



# LEGAL AID FOR VETERANS

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## LEGAL AID FOR VETERANS - OVERVIEW

- Aspects to representation of veterans
- Civil legal issues facing veterans and families
- How can you help?

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## REPRESENTING VETERANS

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### POST TRAUMATIC STRESS (DISORDER)

- VA estimates 15-30% of all veterans (OIF, OEF, Gulf War, and Vietnam) experience/d PTSD
- Can begin immediately following the triggering event or years later; can come and go
- Typically diagnosed as PTSD if symptoms last longer than 4 weeks, cause great distress, or interferes with daily life
- **STRONG** correlation between PTSD and substance abuse/ "self-medication"

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### PTSD AND MILITARY SEXUAL TRAUMA ("MST")

- Nearly 1 in 4 female veterans report having been sexually assaulted or harassed in the military
- Female veterans with PTSD from MST **THREE TIMES** more likely to experience suicidal ideation than those with PTSD from other sources during deployment
- Veterans with PTSD from MST are **TWICE AS LIKELY** to develop eating disorders – even more likely in men than women
- **TWICE AS LIKELY** to experience homelessness

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### COMMON PTSD SYMPTOMS

- Reliving events – nightmares, triggers, flashbacks
- Avoiding things that could or do remind you of the event/s
- Negative feelings – distrust of others and/or society at large, avoiding people, feeling like unable to love or trust people and things once did
- Hyperarousal – reacting to loud noises, unable to focus or follow through, sleep disturbances, irritable

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**VETERAN CLIENTS WITH PTS(D) MAY...**

- Distrust court system, judge, YOU
- Be triggered by going to Court, being in public, opposing party
- Be irritable, easily agitated by adversarial process
- Be unable to self-advocate or have difficulty in doing so without losing their cool or their focus

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**TRAUMATIC BRAIN INJURY ("TBI")**

- Called the "Signature Injury" of Iraq and Afghanistan conflicts
- Post 9/11 - 11-23% of all *deployed* veterans diagnosed with TBI
- Approx. 50% of veterans with TBI also have PTS(D) - the more TBIs, the greater chance of other psychiatric conditions
- Common causes in military: Blast (33%), getting hit in the head (31%), and falls (13.5%)

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**VETERAN CLIENTS WITH TBI MORE LIKELY TO...**

- Have problems maintaining employment
- Have memory and recall issues, sleep issues, chronic headaches
- Suicidal ideation and/or attempts
- Have cognitive impairment
- Abuse alcohol/binge drink

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### VETERAN CLIENTS

- Prairie State Armed Forces Legal Assistance Project gives special consideration to clients with PTS(D), TBIs, MST in cases not otherwise typically accepted
- Establishing yourself “in their corner” is important– following through, not overpromising, making clear what can and cannot be accomplished and why
- May need to block out extra time to accommodate for their symptoms
- Sometimes best to be the voice for the veteran even in a “loser” case

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### CIVIL LEGAL ISSUES FOR VETERANS

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### VA CHALENG SURVEY

- Since 1994, CHALENG annual survey of local challenges faced by homeless Veterans- seeks to identify unmet needs and encourage partnership action to meet those needs
- Data from CHALENG assists VA in identifying need and developing new services -
  - [Homeless Veteran Dental Program](#), the expansion of the [HIJD-VASH](#) program, the [Veterans Justice Outreach](#) programs and the [Supportive Services for Veteran Families](#) program.
- Community orgs also use CHALENG data in applications for grants that assemble VA, other government and foundation dollars to address the local needs of Veterans who are homeless or at risk of homelessness.

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**ACCESS TO JUSTICE ACT 705 ILCS 95/1 ET SEQ.**

Increasing numbers of active duty service members and veterans are coming into courts without legal representation for cases involving important legal matters impacting the basics of life, such as health, safety, and shelter.

“... it is critical that [...]active duty service members and veterans [...] have better access to varying levels of legal assistance appropriate for their individual circumstances”

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Statewide hotline and coordinated network of legal support resources

Provide intake, screening, and varying levels of legal assistance

**1-855-ILAFLAN**  
**(1-855-452-3526)**

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**VETERANS, SERVICE MEMBERS, SPOUSES, DEPENDENTS**

- Financially Eligible – Up to 80% Chicago AMI
- Legal issue in Illinois –or- Illinois resident/stationed with VA issue
- Not dishonorably discharged

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**NETWORK GRANTEE PROVIDERS**

- CARPLS – RUNS STATEWIDE HOTLINE
- PRAIRIE STATE
- LAND OF LINCOLN
- PILI
- LEGAL ASSISTANCE FOUNDATION –CHICAGO
- CHICAGO VOLUNTEER LEGAL SERVICES
- CDEL
- SIU
- JOHN MARSHALL
- LOYOLA

