

**STATEMENT OF STANLEY W. REINHARD, JR.  
DEPARTMENT ADJUTANT  
THE AMERICAN LEGION  
DEPARTMENT OF PENNSYLVANIA**

**BEFORE THE HOUSE JUDICIARY COMMITTEE  
PENNSYLVANIA HOUSE OF REPRESENTATIVES**

**JULY 27, 1998**

**Mr. Chairman and Members of the Committee:**

**My name is Stanley W. Reinhard, Jr. I am the State Adjutant of The American Legion, Department of Pennsylvania and I also serve as the State Secretary and Legislative Chairman of The Pennsylvania War Veterans Council.**

**The Uniformed Services Former Spouses Protection Act was signed into law by President Ronald Reagan as part of the 1982 Fiscal year Department of Defense Authorization Bill (Public Law 97-252, Title 10 US Code, Sec 1408).**

**On June 26, 1981 the US Supreme Court ruled, in the McCarty v McCarty decision, that military retired pay could not be considered community property in divorce. The Uniformed Services Former Spouses Protection Act Amendment to P.L.97-252 served to circumvent the Supreme Court decision in McCarty. The amendment, postdated to June 25, 1981, returned to the states the authority to treat military retired pay, in a divorce action, according to individual state laws and permitted disposable military retired pay to be treated as if it were property accrued during marriage. Military pay is not a divisible interest prior to retirement by a military member and as such it should not be considered an asset (property) accrued during a marriage.**

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During the first session of the 105th Congress, the Chairman of the House Veterans' Affairs Committee, Representative Bob Stump (AZ), introduced H.R. 2537, legislation to reform the way military retired pay is disbursed during a divorce. The American Legion worked closely with Chairman Stump and other veterans service organizations to draft reasonable and fair language to address current practices under the Uniform Service Former Spouses Protection Act (USFPA).

Since the passage of P.L. 97-252 by Congress, divorce courts have been awarding up to 50 percent of disposable military retirement pay to former spouses based on the guidelines of the federal law and among the many inequities in the law are the continuance of lifetime annuities to former spouses whether they remarry or not, and military retirees are the only federal retirees to whom this provision applies. The Uniform Services Former Spouses Protection Act threatens grave harm to the goals of the military retirement system which serves as the major incentive to the long-term maintenance of a competent and professional military force. Military retired pay is NOT considered, under Federal law, to be property right of the member. What is wrong with state courts awarding justifiable alimony based on financial need, and not the dividing of the real property assets? Why must military retired pay be considered a property asset only to the spouse?

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Recent statistics show that 68% of current members of the Armed Forces are married. Approximately 404,400 individuals are on active duty. The divorce rate is considered to be 65%. 48.2% of current forces are on their third or greater term of enlistment. Sometime within the course of the remaining life of 86,154 married United States Armed Forces military people who retire will also divorce and that military person will lose about half of his or her pension putting that veteran in financial difficulty.

State Representative Larry Roberts has authored HB2265 regarding the division of military pensions which I am proud to say The American Legion heartily endorses.

Many of my fellow veteran organizations concur with the bill. Statements of recommendation for passage of this bill on their behalf are on file..

The issue here is whether or not the military pensions are classified as pay or property. The Federal interpretation would seem to classify them as property since it permits former spouses to share in the pension after divorce, and if there is not a state statute to the contrary, will continue to pay a prescribed amount even after the former spouse remarries.. The Federal government does not recognize state statutes which set parameters regarding time of service and time of marriage. Rep. Roberts bill addresses both these issues in that it prescribes at least 10 years of marriage during

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which at least 10 years of creditable military service accrued to a member, and the entitlement ceases upon remarriage of the former spouse before 60 years of age.

We strongly urge passage of HB2265 that will ensure any increase in retired pay resulting from increased service or promotion after a divorce is final becomes the sole property of the service member.

Thank you for giving me the opportunity to appear before you and speak on this very important issue.