

**INTRODUCTION OF THE DISABLED MILITARY CHILD PROTECTION ACT,  
159 Cong Rec E 788**

June 04, 2013

**Reporter:** 159 Cong Rec E 788

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**Reference:** Vol. 159, No. 77

**Section:** Extension of Remarks

**Speaker:** Mr. MORAN

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INTRODUCTION OF THE DISABLED MILITARY CHILD PROTECTION ACT

HON. JAMES P. MORAN

of virginia

in the house of representatives

Tuesday, June 4, 2013

Mr. MORAN. Mr. Speaker, today I am introducing the Disabled Military Child Protection Act. This important bill would enable military retirees, investing in a Survivor Benefit Plan (SBP), to transfer their benefit to a Special Needs Trust (SNT) to provide long-term care for a disabled child.

Under the SBP, a military retiree can have a portion of his or her monthly retired pay withheld in order to provide, after his or her death, a monthly survivor benefit (55% of base amount of military retired pay at the time of the retiree's death) to a surviving spouse or other eligible recipient(s). However, by directing SBP annuity payments to an SNT, the retiree may ensure that a dependent, disabled child might continue to qualify for certain benefits, such as Social Security Disability Insurance (SSDI) and Medicaid, that are means tested. As you know Mr. Speaker, assets placed into an SNT are not generally counted as income or assets for the purposes of determining eligibility for these benefits. Current individual care costs for a disabled child could exceed \$100,000 a year if he/she has assets greater than the Medicaid threshold.

A SNT can be created by anyone, but there is no current mechanism for a military member to designate a Trust as the beneficiary of his/her SBP. This legislation would enable a SNT transfer similar to what is available to the general public today. This is an equity issue; currently, civilians can create a SNT for their permanently disabled children to ensure they receive care beyond their guardian's death, and are not subject to an income means-test. It is only fair to allow retired military personnel to prepare for the long-term care of their disabled children.

As of March 2011, CBO estimates that the bill would increase mandatory outlays by \$123 million over the 2012-2021 period. The mandatory cost is not directly attributed to DoD, but rather reflects the increased costs to Social Security Disability Insurance (SSDI) and Medicaid, since affected dependent children who are currently ineligible for those benefits would become eligible. This legislation would impact approximately 1,065 military dependents who are currently incapacitated beneficiaries under SBP.

This bill would help many Americans who have nobly served our country, like one of my constituents who has a son named Thomas. Thomas was diagnosed with severe autism by the age of 2 and is non-verbal, communicating primarily through hand leading to express he is hungry, wants to take a shower, or go for a car ride. He is unable to independently perform routine activities of daily living such as dressing or tending to his personal hygiene, much less make himself something to eat, ask for help, or let someone know he is in pain. Thomas requires supervision and assistance, around the clock, to ensure his safety needs are met. Other than his severe autism diagnosis, Thomas

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is healthy and expected to live a normal lifespan. Our constituent, a single parent, is nearly 38 years older than Thomas, and has been diagnosed with prostate cancer. The passage of this bill would allow him the flexibility to plan for Thomas' future care and well-being.

In the name of decency and fairness, I urge my colleagues to support this legislation and allow our *military* personnel some well-deserved peace of mind, knowing that their *disabled children* can be adequately provided for long after they are gone.

**Load-Date:** June 5, 2013

CONGRESSIONAL RECORD -- EXTENSIONS

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**THE DISABLED MILITARY CHILD PROTECTION ACT OF 2012, 158 Cong Rec  
E 506**

March 29, 2012

**Reporter:** 158 Cong Rec E 506

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**Reference:** Vol. 158, No. 52

**Section:** Extension of Remarks

**Speaker:** Mr. MORAN

Text [*506]
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**HON. JAMES P. MORAN**

**of virginia**

**in the house of representatives**

**Thursday, March 29, 2012**

Mr. MORAN. Mr. Speaker, I rise today to introduce the *Disabled Military Child* Protection Act of 2012. To put it simply, this bill will permit *military* retirees the ability to place their self funded Survivor Benefit Plan into a Special Needs Trust to ensure their surviving dependent *child*'s future.

This is an equity and fairness issue. Civilians are allowed to create a Special Needs Trust for their permanently *disabled children* to ensure they receive care beyond the guardian's death but under current law, *military* personnel with severely *disabled children* are legally prohibited from establishing a Special [\*507] Needs Trust to ensure their surviving dependent *child*'s future care.

This bill will provide veterans with the ability to direct their Survivor Benefit Plan annuity payments to a Special Needs Trust. The creation of an SNT will ensure that a dependent, *disabled child* will continue to qualify for means-tested benefits, such as Social Security Disability Insurance and Medicaid. Assets placed into a Special Needs Trust are not generally counted as income or assets, allowing dependent *children* to remain eligible for these benefits throughout their lifetime.

This bill would impact approximately 1,065 *military* dependents who are incapacitated beneficiaries under Survivor Benefit Plan and with individual care costs for a *disabled child* exceeding \$100,000 a year, this additional benefit will increase their quality of life significantly.

For those who believe this bill may contribute to abuse, it must be noted that a Special Needs Trust is administered under both federal and state law. Appointed fiduciaries are subject to auditing and are responsible for managing a benefit for a specific group. Annuities are also placed in Special Needs Trusts that are subject to income tax. Therefore, beneficiaries are shielded from abuse considering each trust has significant oversight.

Finally, I am proud that this bill has 4 esteemed public servants as original co-sponsors: Congressmen Capps, Polis, Rangel, and Rothman. This bill is also supported by the *Military* Officers Association of America.

**Load-Date:** March 30, 2012

Alaina Clifton

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