NAELA Celebrates Passage of Legislation to Aid Children with Disabilities of Military Families

2015 Defense Authorization Act allows military survivor benefit plans to designate special needs trust as beneficiary.

Washington, D.C. — Congress passed today provisions that protect children with disabilities of members of the military by allowing their parents’ survivor benefits to go into a special needs trust. The provisions were passed as part of the National Defense Authorization Act (NDAA) of 2015.

The provisions were substantively equivalent to the Disabled Military Child Protection Act sponsored by Sen. Kay Hagan (D-NC) and Rep. Jim Moran (D-VA) in their respective chambers of Congress.

“Many fought hard for these provisions on Capitol Hill, but in particular I want to mention Sen. Kirsten Gillibrand (D-NY), who championed them as Chair of the Senate Armed Services Committee’s Subcommittee on Personnel,” said NAELA President Bradley J. Frigon, CELA, CAP.

Special needs trusts make it possible for persons with disabilities to receive assistance through Medicaid, a means-tested program, to pay for the high costs of long-term care and to still afford basic expenses such as personal care items, books, and clothing. In return, states have the right to recoup the costs of its public assistance from the trust after the person with disabilities passes away.

Until these provisions become law, the military parents’ survivor benefits of children with disabilities must go directly to the children, which means they could lose their supports. But that undermines the purpose of survivor benefits: to protect loved ones in need of support after death.
NAELA, together with organizations like the Military Officers Association of America, and through coalitions like the Consortium for Citizens with Disabilities (CCD), made it a top priority this year to advocate for these provisions to be included in the 2015 NDAA. “Within NAELA, I am especially thankful for the dedication of Michael Amoruso, Esq., NAELA Public Policy Steering Committee Chair; Howard Krooks, CELA, CAP, NAELA Past President; and Brian Lindberg, NAELA Public Policy Adviser; in leading the efforts to pass this legislation,” said Frigon.

While NAELA and other advocates celebrate the passing of these provisions, more work still needs to be done to ensure persons with disabilities can live economically secure lives while having access to the long-term care they need. “With this victory, I look forward to gaining momentum to pass other important legislation, like the Special Needs Trust Fairness Act,” Frigon added.

About NAELA
Members of the National Academy of Elder Law Attorneys (NAELA) are attorneys who are experienced and trained in working with the legal problems of aging Americans and individuals of all ages with disabilities. Established in 1987, NAELA is a non-profit association that assists lawyers, bar organizations, and others. The mission of NAELA is to establish NAELA members as the premier providers of legal advocacy, guidance, and services to enhance the lives of people with special needs and people as they age. NAELA currently has members across the United States, Canada, Australia, and the United Kingdom. For more information, visit NAELA.org.

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