Greetings from the Chair

Dear Colleagues,

It is with great pleasure to welcome you to the Winter 2011 issue of ROLL CALL, assembled by our dedicated team of editors, Theresa Buchanan, James Wherry and Kristen Coyne. This issue discusses current issues such as benefits for a victim of domestic violence, practice help, and legislation regarding VA disability awards and its effect on maintenance and/or military retirement pay. This legislation is being debated in several other states’ legislatures and will have a lasting impact on family law and the military.

We hope to see you at the Spring CLE Conference on April 6-9, 2011 at Amelia Island. The Committee is producing two CLE seminars at this meeting: Military Financials and Military Relocation and Custody. Further, we are in the planning stages in producing another CLE seminar at the 2011 Fall CLE Conference in Las Vegas. If you have any ideas or suggestions for future CLE seminars, please contact me.

If you have any suggestions, ideas or concerns regarding the Military Committee, please contact me at the e-mail address. Oh, yes – and for a wealth of useful resources and information on military family law issues, go to the home page of the Committee, www.abanet.org/family/military.

Henry Dewoskin, Chair
hmdewoskin@cs.com

Introduction from the Editor

In this issue of ROLL CALL, we are pleased to bring you an overview of an often misunderstood area of benefits for abused spouses: transitional compensation. Another topic of interest is addressed with a discussion of disposable military retirement being affected by disability awards and the impact on division of military retirement assets as legislated in the State of Arizona. In our continuing efforts to provide helpful links to aid your practice please see the included list in our “Portals for Practice” section. Finally, the National Military Family Association honored the American Bar Association (ABA) Legal Assistance to Military Personnel (LAMP) for their outstanding pro bono project focused on supporting military personnel at a Capitol Hill reception last year. The award was accepted by the president of the ABA. Further information is provided later in this issue.

This issue of ROLL CALL is being published after a longer than intended hiatus. I am happy to join the family of editors who have gone before me. After practicing in Rhode Island, I am now located in the Washington, DC area at the National Military Family Association. This issue is indebted to the dedication and talents of Jim Wherry, Assistant Editor, Chief of Legal Assistance, Ft. Wainsworth, AK and Kristen Coyne, retired Navy JAG, currently practicing in Phoenix, AZ. Our team is committed to bringing you what you would like to know to enhance your practice. Please let us know what you want to read here! We are continuously seeking articles, checklists, or other information relating to family law issues relevant to servicemembers. If you have an idea or a proposal for an article or are interested in providing a submission, please contact me at tbuchanan@militaryfamily.org.

Theresa T. Buchanan
Editor

Transitional Compensation Benefits and Retirement Protection Benefits for Military Spouses Who Are the Victims of Domestic Violence
By James C. Wherry, Chief of Legal Assistance, U.S. Army in Alaska

Congress has created a support system to protect spouses of military members that enables and encourages them to come forward and report domestic violence within the armed forces. Any attorney representing the spouse of a servicemember should be familiar with these benefits and be able to recognize when the spouse should be entitled to the benefit and know how to guide that spouse to apply for the benefit.

The first type of compensation program is called “Transitional Compensation” and the statutory requirements are outlined in 10 U.S.C. § 1059.

The next program is found at 10 U.S.C. § 1408(h). Within 10 U.S.C. § 1408, the division of retirement benefits of uniformed servicemembers is probably the best known and discussed benefit under the Uniformed Services Former Spouse’s Protection Act (USFSPA). However, Section 1408 also includes specific benefits for the spouses of servicemembers who have been the victims, or are the natural or adopted parent of a dependent child of the member or former member who was the victim of the abuse by the servicemember.


Section 1059 provides cash compensation to dependents of a military member separated from the military due to the abuse of a dependent.

A. What has to happen to trigger this benefit?

The benefit applies to dependents of military members who are on active duty for more than 30 days since November 29, 1993 who have experienced one of the following three events:

1. Separated from active duty under a court-martial sentence resulting from a dependent-abuse offense;

2. Administratively separated from active duty if the basis for separation includes a dependent-abuse offense; or

3. Sentenced to forfeiture of all pay and allowances by a court-martial which has convicted the member of a dependent-abuse offense. DoD Financial Management Regulation 7014-R, Vol. 7B, Ch. 60, para. 600101B. (If, for example, the servicemember is serving time in military confinement for the dependent abuse, he or she is still not separated from the military, but meets this criteria).

