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Veterans need equal rights to plan for their loved ones

Veterans of the Armed Services in this country are limited by law on how they may distribute their survivor benefits. One such restriction is that service members are not permitted to roll their survivor benefits over into a special needs trust for a child with a permanent disability. There are a number of groups that are fighting to have this changed legislatively. Patricia E. Kefalas Dudek, CAP of the National Academy of Elder Law Attorneys (NAELA) wrote about this issue on July 18, 2013 in *Eye on Elder and Special Needs Issues* (this can be accessed at www.naela.org in section available to the public).

Unlike most Americans, armed services members cannot fund a special needs trust for a child with their benefits. The end result is that a loved one must be the direct beneficiary of benefits the veteran earned during service. If the loved one, usually a child with disabilities, directly receives a monetary distribution, the beneficiary will lose public benefits, such as SSI and their medical insurance, Medicaid, since they will have too much money to qualify, but likely not enough to pay for their needs, especially medical needs. Many times the public benefits are the child's means to independence and even survival. This can be rectified by allowing the military member to name a special needs or supplemental needs trust for the benefit of the disabled child. If the funds are in a special needs trust, the child will not be disqualified for vital government benefits, including health insurance, and the trust can provide for things not covered by government benefits, such as equipment, transportation, non-covered medical services and the like.

Attorney Dudek reports that there has been progress to correct this situation. Senator Kay Hagan (D-NC) introduced S.1076, the Disabled Military Child Protection Act of 2013. This bill would allow payment of monthly Survivor Benefit Plan annuities to a special needs trust for a veteran's child with a disability. Congressman Jim Moran (D-8th, VA) introduced the same bill in the U.S. House of Representatives shortly after Senator Hagan introduced hers. Senator Kristen Gillibrand (D-NY) added the Disabled Military Child Protection Act language to the markup package for the National Defense Authorization Act (NDAA) (S.1197). The Senate Armed Services Committee voted on and approved the NDAA with the language from the Disabled Military Child Protection Act. However, this same language was not included in the House version of the NDAA. Many groups have been working on having this inequity corrected including NAELA, the American Bar Association, the Military Coalition, Easter Seals, Military Officers Association of America, and Consortium for Citizens with Disabilities.

Ms. Dudek states the "If we are going to treat our veterans and their families differently than the rest of our citizens, I suggest that they should be treated *better*." Take time to contact your congressional representatives and urge support of this legislation. A small amount of time on your part can show our veterans and their families how we support them.