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THE DISABLED MILITARY CHILD PROTECTION ACT OF 2013

By Jeremy C. Johnson

On Tuesday, June 4, 2013, Congressman Jim Moran (D-VA) introduced the Disabled Military Child Protection Act (H.R. 2249). Previously, on May 23, 2013, Senator Kay Hagan (D-NC) introduced the bill (S. 1076) in the Senate. The bill would provide for the payment of monthly annuities under a Survivor Benefit Plan to a Special Needs Trust for a veteran's disabled, dependent child.

Where are we now on this issue?

Presently, veterans with disabled children are subject to a quagmire regarding this issue. The cost of health care for a disabled child can easily exceed \$100,000 a year. A veteran with a disabled child can build Special Needs Trust to protect most of their assets from causing a disqualification of the disabled child from receiving government care benefits. However; as it currently stands, the law does not allow military family to adequately incorporate planning for the use and recognition of SBP benefits for disabled dependents.

What is SBP?

SBP is a benefit that military members may select at the time of retirement from the armed forces. Under SBP, a military retiree can have a portion of his/her monthly retirement allotment withheld to make provision, post-mortem, for a monthly survivor benefit for a surviving spouse, child or other eligible recipient. In most cases, service members with disabled children leave their SBP benefits to those disabled children.

So what's the problem with that?

Under current law, SBP benefits are only permitted to be left directly to a recipient and are not allowed to be redirected into a Special Needs Trust (or any other trust for that matter). Any such SBP payment directly to a disabled child WILL BE counted as income for Medicaid and Supplemental Security Income (SSI) qualification purposes. As such, the veteran's disabled child will likely be disqualified for federal Medicaid and SSI benefits.

How does this bill fix this issue?

The present bill, if passed, would allow the SBP payments to be sent into a Special Needs Trust for the benefit of the veteran's disabled child; rather than being paid directly to the disabled child. As such, the disabled child would be shielded from having these SBP payments counted as income against them for Medicaid and SSI qualification purposes, protecting and preserving these benefits.

Present status

At the time of writing this article, this bill has been referred to the House Armed Services Committee for consideration. The website govtrac.us rates this bill as having a 1% chance of getting past committee. This bill currently is cosponsored by Gerald Connolly (D-VA), Bill Foster (D-IL), Jared Polis (D-CO), Charles Rangel (D-NY) and Tim Ryan (D-OH). Regardless of the outcome on this present bill, it is encouraging to see that this issue is being discussed by our lawmakers and hopefully one day, the disabled children of veteran's can receive the protection that they deserve.



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About the Author:

Jeremy Johnson is an experienced problem solver who helps individuals and businesses achieve and protect their goals of prosperity, stability and growth through appropriate planning. Jeremy takes great pride in making sure that his work for clients is always reliable, correct, and on time.

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