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**CIVIL LEGAL ISSUES / VA-RELATED ISSUES**

- Most common requests for assistance – FAMILY, HOUSING, and CONSUMER LAW make up 50% of all calls to the hotline
- Discharge Upgrades
- VA disability-related appeals
- VA benefit overpayments

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**COMMON LEGAL ISSUES**

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**SCRA -50 U.S.C. §3901 ET SEQ.  
APPLIES TO SERVICE MEMBERS ON ACTIVE DUTY**

Three main areas of coverage:

- Protection from default judgments
- Stay of proceedings
- Stay or vacation of judgments, attachments, and garnishment

Interest rate caps, eviction protection, terminating leases (i.e. residential, auto, phone), child custody protection

Preserves residency in home state for service member and spouse

Servicemember can waive these protections in writing (BUT cannot sneak waiver into the terms of a contract)

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**UNIFORMED SERVICES FORMER SPOUSE PROTECTION ACT  
10 USC §1408**

Retired pay as asset & income for family support

State courts allowed to divide military retired pay as a marital asset

10/10 Rule for direct pay

Percentage vs. fixed dollar awards

Maximum award is 50% of disposable income

Taxable income

Provides for enforcement of family support orders AND subject to WH orders

Direct pay - DD2293 & cert. copy of court order to DFAS

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**10/10 RULE UNDER USFSPA**

\* Married 10 years during 10 years of "qualified service"

\* Required for direct pay of retirement apportionment

\* Not required for division of retirement as asset

\* Not required for family support enforcement

\* Cannot be waived by service member

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**VA COMP AND RELIEF AVAILABLE TO OPP. PARTY**

**FAMILY LAW:**

- VA disability IS INCOME for family support issues
- VA disability **CANNOT** be garnished by withholding- direct pay by veteran to SDU
- VA disability **CAN** be seized by HFS if sitting in a bank account
- Payee can seek an apportionment of the veteran's benefits directly from the VA, cannot impoverish the veteran

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**CASE LAW**

**Rose v. Rose 481 U.S. 619 (US 1987)**

- VA disability is income from which a state court can require payment of child support obligation

**In re Marriage of Wojcik 362 Ill. App. 3d 144 (2<sup>nd</sup> District, 2005)**

- VA disability not property to be divided but is income for family support

**In re Marriage of Pop-Clifton 355 Ill. App. 3d 478 (4<sup>th</sup> District, 2005)**

- When VA disability \$\$ deposited into bank, subject to seizure for family support obligations

**In re Marriage of McGowan 265 Ill. App. 3d 976 (1<sup>st</sup> District, 1994)**

- Military allowances are income for computing family support

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**VA COMP AND RELIEF AVAILABLE TO OPP. PARTY**

**CONSUMER LAW:**

- VA disability is **NOT** "disposable income" for a third party creditor
- VA disability in a bank account **CANNOT** be seized by a third party creditor
- Not usually considered income in a bankruptcy
- **EXCEPTION:** If the creditor is the govt

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## HOW CAN YOU HELP?

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### PRAIRIE STATE AND PILI PRO BONO CASES

#### FAMILY LAW

- Child Support
  - Modify due to unemployment, change in active duty status, seeking judgment on arrearage for repayment and DL relief
  - Defense in RTSC or modification of support where service-related issues are relevant (PTSD, TBI, substance misuse)
- Parenting Time
  - Addressing service-related issues that may or are alleged to impact relationship w/child (deployment, service-related trauma)
- DIVORCE DIVORCE DIVORCE DIVORCE

#### HOUSING LAW

- Negotiation and advocacy
- Stipulated dismissals
- Sealing file
- Early termination of lease for service-related reasons

MAY HAVE HIGHER THAN USUAL INCOME FOR PRO BONO ASSISTANCE

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### I WANT TO HELP, SO....

#### PRAIRIE STATE

- KATHY BOYLE - PRO BONO COORDINATOR
- Only LSC eligible cases, after deductions.
- 90% of referrals are for simple uncontested divorces, no kids.
- Uncontested guardianship cases, wills and POA's, uncontested adoptions, criminal record relief.
- DOES NOT MIRROR NEEDS OF VETERAN COMMUNITY
- Need volunteers willing to take on veteran cases outside these parameters

#### PILI

- ELIZABETH BOE - MNG ATTORNEY
- 312-832-5125; [choe@pili.org](mailto:choe@pili.org)
- AFLAN Eligibility - Higher Income

CALL AND SAY I WANT TO HELP VETERANS!

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