

WILLICK LAW GROUP

A DOMESTIC RELATIONS & FAMILY LAW FIRM
3591 EAST BONANZA ROAD, SUITE 200
LAS VEGAS, NV 89110-2101
PHONE (702) 438-4100 • FAX (702) 438-5311
WWW.WILLICKLAWGROUP.COM

ATTORNEYS

MARSHAL S. WILICK * † ‡ ♦ ®
TREVOR M. CREEL

- * ALSO ADMITTED IN CALIFORNIA (INACTIVE)
- † FELLOW, AMERICAN ACADEMY OF MATRIMONIAL LAWYERS
- ‡ FELLOW, INTERNATIONAL ACADEMY OF MATRIMONIAL LAWYERS
- ♦ NEVADA BOARD CERTIFIED FAMILY LAW SPECIALIST
- ® BOARD CERTIFIED FAMILY LAW TRIAL ADVOCATE
BY THE NATIONAL BOARD OF TRIAL ADVOCACY



LEGAL ASSISTANTS

LEONARD H. FOWLER III
TISHA A. WELLS
DEISY MARTINEZ-VIERA
MARY STEELE
BRENDA GRAGEOLA

FIRM ADMINISTRATOR

FAITH FISH

E-MAIL ADDRESSES:

[FIRST NAME OF INTENDED RECIPIENT]@WILLICKLAWGROUP.COM

April 18, 2015

Senate Judiciary Committee
Legislative Building
401 S. Carson Street
Carson City, NV 89701-4747

Re: AB 140

Pending before your committee is AB 140, which would greatly injure Nevada family law if passed.

The problem it claims to address does not exist – no Nevada divorce court “attaches, levies, or seizes” VA disability benefits.

And the proponents’ claim that it simply “codifies federal law” is false. The sentence taken out of context from a federal statute is already in effect, and applicable to Nevada divorces. The only actual reason to insert that sentence in the Nevada statute governing alimony and property division is to provide a basis for arguing – falsely – that Nevada courts cannot award alimony when it is called for, or protect parties from property recharacterizations when called for.

Every court in the United States – from the United States Supreme Court on down, and including the Nevada Supreme Court – has held that the language in the federal statute has *nothing to do* with alimony, child support, or protection of decrees. This proposal seeks to evade all those court decisions, and allow a small group of people – as opposed to everyone else who gets divorced – an advantage over their spouses in alimony, child support, and enforcement cases.

The American Academy of Matrimonial Lawyers (the most prestigious organization of family law attorneys in the world) has formally gone on record as saying this type of legislation should be rejected, because divorce courts should have the ability to consider *all* separate property income streams – including VA disability compensation – in determining the actual assets, income, and expenses of the parties when distributing the marital estate, and in setting spousal support and child

Senate Judiciary Committee
April 18, 2015
Page 2

support. The Academy also urges legislatures to reject any proposal, like this one, that would prevent State divorce courts from protecting their decrees and the parties in divorce cases.

The Academy formal resolution is attached as Exhibit 1.

A list of cases indicating that the language from the federal statute has nothing to do with alimony and child support and should never be used to interfere with either, is attached as Exhibit 2.

An article explaining the actual legal interplay between alimony law and 10 U.S.C. § 3501 is attached as Exhibit 3.

Many courts have explained how and why one party should never be permitted to recharacterize the other spouse's property as his own and why courts must be permitted to defend their decrees. In Nevada, the lead case is *Shelton v. Shelton*, 119 Nev. 492, 78 P.3d 507, 511 (Nev. 2003), in which the Nevada Supreme Court prevented a military member from taking back all of the payments stipulated and ordered to go to her in the divorce years earlier. It is attached as Exhibit 4.

The proposal in AB140 is both unnecessary (VA disability is already non-divisible as property upon divorce) and promotes fraud. Ultimately, of course, former spouses who are deprived of their share of retirement benefits or alimony tend to become additional welfare recipients, consigned to an old age of destitution. I have represented many such persons.

I have studied these issues, and taught courses to other lawyers on this subject, for over 20 years, and have been extremely active in protecting service members' *legitimate* rights. I was honored to be named this year's recipient of the ABA Military Pro Bono Project's "Outstanding Services Award" for my work for military members and their families. I was one of the lawyers who designed the Uniformed Services Deployed Parents' Custody Act.

But AB140 has nothing to do with legitimate rights. It is designed specifically to deny equal protection of the laws, and to seek unfair advantages in family court. The bill should be seen for what it is, and rejected.

I would be happy to supply whatever further information, background, or assistance the Committee might request.

Sincerely yours,
WILLICK LAW GROUP

Marshal S. Willick, Esq.