

PRESENTATION
BY
REP. LAWRENCE ROBERTS

FOR
JUDICIARY COMMITTEE

PUBIC HEARING
ON
HB 2265
(MILITARY PENSIONS)

JULY 27, 1998

THERE HAS BEEN AN INDICATION OF SOME CONCERN BY YOUR LEGAL COUNSEL THAT THE LANGUAGE OF MY LEGISLATION MAY CONFLICT WITH FEDERAL LAW BUT I ASSURE YOU THIS IS NOT THE CASE. WHEN CONGRESS PASSED THE FORMER SPOUSE PROTECTION ACT AND IT WAS SIGNED INTO LAW, THE MANNER IN WHICH A MILITARY PENSION WOULD BE TREATED IN A DIVORCE SITUATION WAS LEFT TO THE STATES TO DECIDE. THAT IS WHY I HAVE CHOSEN TO ADDRESS THE ISSUE HERE AT THE STATE LEVEL.

TO ASSIST YOU IN UNDERSTANDING THE PROBLEM I AM TRYING TO CORRECT, I WOULD LIKE TO PRESENT YOU WITH JUST A LITTLE BACKGROUND.

PRIOR TO THE FORMER SPOUSE PROTECTION ACT, A MILITARY PENSION, BY LAW COULD NOT BE CONSIDERED AS AN ASSET IN A DIVORCE OR PROPERTY SETTLEMENT SITUATION. AT EXHIBIT A OF MY COMMENTS, YOU WILL FIND A LIST OF REASONS WHY.

THE FORMER SPOUSE PROTECTION ACT THEN CAME ABOUT.

IT WAS A DIRECT RESULT OF A SPECIFIC PERSONAL CASE, MCARTY VS MCARTY. IN THAT CASE A MILITARY COLONEL, WHO HAD BEEN MARRIED TO A DEVOTED AND SUPPORTIVE WIFE FOR 33 YEARS, DECIDED TO DIVORCE HER SHORTLY AFTER RETIRING FROM THE MILITARY. DURING THEIR MARRIAGE, HIS WIFE DID NOT PURSUE HER EDUCATION OR A CAREER. SHE STAYED AT HOME RAISING THEIR CHILDREN AND DOING ALL THE TRADITIONAL DOMESTIC THINGS THAT DEDICATED MILITARY WIVES DID. THERE IS NO DOUBT, MRS. MCARTY MADE PERSONAL SACRIFICES FOR HER HUSBAND'S CAREER. AFTER THEIR DIVORCE SHE HAD NO MEANS OF SUPPORT AND NO

BEING DONE IN PENNSYLVANIA. WE ALL KNOW THE IMPORTANCE OF LEGISLATIVE INTENT, WHICH IS WHY OUR DEBATES OFTEN BECOME SO DETAILED. TRANSCRIPTS FROM THE HEARINGS HELD ON THE FORMER SPOUSE PROTECTION ACT SHOW THAT THE ORIGINATORS AND SUPPORTERS OF THE BILL FELT THAT A FORMER SPOUSE SHOULD PROVE THERE WAS AN ENTITLEMENT. IT IS ALSO OBVIOUS THAT CONGRESS FELT THERE HAD TO BE A FINANCIAL NEED. THE TRANSCRIPTS ALSO SHOW THAT CONGRESS FELT TEN YEARS OF MARRIAGE, AS A MINIMUM, SHOULD BE REQUIRED TO GAIN ANY ENTITLEMENT TO A PORTION OF THE MILITARY PENSION. SOME MEMBERS FELT THAT 15 YEARS OF MARRIAGE WOULD BE MORE APPROPRIATE. IT IS ALSO OBVIOUS THAT CONGRESS WANTED THEIR INTENT TO BE DOCUMENTED.

THE INTENT OF CONGRESS WAS CLEARLY TO MAKE MILITARY PENSIONS AVAILABLE ONLY TO THOSE SPOUSES WHO WERE TRULY SUPPORTIVE OF THE MILITARY MEMBER AND THE MILITARY CAREER. IT WAS NOT INTENDED FOR A SPOUSE OF SHORT DURATION TO AUTOMATICALLY BE ENTITLED TO A PORTION OF THE MEMBERS MILITARY PENSION. BUT THAT IS WHAT IS HAPPENING IN PENNSYLVANIA TODAY.

AT THE TIME OF THE ACT, THE MATTER WAS ALSO REGARDED AS A GENDER ISSUE BECAUSE MOST MILITARY RETIREES WERE MEN. TODAY THERE ARE RECORD NUMBERS OF WOMEN RETIRING, SO THIS IS NO LONGER A GENDER ISSUE.

UNFORTUNATELY, THE INTENT OF CONGRESS HAS LONG BEEN LOST AND THE PENDULUM HAS SWUNG FAR AWAY FROM THE MILITARY MEMBER AND MOSTLY IN THE DIRECTION OF THE SPOUSE. TODAY

BEEN A SIGNIFICANT INCENTIVE FOR OUR CAREER GUARDSMEN. BUT IF A GUARDSMEN IS SUBJECTED TO A DIVORCE AND LEARNS THAT A PORTION OF HIS/HER PENSION BELONGS TO THE SPOUSE, THE INCENTIVE IS GREATLY REDUCED.

IN CLOSING I WOULD LIKE TO MAKE IT CLEAR THAT I WHOLEHEARTEDLY SUPPORT THE INTENT OF THE FORMER SPOUSE PROTECTION ACT. HOWEVER, THOSE FORMER SPOUSES WHO DO NOT SATISFY THE INTENT SHOULD NOT BE ALLOWED TO ENJOY A WINDFALL AT THE EXPENSE OF OUR MILITARY MEMBERS.

MADAM CHAIRMAN, I AM HOPEFUL THAT YOU AND THE COMMITTEE WILL SUPPORT THIS LEGISLATION AND HELP ME GET IT PASSED INTO LAW. IF YOU FEEL IT NEEDS TO BE TAILORED OR AMENDED IN SOME WAY I WILL BE HAPPY TO WORK WITH YOU.

THANK YOU ONCE AGAIN FOR GIVING ME THE OPPORTUNITY TO BE HERE.

ATTACHED ARE LETTERS OF SUPPORT AND OTHER INFORMATIVE DOCUMENTS