

SB-285 - CA Bill protects disabled vets compensation

A bill to protect California disabled veteran's disability compensation from illegal attachment and garnishments was signed into law by Governor Schwarzenegger on Oct. 11. The bill (SB.285), authored by California Senator Rod Wright, was introduced at the request of the California Alliance for Families and Children (CAFC) in cooperation with the American Retirees Association (ARA). It codifies existing federal law, United States Code, Title 38, Section 5301 into the state's statutes to assure it is followed in California state courts. Although federal law is very clear in its wording and intent, civil court judges nationwide have routinely ignored it. The result has been illegal attachments and garnishments of the disability compensation and erroneously calculating veterans' disability compensation into divorce settlements as a visible asset or income. SB 285 passed California legislature without a single no vote, even though similar efforts in Iowa, West Virginia, and Oklahoma have failed so far. Of significance, this new state law provides precedent for all other states to follow and enact similar additional safeguards for their disabled

veterans. Also, it can be a precursor for state legislation to modify state divorce laws to protect garnishments for USFSPA as is underway in Oklahoma with H.B.1053. CAFC announced they have already received commitments from legislators in Arizona, New Mexico and Texas to follow the California lead.

Retirees who are impacted by the Uniformed Services Former Spouses' Protection Act (USFSPA) and/or concerned about protecting their disability compensation concerns should be aware of the USFSPA Liberation Support

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Group (ULSG). Their mission is to support the rights of all service members active-duty/retired/ Guard & Reserves, Commissioned Corps of the US Public Health Service and Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA) in challenging the USFSPA, Pub. L. No. 97-252, 96 Stat. 730 (1982), currently codified as amended at 10 U.S.C. § 1408. This law, hastily passed by our Congress without forethought and little discussion, invalidated the United States Supreme Court's 1981 majority 6-3 ruling (*McCARTY v. McCARTY*, 453 U.S. 210 1981) that asserted military retirement/retainer pay is not subject to division as common property in state divorce proceedings. ULSG challenges the USFSPA in our courts system, strongly urges the US Congress of the United States to repeal this unjust law, and informs the Media to overcome this injustice to all service men and woman who unselfishly have served their country and have earned the sole right to their retainer/retired pay instead of being treated as common property during divorce.

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