Dependent-Abuse Offense is defined as “A criminal offense defined by Title 10, United States Code (U.S.C.), Ch. 47, §§ 801-940, or other criminal code applicable to the jurisdiction where the act of abuse is committed. Crimes that may qualify as ‘dependent-abuse offenses’ are ones such as sexual assault, rape, sodomy, assault, battery, murder, and manslaughter. This is not an exhaustive or exclusive listing of dependent-abuse offenses.” DoD Financial Management Regulation 7014-R, Vol. 7B, Ch. 60, para. 600101A.

The court-martial proceedings and judgment, or the basis for administrative separation, must clearly indicate to the fact this is abuse of a dependent. Section 1059 benefits are available for up to three years. Again, the military offers the benefit to actively encourage those with knowledge of abuse of a military dependent by a military member to come forward and not fear the loss of their own support by coming forward.

B. Who is eligible for the benefit?

First, spouses and former spouses are eligible for the compensation, if they meet three criteria. (1) The spouse or former spouse must be married to the military member, or be the former spouse of the military member at the time of the commission of the dependent-abuse offense which results in separation.

(2) The spouse or former spouse must not cohabit with the military member after the punitive action, whether court-martial or administrative separation – the military does not want the benefit to go to the

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1 Mr. Wherry is also a Reserve Officer with the U.S. Army Judge Advocate General’s Corps. Views expressed do not represent those of the Department of Defense, or any component thereof.
military member, directly or indirectly.

(3) The spouse or former spouse must not have been an active participant in the dependent-abuse. So, for example, if a military member abuses a son or daughter and this leads to separation from the military, the spouse would be eligible for this benefit, but if the spouse also participated in the abuse, then the spouse or former spouse would not be eligible.

Why would a former spouse need this benefit? If the military member is separated, it likely means income – and child support/alimony will cease. This compensation enables the former spouse to carry on, afterwards.

Second, there are other dependents eligible for compensation. These include unmarried children under the age of 18, children of the military member over the age of 18 who are adjudged unable to care for themselves due to physical or mental handicaps that existed before the age of 18, and those children age 18-22, who are enrolled in post-secondary schools approved by the Secretary of Defense, full-time, or are dependent on the military member for at least one-half of their support and are in college. If the child lives with the spouse/former spouse, the amount is different than if the child is living with someone other than the spouse/former spouse, or living on their own.

Please note: if the child resides with the spouse or former spouse, there is no legal authority to make payments directly to the member’s dependent children: payments are made to the spouse.

In addition, if the spouse or former spouse has custody of a child of the military member that is not the child of the spouse/former spouse (a step-child of the spouse/former spouse being cared for by the spouse/former spouse because the military member is incarcerated), the spouse/former spouse should receive compensation for that child, so long as that child resides with the spouse/former spouse. If the child moves out on his/her own to go to college, for example, he or she would likely be entitled to compensation in his or her own right as a dependent of the military member.

C. How much is the compensation benefit?

The amount is the same as the current amount established for Dependency & Indemnity Compensation (DIC) established for the surviving dependents of servicemembers who pass away on active duty under 38 U.S.C. Sec. 1311. Department of Defense Financial Management Regulation (DoD FMR), DoD FMR 7014-R, Vol. 7B, Ch. 60, para. 600104. As of December 1, 2009, this amount was set at $1,154 per month for spouses/former spouses and $286 per child for each dependent child living with the spouse/former spouse.

If the dependent child entitled to compensation does not live with the spouse/former spouse (a child in college, for example, or living with an aunt or uncle), then the child’s compensation would be equal to the DIC amount under 38 U.S.C. Sec. 1313, which is currently set at $488 for one child; $701 for two children; $915 for three children, and then $974 plus $174 for each child over 3 children", $974 plus $174 for each child over the age of 3 years. This monthly benefit is divided out between the children, equally, if they are not living together.

