



STATEMENT FOR THE RECORD

**TRAGEDY ASSISTANCE PROGRAM FOR SURVIVORS (TAPS)
BEFORE THE
COMMITTEE ON VETERANS AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES**

October 22, 2019

The Tragedy Assistance Program for Survivors (TAPS) is the national nonprofit organization providing compassionate care for the families of America's fallen military heroes. TAPS provides peer-based emotional support, grief and trauma resources, grief seminars and retreats for adults; Good Grief Camps for children; and casework assistance, connections to community-based care, online and in-person support groups, and a 24/7 resource and information helpline for all who have been affected by a death in the Armed Forces. Services are provided free of charge.

TAPS was founded in 1994 by Bonnie Carroll following the death of her husband in a military plane crash in Alaska in 1992. Since then, TAPS has offered comfort and care to more than 90,000 bereaved surviving family members. For more information, please visit TAPS.org.

TAPS receives no government grants or funding.

Chairman Luria, Ranking Member Bost, and distinguished members of the House Veterans Affairs Committee, the Tragedy Assistance Program for Survivors (TAPS) thanks you for the opportunity to make you aware of issues and concerns of importance to the families we serve, the families of the fallen.

While the mission of TAPS is to offer comfort and support for surviving families, we are also committed to improving support provided by the Federal government through the Department of Defense (DoD), the Department of Veterans Affairs (VA), Department of Education (DoED), Department of Labor, state governments, government contractors, and local communities for the families of military deceased - those who fall in combat, those who fall from invisible wounds, and those who die from accidents or illness.

TAPS was honored to enter into a new and expanded Memorandum of Agreement with the Department of Veterans Affairs in 2017. This agreement formalizes what has been a long-standing, informal working relationship between TAPS and the VA. The services provided by TAPS and VA are complementary, and in this public-private partnership each will continue to provide extraordinary services through closer collaboration.

Under this agreement, TAPS continues to work with surviving families to identify resources available to them both within the VA and through private sources. TAPS will also collaborate with the VA in the areas of education, burial, benefits and entitlements, grief counseling and other areas of interest.

H.R 1911- SFC Brian Woods Gold Star & Military Spouses Act

One of the top 3 legislative priorities for TAPS in 2019 is allowing surviving military spouses to remarry and retain benefits. TAPS greatly appreciates Representative Michael Waltz (FL-R), Representative Seth Moulton (MA-D), and Representative Don Bacon (NE-R) for introducing the *SFC Brian Woods Gold Star & Military Spouses Act*, which addresses some of the issues related to remarriage. In addition, TAPS would like to highlight other issues related to remarriage that have not been brought up before the committee.

Many surviving military spouses opt not to remarry after the death of their service member because the loss of financial benefits would have a negative impact on them, especially those with children. Many choose to cohabitate instead of legally remarrying to retain their benefits. If a surviving spouse waits until age 57 to remarry, not only do they retain benefits but they are no longer offset. In 2013 the United Kingdom eliminated the remarriage penalty for surviving spouses.

Remarried Surviving Military Spouses

Surviving military spouses who choose to remarry lose virtually everything afforded to them by the service and ultimate sacrifice of their service member spouse, this includes their healthcare, DIC, SBP, education benefits, military ID cards, etc. While they choose to remarry for a second chance at love, surviving military spouses should not have to pay this penalty. They would much rather have their spouse back.

The average age of a surviving spouse is 25 years old. They should not have to wait 32 years to get remarried, if they choose to, in order not to lose the benefits their spouse earned in service to their country.

Here are just some of the testimonials TAPS has received from surviving military spouses who have chosen to remarry, and what it would mean to them to have these benefits restored:

"I was 22 years old when my husband, 1LT Jonathan Rozier, was killed in a firefight in Baghdad. I was always afraid of remarriage because I never wanted to lose the ability to care and provide for myself or my child - these are things that America gave us when Jonathan died. I decided to remarry when I was 11 years out from my first husband's death. It was a hard and terrifying decision to sign away the healthcare, the education benefits and the monetary compensation. I never understood why the price of my husband's life changed because I remarried. Widows should retain their VA benefits regardless of remarriage because the life exchanged for those benefits does not change when or if a widow decides to remarry."

