The U.S. Tax Court ruled that Navy retirement pay to spouse constitutes alimony, (reference U.S. Tax Court rules Proctor v. Commissioner (Lawyers USA No. 9938437) U.S. Tax Court No. 2813-06. Oct. 10, 2007). Does Military Retired Pay (MRP) fit the IRS criteria of Alimony, as explained in the above court case, derived and calculated from current income? Can Alimony be derived or calculated from property?

We have made significant progress on the Fiscal Year 2011 National Defense Authorization Act (NDAA) which was recently passed and provided the military with a 1.6% pay increase. Given the retirement of SECDEF Robert Gates, we in the military coalition anticipate changes…possibly a reduction in our military strength and repeal of the current “Obama Health Care Reform.” Now, severe budget battles continue at full force…however, we have an alleged budget through September of 2011. This continued reliance on short-term solutions is damaging where our defense is concerned. The next big decision for Congress is the Administration’s Fiscal Year 2012 budget proposal…which includes a DoD request for higher TRICARE fees and pharmacy copays!

Many ARA members have been very “vocal” with their respective State and Congressional representatives…we need to keep this up to repeal the current Health Care debacle and USFSPA legislation! We will be providing testimony for a special House Armed Services Personnel Subcommittee hearing. We want lawmakers to “hold the line” on higher TRICARE fees. Secretary Gates said: “health care costs were out of sight” when really the rising military health care costs are due to war!

Our association with other service organizations under the National Military Veterans Alliance (NMVA) has been flat-out terrific given all of us want to protect your earned military benefits. With our constant efforts for USFSPA repeal we enjoyed the strong leverage of NMVA testimony and face-to-face meetings with members of the House and Senate Armed Services Committees. Further, all NMVA members and representatives were provided copies of our “Divorce and the Military” (DATM2) guide. NMVA is very supportive in adopting the Uniformed Services Divorce Equity Act Bill.

Continued on Page 2
VIEW FROM THE CHARTHOUSE

By Dennis Egge, President
American Retirees Association

The Associated Press (Paul Elias) reported the 9th Federal Circuit Court of Appeals announced that 18 military veterans commit suicide every day. The US Army surgeon general connects a disturbing number of these tragedies to military divorce actions but stops short of calling on Congress to reform the Uniformed Services Former Spouses Protection Act that inspires them.

Please, consider calling on your congressional representatives to introduce legislation to amend the following subsections of the United States Code Section 1408, as follows:

1. (a)(6): precede “former husband or wife” with “unremarried”. This legislative proposal will align USFSPA with other public employee FSPA provisions.

2. (d): strike all but the first 20 words in paragraph (1). The point of this legislative proposal is to restore the traditional status of military retired pay as current compensation for indefinite service performed at the respective service secretary’s pleasure.

3. (h): extend equal protections to uniformed service personnel who are abused by their military spouses. The Cox II Commission advised key members of Congress and the Pentagon regarding this glaring inequity. Repeal of Don’t Ask… provisions and increased popularity of same-sex marriages bring voices of concerned personnel and their partners to the discussion.

The Associated Press correspondent (David Crary) reported 400,000 women are performing creditable services in our nation’s armed services; nearly 1 in 3 of them report being sexually assaulted during their military careers. When these assaults raise to the level of rape the victim’s health care system cannot fund the abortion.

In September, we have at least two opportunities to reach out with our full disclosure message to them and their proud parents at the Nellis AFB R&D and Mystic Lake JRAD. Is there is another RAD opportunity I am not aware of, at a military installation, near you? If so, please advise me, ASAP, especially, if you are ready to spend that morning manning our information table and meeting concerned active duty and drilling personnel who may already be or destined to be USFSPA casualties, their retired from active duty relatives and parents. If you can commit to that, please indicate your intentions to me at contactara@rocketmail.com. With that assurance, I will request permission and provide the information kit, table cover and experience based answers to all of your concerns.

Dennis Egge; President, ARA BOD

American Retirees Association
Serving Divorced Uniformed Service Personnel

Dennis Egge........................Chief Editor
Nancy Plank ...................... Membership
Bonnie Mitchell......................Publisher

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Washington Ramble
Continued from page 1

Currently, Congress is on Summer Recess and will not be fully focused on legislation until September.

Note: New Flag Rules for Cemeteries. VA Secretary Eric Shinseki recently announced changes that will allow flags to be placed on gravesites at National cemeteries on Memorial Day and any other day of the year on a case-by-case basis. Federal rules had previously prohibited placement of American Flags on any day other than Memorial Day, including Veterans Day. The rule change was made at the request of Rep. John J. Duncan, Jr. (R-TN).