D. How does a military spouse who is the victim of domestic violence request transitional compensation?

The trial counsel prosecuting the military member can provide the spouse with the Military Services representative who is likely working at the local Finance office. The Department of Defense Management Regulations (DoD FMR 7014-R), volume 7B, Ch. 60, paragraph 600110 states that the spouse will request transitional compensation through the Military Service representative who will review the application, approve the payment and provide the Operations & Maintenance fund citation for the pile of money out of which the payment will be made. The entire packet will then be forwarded to the following address:

Defense Finance & Accounting Service
ATTN: VOA
P.O. Box 998011
Cleveland, OH 44199-8011
FAX number: (216)-522-6470
II. 10 U.S.C. Sec. 1408(h) “Benefits for dependents who are victims of abuse by members losing right to retired pay.”

If a servicemember becomes eligible to receive retirement pay (generally, he or she must have on active duty for at least 20 years), and thereafter his or her eligibility to receive retired pay terminated as a result of misconduct while a member involving abuse of a spouse or dependent child, the spouse or former spouse may be eligible to receive compensation under Section 1408(h). To do so, all of the criteria of 10 U.S.C. § 1408, and the following additional criteria must be satisfied:

In general, the applicable criteria of 10 U.S.C. § 1408, require the spouse/former spouse of the military members must submit a legal separation or divorce/dissolution decree awarding the spouse a portion of the member’s military retirement pay; proof in the order that the court had jurisdiction over the member; and proof to show that the spouse/former spouse was married to the member for 10 years during which time he served 10 years of creditable military service.

In addition, and pursuant to § 1408(h), there must be a court order that provides “(in the manner applicable to a division of property) for the payment of an amount from the disposable retired pay of that member or former member (as certified under paragraph (4)) to an eligible spouse or former spouse of that member or former member.”

The spouse/former spouse must be either “the victim of the abuse and was married to the member or former member at the time of that abuse;” or “a natural or adopted parent of a dependent child of the member or former member who was the victim of the abuse.” This qualifying requirement is much more limited than Section 1059 benefits. In Section 1059, if the military member was separated from the military for abusing his own natural child who was the step-child of a former spouse, the former spouse could qualify for benefits. For Section 1408(h) benefits, the spouse has to be the victim of the dependent abuse, or has to be the parent (natural or adoptive) of a dependent child who was the victim of abuse.

A. Who is eligible for the benefit?

Generally, only the spouse or former spouse is eligible for benefits, with a limited exception to dependent children, if the parent of the child[ren] died as a result of the misconduct that resulted in the termination of retired pay. (i.e. the member killed the spouse or former spouse, then the “dependent children” would receive child support under 1408(h). Keep in mind that there is no time limit to ask for the benefit: the military member could be convicted and thrown out of the military and the spouse could then go to court and obtain a divorce with the necessary court order on pension division. Remember also that, if the military member only served 19 years, the spouse/former spouse gets nothing: the military member never qualified for the pension.

B. How much is the compensation benefit?

Section 1408(h)(4) permits a court, or a spouse/former spouse to request certification from the Secretary of Defense of the amount of monthly retired pay the current or former military member would have received, had he or she not been terminated from the military. In accordance with § 1408(h), the amount is the amount of retired pay that the member would have been entitled to receive had his right to retired pay not been terminated as a result of the court-martial. (i.e. his retired pay is computed using his years of service, rank and/or high-3 amount)

Drafting considerations. It is important for any attorney seeking these benefits on behalf of a spouse/former spouse, to request that the court include a specific provision that “whenever retired pay is increased under § 1401a of this title (or any other provision of law), the amount payable under the court order to the spouse or former spouse of a member or former member. . . shall be increased at the same time by the percent by which the retired pay of the member or former member would have been increased if the member or former member were receiving retired pay.” 10 U.S.C. § 1408(h)(5).
Remarriage by the spouse/former spouse of the military member terminates the right to receive the benefit under Section 1408(h). (10 U.S.C. § 1408(h)(7)(A). Later divorce or death of the new spouse of the spouse/former spouse of the military retiree permits benefits to resume, the following month after the event of death or divorce occurs.

