

WRITTEN TESTIMONY
OF
EDWARD A. ESSL,
BEFORE THE TASK FORCE
ON DOMESTIC RELATIONS OF THE JUDICIARY OF
THE HOUSE OF REPRESENTATIVES
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HARRISBURG, PA

Members of the Task Force on Domestic Relations of the Judiciary Committee of the House of Representatives, I thank you for the opportunity to testify in support of House Bill 2265.

I am a retired United States air Force Officer with 39 years of service to my country spanning the post Korea period through Vietnam and beyond. I am proud of my service and feel the retirement provided me by our government is fair and just, and I might add, well earned.

I am also a married person whose wife endured all to the difficulties and separations inherent in service life. While I flew in peace and war, she kept my home, reared my children and put her own career as a chemist on hold while I undertook my great adventure.

I know many wives who could not endure the rigors of the service who chose to divorce their service husbands for a safer, worry -free stable life style.

I am now an AARP volunteer. Until recently, I chaired the State Legislative Committee for two terms and now serve as secretary of that organization.

Although AARP does not have an official position on the Uniformed Services Former Spouses Protection Act (USFSPA) as it applies to the retired pay of members of

the uniformed services, it is reasonable to assume that among AARP's 1.9 million members in Pennsylvania, many are retired or the spouses or widows of retired military persons. Based upon this certainty, I believe it is appropriate that AARP speak on behalf of these members.

The USFSPA is the legislative vehicle by which the federal government can be required to send up to 50 per cent of the service members disposable military retired pay to an ex-spouse as property. The award must be made by a state court. The award must be made by a state court. The important point here is that the USFSPA does not automatically divide retired pay as property. It does, however, authorize state courts to treat military retired pay as property of the retiree or as the property of the retiree and spouse in accordance with the law of the jurisdiction of such courts. This award is in addition to any other court awarded spousal and, or child support and, or, division of other material property. A court may award more than 50 percent of a retired service member's pay to the ex-spouse as property but the government is authorized only to send up to 50 per cent of "disposable" retired pay directly to the ex-spouse as property.

House Bill 2265 is consistent with the provisions of PL 97-252 USFSPA in its intent and detail. House Bill 2265 also incorporates the requirement that "a former spouse must have been married to the military member for 10 or more years during which time the member performed 10 years service creditable for military retirement." House Bill 2265 also returns our courts to the sanity of PL97-252 where in only an unremarried

former spouse is entitled to certain military-related benefits and privileges, including former spouse payments from military retired pay.

This last requirement of the Act has too frequently been ignored, unfairly cheating taxpayers and amounting to fraud. I do not take this position lightly. I simply feel that the moneys should be judiciously dispensed and that no beneficiary is entitled to extra helpings. HB2265 requires forfeiture of that spousal award of retired pay if that party, before attaining age 60, remarries or cohabitates in a conjugal relationship with another person.

I am happy to say that my military career was supported by a dedicated and loving wife, who may have had more than ample reasons to leave but stuck in there, and who now shares my retirement with me.

Thank you for permitting me to speak on behalf of HB2265.