Michael P. Smith; Executive Director
Open Letter
Continued from page 1

The RETIREE AND ANNUITANT PAY: RETIREMENT PAY 2011 Tax Table Changes, announced at http://www.dfas.mil/rapay/retirementpay/taxwithold-ingchange.html...(see second paragraph), clearly states, “Although the credit was only intended to apply to wage earners, military retirees received it because federal law classifies military retired pay as a wage, not a pension.” The U.S. Supreme Court decision, McCarty Vs McCarty (26 June 1981), clearly states “the military retirement system confers no entitlement to retired pay upon the (uniformed service) member’s spouse, and does not embody even a limited community property division.”

Is our understanding of federal law correct? Does it overrule state legislative and case law? Does Public Law 97–252 permit and implicitly encourage State jurisdictions to treat and re-distribute MRP as marital property? We are unaware of any state legislative law that allows wages, earned and taxed as current income, after divorce, to be considered jointly earned marital property. Can we correctly conclude that State jurisdictions have the tacit authority to discriminate against career military personnel? To our knowledge, there are no federal divorce laws.

Please advise regarding the correct legal federal classification of Military Retired Pay (MRP) that is involuntarily allotted, by your service, as jointly earned marital property, to former military service member spouses, pursuant to their divorce actions: Is it alimony or jointly earned marital property? If it is taxable property to a subject former spouse, then is the balance also an earned property right to the concerned military service member? They pay taxes on this balance, as current income.

Editor

THE 112th CONGRESS
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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 and telephone number is contactara@rocketmail.com and 202-609-9948, respectively.

Thank you for your service,
Dennis Egge; President,
American Retirees Association BOD

ATTENTION SERVICE MEMBERS AND SPOUSES

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### 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

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*Note: 1. Data provided by DFAS, Cleveland, OH, USCG PPC, Topsham, ME, PHS PSC Bethesda, MD
2. Report compiled by James M. Sifford - sally@nfl.net
3. PHS PSC data base does not contain "length of time" data, a 201 total.
4. Data for "length of time" over 1U years adjusted due to DFAS program limitations.*
**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 USFSPA 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
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American Military Society ..........................................................(800) 379-6128
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American Veterans (AMVETS) ..................................................Amvets@amvets.org
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Military Order of the Purple Heart ........................................Bbacon@purpleheart.org
Military Order of the World Wars ...........................................Mowww@comcast.net
National Association for Uniformed Services ..........................Wmatz@naus.org
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Reserve Officers Association ....................................................Dmccarthy@roa.org
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What Is The Sense Of The US Senate Regarding USFSPA?

By Dennis Egge
Editor

A senior member of the Senate Armed Services Committee recently opined that he works each day to ensure the men and women who selflessly serve in the military of our great nation are properly trained, equipped and supported. His commitment extends to our military families: The work done by military spouses in raising children, running a household, and moving, often alone, is admirable, and it was with this in mind that the 97th Congress passed the Uniformed Services Former Spouses Protection Act (USFSPA), effective 25 June 1981..

Unit commanders know full well, that personnel who serve “selflessly” in their charge are not and have never been properly trained and equipped to survive military divorce friendly fire actions. The US Congress pays military spouses for their “admirable work” with costly benefits, attractive entitlements and coveted privileges.

When the US Supreme Court settled the McCarty vs. McCarty state court disagreement, it also tacitly advised the 97th Congress of its unique authority to transform military personnel retired pay into jointly earned marital property, in divorce actions. While the USFSPA stops short of demanding this, Judges who preside over military divorce actions are well aware that failure to permit the suggested carte blanche property entitlement to a former military spouse will always be overturned on appeal. The USFSPA act grants benefits, entitlements and privileges to 20/20/20 former military spouses that are equivalent to those granted a surviving military spouse.

This Senator has allegedly been in contact with military service personnel and their representatives who feel they have been negatively affected by the provisions in the USFSPA. He has reviewed proposals to improve the act by addressing the aspects they consider unfair or outdated. While he believes changes need to be made to the USFSPA, he does not support throwing out the entire Act in order to change unfair or outdated language inside the Act.

Does your US Senate representative support throwing out the entire Act? If not, would they support amending 10 USC 1408(a)(5) to define a former husband or wife as “un-remarried?” Do they believe the Defense Finance and Accounting Service authority to make involuntary allotment of military retired pay should be limited to enforcing court ordered alimony or child-support awards in 10 USC 1408(d) and should 10 USC 1408(h) be amended to provide military personnel who are abused by their spouses equal protection under the law?
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