Both Section 1059 and Section 1408(h) provide for medical and dental benefits and for commissary and PX/BX privileges for the dependents, so long as they are eligible for compensation under the respective code sections.

C. How does a military spouse request 1408(h) compensation?

The spouse must submit an Application for Former Spouse Payment from Retired Pay (DD Form 2293), a certified copy of her divorce decree or legal separation and court order that awards her a division of the military retired pay, a copy of the parties marriage certificate. He or she will also need to submit a Statement of service form the military branch showing that the member was retirement eligible (i.e. he had served 20 years of service).

The Statement of service should also include:

- the date of pre-trial confinement;
- member’s military rank before the court-martial;
- the member’s high-3 amount;
- the member’s creditable years and months of service; and
- whether there were any breaks in service.

This information is needed in order for the retired pay department to compute what the member’s retirement amount would have been had his eligibility to receive retirement pay not been terminated as a result of the misconduct. The spouse/former spouse is also bound by the limit that they receive from DFAS no more than 50% of the pension the military member would have received.

Finally, the former spouse needs to provide a copy of the court-martial, OR a Statement from the military branch indicating that the member’s eligibility to receive retired pay was terminated as a result of misconduct involving abuse of a spouse or dependent child. (i.e. that the court-martial was for abuse of either his spouse or his dependent).

The entire packet will then be forwarded to the following address:

Defense Finance & Accounting Service Garnishment Operations
P.O. Box 998002
Cleveland, OH 44199-8002

FAX number: (216)-522-6960

III. The coordination between Section 1059 and Section 1408(h) Benefits.

It is important to understand that the abused spouse of a military member cannot receive both Section 1408(h) benefits and Section 1059 benefits, pursuant to DoD FMR, Vol. 7B, para. 600108. For example, the spouse/former spouse cannot receive transitional compensation pursuant to 10 U.S.C. § 1059 for her children who are residing with her and then payments under Section 1408(h) for herself.

However, can a spouse of a military member who is the victim of domestic violence elect to receive 10 U.S.C. § 1059 benefits, and then change them over to the retirement benefits under Section 1408(h)? Yes, but the spouse, or former spouse, by this point, will have to pay back ALL transitional compensation received under Section 1059 and will not receive retroactive benefits under Section 1408(h), so it is likely always better to sign up for the Section 1408(h) benefits, as soon as possible.2

2 DoD FMR, Vol. 7B, Ch. 60, para. 600108.

Coordination of Benefits. A spouse or former spouse may not receive both payments of transitional compensation and payments under 10 U.S.C. 1408(h) of benefits for spouses and former spouses of retirement- eligible members who lost eligibility for retired pay as a result of misconduct involving abuse of dependents. See Ch. 59 of this volume. The spouse or former spouse must
There is no time limit requirement that the spouse file for victims of abuse benefits under Section 1408(h). Accordingly, the spouse could apply for transitional compensation benefits under Section 1059 for the maximum number of months and then apply for Section 1408(h) benefits, but Sect. 600108 of the DoD FMR), Vol. 7B, Ch. 60 is clear that you cannot get both. As a result, the beneficiary would have to repay the Section 1059 benefits received. Worse yet, payments under Section 1408(h) are not retroactive, so, even if the former spouse were to pay back the benefits already received under Section 1059, it would not entitle the spouse to go back, retroactively, and get the benefits under Section 1408(h), that he or she might have received.

The amounts that would be received under each program vary, as well. Under 10 U.S.C. § 1059(f), a former spouse is only entitled to receive payment for the amount given under 38 U.S.C. § 1311, which is $1,154 and $286 for each dependent child. Depending on the member’s years of service, high-3 and rank, if applicable, the abused spouse’s payments under Section 1408(h) might be higher – and in some cases, substantially higher!

For more information on transitional compensation, please see the Department of Defense Instruction 1342.24 (May 23, 1995, change 1 issued January 16, 1997) which can be found at http://www.dtic.mil/whs/directives/corres/pdf/1342 24p.pdf

Questions of Fundamental Fairness: Veteran or Military Disability and Divorce in Arizona

By Leslie A.W. Satterlee, Esq, and Kristen M.H. Coyne, Esq.3

The issue with this legislation is that retirees with less than 50% disability can voluntarily elect to waive part of their military retired pay and instead receive veterans disability compensation.4 This unilateral waiver by the military retiree spouse thus results in a net loss to the former spouse when dividing military retirement and calculation of spousal maintenance.