"The military spouse gives up their lives to spend by their husband's side. Their career is often put on hold to move and be there for the kids during training and deployments. When tragedy strikes the benefits are what we rely on to make up for the years of career we lost. We shouldn't be penalized for moving forward with our lives, years later. I chose to live my life as my late husband asked me to do. I shouldn't be penalized financially because I chose to live and love."

"If we were civilians and entitled to a benefit from our spouses' work we would not forfeit those benefits if we remarried yet we lose everything. Many of us have lost our loved ones in our mid 20's and they are asking us to stay widowed for the rest of our lives. That is unfair and unrealistic. Several of us will not remarry out of fear of losing, so we lose out on the legal benefits of our new relationship based on the fear of losing the benefits of our deceased loved one."

Surviving Military Spouses Who Remarry After Age 57

If a surviving military spouse waits until age 57 to remarry, not only do they retain their survivor benefits they are exempt from the Survivor Benefit Plan (SBP) – Dependency and Indemnity Compensation (DIC) offset. Current federal law requires a \$1 reduction in SBP annuity for each \$1 received in DIC.

On December 16, 2003, the *Veterans' Benefits Act of 2003*, P.L. 108-183, repealed the DIC offset for widows/widowers who remarry after the age of 57. On July 19, 2007, three widows sued the U.S. government, arguing that the Act applies equally to the DIC offset of SBP. On August 26, 2009, in *Sharp versus the United States*, the United States Court of Appeals for the Federal Circuit ruled that widows/widowers who remarry after age 57 must receive full SBP and DIC payments without an offset.

The ruling created two distinct classes of widows/widowers affected by the SBP-DIC offset, those who remarry after age 57 and those who do not. If a surviving spouse does not remarry after age 57 their SBP continues to be offset.

Unremarried Surviving Military Spouses

Many military surviving spouses have long term relationships but choose not to legally remarry because they financially cannot afford to due to the remarriage penalty. They may have 20 year engagements, have children with their new significant others, some even have commitment ceremonies but being legally married is not something they can do as the benefits do not outweigh the consequences.

We know that military spouses are the most unemployed or underemployed population due to frequent moves and everything that comes with the military lifestyle. This does not change because they become widowed. Adding to this reality are additional layers of grief, helping children grieve, and becoming the only parent in many cases. It makes it significantly harder for a spouse who was already unemployed to then go back to work.

Many military spouses are unable to fully vest in their own retirement and were banking on the retirement of their spouse as a joint venture. They struggle with wanting to find a new normal and a second chance at love and making the best financial decisions for them and their families. In addition, choosing not to remarry has other negative impacts on their family as they can be viewed as “living in sin” by family and churches. Because the VA can take away benefits from surviving military spouses for “holding themselves out to be married” all of the stories we are sharing here will be unattributed:

“Not being able to remarry without losing everything has left me with hard choices that have broken my heart. My fiancé’s family has disowned us for “living in sin”— this includes my fiancé’s 3 adult daughters. For practical reasons, I can’t remarry. I have too much to lose. However, it is a punch in the stomach that the reason for this is the government has decided my sacrifice — the loss of my husband — no longer matters if I remarry. The 19 years and 9 months he served, the overseas moves, the constant disruptions to our family, the delay of any education or career pursuits for myself, the absence of sound mental health help for my husband, all become meaningless to the government if I remarry. My husband’s sacrifice would become forgotten just as I would be. On principle, I can’t live with that. But, that principle (and my practical needs) costs me dearly in the relationship with my fiancé’s family. I’m surprised he even chooses to stay with me sometimes. It is a lot to ask of him.”

