

A grandfather clause will give current service members a choice. The Pentagon recommends a new retirement system taking effect in January 2018 and giving current personnel at that time two years to decide whether to opt into the new system and begin accruing money in a TSP or to exercise the grandfather clause and remain under the current system.

Editor’s Note: Annuity law will require state family/domestic law jurisdictions to divide the pot, effective final divorce day.

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.

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ARA ANNUAL BOD MEETING SYNOPSIS

This year, our directors met via teleconference. The meeting was delayed, due to schedule conflicts, last minute cancellation of the member conference, and technical difficulties with the teleconference provider.

The 2014 meeting minutes and 2015 BOD election results were adopted, without objection. Officers were re-elected, and our course toward meaningful USFSPA reform continues unaltered.

In the spirit of the examples set by Arizona and Wyoming, regarding protection of divorcing disabled veteran compensation in divorce actions, we encourage and support members who consider opening dialogs with those elected to represent their interests in their respective state legislatures, for the purpose of introducing USFSPA reform proposals to them.

Our 2016 BOD meeting is scheduled to convene on Saturday, March 13th. In Washington DC. Teleconference services will be provided Directors who are unable to attend in person.
DUES CURRENT? Check date on your address label.

YOU MUST READ THIS BOOK

Discover how unpublicized Federal Policy brutally punishes loyal career Military, PHS and NOAA personnel

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