House Bill 2348 has now been codified into three statutes – Arizona Revised Statutes (“A.R.S.”) §§ 12-1539, 25-318.01, and 25-530. The statutes which relate to division of military retirement, spousal maintenance awards, and enforcing child support and spousal maintenance awards are set forth below:

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U.S. Navy JAG and former civilian legal assistance attorney for the Marine Corps, currently at CKGH Law in Phoenix, AZ. The opinions expressed in this article are that of the authors and not of any individual service.

4“ In 2003, Congress passed legislation taking effect January 1, 2004 to allow concurrent receipt of both forms of payments – retired pay and disability benefits for certain eligible retirees. The restoration of retired pay is known as Concurrent Retirement and Disability Pay (CRDP); it is at 10 U.S.C. Sect 1414. “ See: http://apps.americanbar.org/family/military/silent/mpd_crdp_crsc.pdf
I. Division of Military Retirement

The new statute reads:

25-318.01. Military retirement benefits; disability related waiver

“In making a disposition of property pursuant to section 25-318 or 25-327, a court shall not do any of the following:

1. Consider any federal disability benefits awarded to a veteran for service-connected disabilities pursuant to 38 United States Code Chapter 11.

2. Indemnify the veteran’s spouse or former spouse for any prejudgment or post judgment waiver or reduction in military retirement or retainer pay related to receipt of the disability benefits.

3. Award any other income or property of the veteran to the veteran’s spouse or former spouse for any prejudgment or post judgment waiver or reduction in military retirement or retainer pay related to receipt of the disability benefits.”

Prior case law in Arizona established that military retirement is a community asset that can be divided to the extent it was attributed to community efforts. Van Loan v. Van Loan, 116 Ariz. 272 (1977). In 1981, the United States Supreme Court held in McCarty v. McCarty, 453 U.S. 210 (1981) that characterizing military retirement benefits as community property was contrary to federal law and that federal law preempted State law on community property division; thus, effectively overruling Van Loan. After McCarty, Congress enacted the Uniformed Services Former Spouses’ Protection Act, 10 U.S.C. § 1408 (2006) (“USFSPA”), which became effective February 1, 1983. Under this Act, State courts were given authority to treat “disposable retired pay” or “retainer pay” as community property and thus the State courts could apportion such benefits in divorce cases. Arizona thus again took the position that military retirement was a community asset that could be divided. Edsall v. Superior Court, 143 Ariz. 240 (1984).

The wording of the USFSPA has only authorized state courts to treat the “disposable retired or retainer pay” of a retired member of the military as property divisible upon divorce (10 USCS 1408(c)(1). According to 10 U.S.C. § 1408(a)(4)(B), “disposable retired pay” means gross retired pay minus, among other things, disability pay benefits. The issue then arises that a military spouse, upon retirement, can elect to waive receipt of retired pay to receive an equivalent amount of VA disability benefits. There are two potential incentives for a military spouse to do this: 1) VA disability benefits are received tax-free; and 2) pursuant to USFSPA, only disposable retired pay could be divided in divorce cases. This was the finding in Mansell v. Mansell, 109 S. Ct. 2023, where the Supreme Court held that State Courts were unauthorized to treat as community property the military retirement pay that retiree waives in order to receive veterans’ disability benefits. “The harsh reality of this holding is that former spouses can, without their consent, be denied a fair share of their ex-spouse’s military retirement pay simply because he elects to increase his after-tax income by converting a portion of that pay into disability benefits.” (Mansell v. Mansell, 109 S. Ct. 2023, 2032, dissent)

To deal with this issue, a wide variety of strategies were applied to equitably divide the military retirement assets. Most common was the indemnity clause which included language that the former military spouse shall receive their full share of military retired pay without calculation for disability compensation and that military retired pay was deemed by the court to include retired pay actually paid or to which the military spouse would be entitled to based only on the length of credible service. In Danielson v. Evans, 201 Ariz. 401 (2001) the Arizona Court of Appeals upheld a trial

