

VDPA Retrospect

A BILL

[FINAL DRAFT - 6/28/10]

Veterans Disability Protection Act of 2010 (VDPA)

Since the Revolutionary War and the War of 1812 Americans have given their lives for the pursuit of a single fundamental idealism, the right to be free in a democratic society governed by laws. History has transformed this country into a nation of people under one government. As a developing nation it had to content with political dissonance, as it mature into a concept of democracy. The struggles that ensue would forever shape the way that other nations saw us as a world power. This was no mistake by any mean.

American history has demonstrated that freedom requires a constant vigilance and the sacrifices of many men and women. A war produces casualties in the battlefield, to which the inflicted wounds and injuries have been unimaginable and debilitating.

Historical records obtained from the Library of Congress shows an interesting glimpse into the thought process of our fore fathers, and how they perceived their responsibility to the wounded and injured soldiers. There was a strong connection between sacrifice and a well deserved gratitude of the Nation toward its defenders. Through legislative endeavors Congress enacted laws that would not only give a disabled veteran some relief for their injuries, but also protect it from those persons not entitled. One can just read the laws enacted by Congress and come out with the same conclusion that Congress was serious about protecting these sacred benefits.

While there are many such laws with similar specific language, the ones that have really suffered were the following, but not limited to these only:

Seventy Fourth Congress Chapter 510; An Act- To safeguard the estates of veterans derived from payments of pension, compensation, emergency officers' retirement and insurance, and other purposes. Section 3.

"Payments of benefits due or to become due shall not be assignable, and such payments made to, or on account of, a beneficiary under any of the laws relating to veterans shall be exempt from taxation, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure by or any legal or equitable process whatever, either before or after receipt by the beneficiary." Approved August 12, 1935

In an earlier Act in May 15, 1828 it provided the same protection and it was solely for the benefits of the officer or soldier to the same by this act. It is hard to believe that disabling battlefield injuries were any less severe back then, than they are today. The question that come to mind; "when did a disabled veteran become less disabled, or more able?"

Twentieth Congress under Session I Chapter LIII – An Act for the relief of certain surviving officers and soldiers of the army of the revolution.

Section 4 that the "pay under this act shall not, in way, be transferable or liable to attachment, levy, or seizure, by any legal process whatever, but shall inure wholly to the benefit of the officer or soldier entitled to the same by this act." Approved, May 15, 1828 (From the Library of Congress)

Congressional records depict a period in our American history that has changed in so many ways, while it's moral and ethical obligations remains constant when providing relief for its combat wounded and injured soldiers, and their widows and their orphans. It was no fluke that these relief payments were granted special protection. Disabled veterans were being coerced into signing their benefits over to another person for the payment of a debt, or as a gift, while other veterans receiving disability compensation were falling victim to shysters and crooks hell-bent on taking their benefits and compensation away from them.

From the beginning of Colonial Times our Congressional leaders were very explicit and absolute with their language on their implied intent on laws that were enacted to provide protection for disabled veterans. No one was authorized or approved to take a disabled veteran's disability compensation from them. Furthermore, no legal court process or civil action could deprive the veteran of their earned benefits. Congress had set high standards for the protection of disabled veterans, but as one can see these moral perceptions have deteriorated as civil courts are more determined than ever to go after a disabled veteran's disability and granting "rights" to those not entitled by federal law to receive any portion of a veteran's disability compensation.

The language within the context of USC 5301 has been mutilated and manipulated beyond recognition and has consequently become a farce and dishonors many disabled veterans living on a single relief payment from the government. Civil courts continue to punish honorable disabled veterans by incarcerating them because they cannot keep up with the extreme support demand set by the courts and legal fees require to defend themselves against attaching their disability compensation benefits. These relentless efforts by the civil courts have produced and perpetuated veterans' homelessness to a new despicable level. This situation is only coupled with the increasing suicide among the former and current military population.

There is a rippling effect from military service. Soldiers are coming back from war with disfiguring injuries, TBI, Post Traumatic Stress Disorder (PTSD) and others residuals are having a profound effect on the stability of the family. Sadly, estrange spouses are deserting their sick and disabled partners and taking a significant portion of their disability compensation. The results are devastating, as they are faced with incarceration by civil courts, living on the streets, or in their cars when they refuse to submit to such coerced intimidation.

When a soldier becomes disabled he or she is no longer a whole person. The transition period can be a long and troublesome. When a combat disabled veteran falls on hard times, loses their job, their home, facing bankruptcy, experiencing failing health, emotionally unstable and going through a divorce, the feelings of hopelessness and helplessness can be overwhelming. When facing such hardships the one thing a disabled veteran should be able to count on are their disability compensation benefits, which in many cases are earned on the battlefield with their blood, sweat, and tears. It is at these low points in life when these disability benefits are needed the most, and when they can help the greatest. To allow anyone to arbitrarily or ambiguously take these disability compensation payments from our combat disabled is cruel, unjust and illegal. Congress wrote USC Title 38, section 5301 with all of this in mind. A veteran's disability compensation was solely intended for the disabled veteran, their surviving spouse, and orphans. The federal government has no interest in the "rights" of any person not entitled to any terminated benefits, other those authorized by law. In addition, Congress has not authorized any veterans' entitlement to any former dependents, since the welfare of those not entitled has never been the purpose of dispensing veterans' benefits.

Enforcing Federal law and placing strict limits on access to veterans' benefits by third parties, to ensure compensation goes mainly to support veterans disabled in the service of their country. The law should be restrictive and precise enough to ensure that, properly applied, it would never permit an able-bodied person to take and enjoy part of the veterans' payment for the effects of disability he or she suffers.

The following Bill is designed to restore the total and absolute protection of veteran' disability compensation payments from abuse.