5 Revision of language pending to include Retainer pay. Enlisted members of the Navy and Marine Corps with less than 30 years service are transferred to the Fleet Reserve/Fleet Marine Corps Reserve and their pay is referred to as “retainer pay.” When 30 years are completed, including time on retired rolls in receipt of retainer pay, Fleet Reserve status is changed to retired status.

http://www.azleg.gov/legtext/50leg/1r/bills/sb1336p.pdf
court’s decision to compensate a former spouse for the difference between the projected value of her interest in the military spouse’s future military retired pay, as prescribed by their decree, and the reduced amount of that pay she actually received after the military spouse later waived much of it in order to receive veteran’s disability benefits. The Court noted that there was no violation of federal law under the USFSPA because the former spouse was not acquiring an interest in the disability payments and the federal law did not preclude the trial court form ordering “make up” payments from other sources. See also Harris v. Harris, 195 Ariz.559, 991 P.2d 262 (Ct. App. 1999) (review denied).

The newly enacted ARS § 25-318.01 apparently overrules Danielson v. Evans. Specifically, the statute reads as not allowing the Court to “award any other income or property of the veteran to the veteran's spouse or former spouse for any prejudgment or post judgment waiver or reduction in military retirement or retainer pay related to receipt of the disability benefits.” If Courts can no longer award any income or property to a former spouse then not only is VA disability off the table, but all income and property is off the table to be used to reimburse, or “make up” payment to a former spouse when the former military spouse has waived or reduced their retired pay to receive VA disability pay. This new statute thus again results in the harsh reality that the retiree spouse can unilaterally waive retirement which would result in a net loss to the former spouse and a net gain to themselves.

II. Spousal Maintenance Awards

The new statute reads:

“25-530. Spousal maintenance; veterans disability benefits
In determining whether to award spousal maintenance or the amount of any award of spousal maintenance, the court shall not consider any federal disability benefits awarded to the other spouse for service-connected disabilities pursuant to 38 United States Code Chapter 11.”

Thus, now, when calculating income of the potential obligee in a spousal maintenance case, the Court cannot consider any federal disability benefits awarded. Thus, a portion – up to 50% -- of the former military spouse’s income is off limits.

In Rose v. Rose, 481 U.S. 619 (1987), the U.S. Supreme Court held that a Tennessee state court had the authority to consider veteran’s disability income for child support purposes. The Court in ruling held that “because Congress intended veteran’s disability benefits to be used in part for the support of a veteran’s family, the Tennessee law allowing Tennessee state courts to award veterans’ disability benefits as child support does not conflict and is not preempted by federal law.”

While the newly enacted Arizona legislation does not affect child support and does not state that veteran’s benefits are not to be used in calculating income for child support purposes, it does state that the veteran’s benefits are not to be used in calculations for spousal maintenance purposes. Thus arguments to impute income to the disabled veteran in the amount equal to the disability payments would seem barred. The resulting conundrum is that the spouse seeking support would have to show that the disabled spouse was capable of earning income but was voluntarily waiving it to receive VA disability income. While the fact that the VA has awarded disability income to the disabled spouse would serve as evidence of the fact that he is not capable of earning income.

III. Enforcing Child Support and Spousal Maintenance Awards

Statue A.R.S. § 12-1539 reads:

Veterans disability benefits; exemption from seizure

A. Notwithstanding section 12-1521, federal disability benefits awarded to veterans for service-connected disabilities pursuant to 38 United States Code Chapter 11:

1. Are exempt from the claim of creditors.
2. Are not subject to attachment, levy or seizure under any legal or equitable process, as provided by federal law.

3. May not be awarded to any other person.

B. This section does not apply to that portion of service-connected disability benefits that is subject to child and spousal support enforcement under 42 United States Code section 659(h)(1)(A)(ii)(V).”

Despite the revisions to Title 25 which appear to limit the Court’s ability to use VA disability to calculate support, in terms of child support and spousal maintenance enforcement, VA disability benefits are not exempt, and thus may be attached, levied or seized for enforcement purposes.

Community property is based on the principle that both spouses contribute equally to a marriage. This principle thus combats the unfairness that results when you have one working spouse and one stay-at-home spouse, or when you have one spouse that ends up with the majority of assets titled in his/her name alone. Specifically, long established law and cases in Arizona specifically state that the “(i)n a proceeding for dissolution of the marriage, or for legal separation, . . . the court shall assign each spouse's sole and separate property to such spouse. It shall also divide the community, joint tenancy and other property held in common equitably, though not necessarily in kind, without regard to marital misconduct.” A.R.S. § 25-318.

With the passage of statute A.R.S § 25-318.01, however, Arizona must now treat VA disability retired pay as separate property not divisible by the Court. Furthermore, VA disability can no longer be calculated as income in determining spousal maintenance. Reality is that in most military families, after years of relocating and changing jobs, retirement is the only asset of any substance to divide – and it is not uncommon for the former spouse to be in need of some kind of spousal maintenance upon divorce. Thus, laws such as the above statutes recently passed in Arizona have a huge impact on military families – and it is not just families subject to Arizona’s jurisdiction.

Other states such as Oklahoma and Hawaii have similar legislation pending making this issue one that needs close scrutiny by all interested parties – including military and non-military spouses as well as attorneys and the family court bench. Emotional appeals and misinformation need to be tempered by a realistic and in-depth review of the potential result of such legislation and the motivation of the parties in choosing disability systems. The ability to allow judges to address division of property and calculate income for maintenance/support on a case-by-case basis should not be unilaterally withdrawn without mechanism to compensate this net loss to the other party.

PORTALS FOR PRACTICE

Pension links:


http://www.divorcenet.com/states/nationwide/ssn_art

http://www.dfas.mil/garnishment.html

http://militarypay.defense.gov/retirement/calc/02_highthree.html


http://www.abanet.org/family/military/silent/pension_division.pdf


http://www.abanet.org/dch/committee.cfm?com=FL115277

Other links:

https://www.alaskabar.org/
ABA LAMP Honored for Supporting Military Families
The National Military Family Association was pleased to honor the ABA’s Standing Committee on Legal Assistance to Military Personnel (LAMP) as a recipient of the 2010 Support of Military Families Award at a Capitol Hill reception in September. This award is presented to outstanding policy makers and public servants who have shown exceptional support of military families.

The American Bar Association \textbf{Standing Committee on Legal Assistance to Military Personnel}, known as LAMP, serves approximately 9 million low-to-moderate income military personnel and their families by providing direct assistance to the military judge advocates and supporting the ABA Military Pro Bono Project. This web-based venture has improved access to pro bono civil legal assistance for military personnel, while expanding opportunities for firms and attorneys to provide pro bono services.

Since 1984, the National Military Family Association has celebrated those who have joined them in their mission. The \textit{Support of Military Families Award} honors those individuals and organizations that through their own work or leadership have made changes that positively affect the lives of America’s military families around the globe. In addition to the ABA LAMP, the Association recognized Senator Daniel K. Akaka (HI), Representative Susan A. Davis (CA/53rd), and Representative Michael H. Michaud (ME/2nd).
Editor's Note: Do You Have Your Own Copy of The Military Divorce Handbook?

The Military Divorce Handbook: A Practical Guide to Representing Military Personnel and Their Families by Mark E. Sullivan is a useful outline that guides the family law practitioner through the unique and difficult issues involved when a military retiree or servicemember divorces. Included in the book are a clear explanation of the Servicemembers Civil Relief Act, how to locate and serve the military member, visitation and custody, domestic violence, military tax issues, pension division, family support, medical care, and the division of military retirement benefits. The book includes is a CD-ROM full of checklists, instruction sheets, forms and info-letters. The Military Divorce Handbook is priced at $149.95, with a price of $129.95 available to members of the ABA Section of Family Law. Learn more about the book and order online at http://www.abanet.org/abastore/productpage/5130135. To order by phone, call the ABA Service Center at 1-800-285-2221 and request product code 5130135. Orders can be faxed to 1-312-988-5568.