“Disallowing spouses to maintain the benefits earned during their marriage supports the archaic notion that a woman will/should be supported by the next man. It ignores the fact that they knowingly contributed to the success of the family they intended to keep, and forces them into a position where they must stay alone, or rely on someone else to commit to the burden of support that their husband fulfilled. Removing benefits with remarriage signifies that their previous contribution was worthless. The benefits we received were earned through commitment to the military. Our contribution should not be regarded as less based on relationship status.”

“At the time of my husband’s death, we had been married for 18 years, all served on active duty. His military career was all I’d ever known and our family’s only financial future. Multiple deployments and overseas moves greatly limited my ability to work. When he died, I found myself raising 3 kids alone without the means to financially support them myself. Giving up his benefits for a choice of remarriage is not something I feel that I could ever do. Not only did he serve for those benefits, I served alongside him too. His benefits are also my benefits and the only retirement plan that I have.”

TAPS strongly supports ending the remarriage penalty for all surviving spouses. We would also like to address our views on ending the “Hold yourself out to be married” clause, electronic medical record access for surviving military spouses, and adding education benefits to the bill.

Hold Yourself Out to be Married

A top priority for TAPS and The Military Coalition (TMC) survivor committee is the removal of the “hold yourself out to be married” clause within the definition of surviving spouse and the removal of the term “opposite sex” in Title 38 U.S. Code, section 101, paragraph 3.

According to 38 U.S. Code § 101 Paragraph 3:

(3) The term “surviving spouse” means (except for purposes of chapter 19 of this title) a person of the **opposite sex** who was the spouse of a veteran at the time of the veteran’s death, and who lived with the veteran continuously from the date of marriage to the date of the veteran’s death (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the spouse) and who has not remarried or (in cases not involving remarriage) has not since the death of the veteran, **and after September 19, 1962, lived with another person and held himself or herself out openly to the public to be the spouse of such other person.**

We believe this language unduly penalizes surviving military spouses and may cause them to lose their survivor benefits. Many military widows/widowers choose not to remarry to protect their survivor benefits. Instead, some choose to live together with their boyfriend or girlfriend without marriage but still live in fear of losing their benefits.

TAPS has collected stories from surviving military spouses that helps illustrate this issue. Here are just a few of their personal testimonials:

“I have been engaged to my boyfriend since June 2011. We have not married due to the penalty nor do we live in the same household because I am in fear of common law marriage if we lived together. We have been together for 14 years. He has been very supportive in my decision to not remarry. I made this decision so that I do not have to work full time and have more time to spend with my daughter. Being so young it has been difficult over the past 15 years. I am now 35 years old, still unmarried and with no other children.”

“I was widowed when I was 24. The single most pervasive issue I have faced besides losing my husband, has been the knowledge that I will not be able to remarry without losing eligibility for my health insurance/access to crucial mental health services that I have relied on at places such as Home Base and the Vet Center in Boston. After my husband’s death, I chose to return home to live near my family in the North Shore of Massachusetts. This is not an easily affordable

place to live, and even with a bachelor's degree and a 9-5 job, I depend very heavily on my monthly DIC allotment to help me survive. I do not have an extravagant lifestyle; I do not own a car, I have a condo, and I am in love with a man I cannot afford to marry, because despite how hard he works, his income would not cover the losses that marriage would bring to my life. As I approach my mid 30's, I feel that my relationship is valued less by others in our community because we are not married. It feels infantilizing to always have to refer to my 33-year-old partner, as a 'boyfriend' because to call him anything else threatens my ability to live comfortably and independently near my family and my husband's resting place."

"I won't remarry because it affects what I can provide for my children but it's greatly awkward to have to tell people the man I have 3 children and one more on the way that he is just a boyfriend. I think he also feels a little less important without the 'husband' title and some part of me yearns to be a wife again, but this penalty would hurt financially. I think it also affected me when I started dating. Having to make it clear I would not be able to remarry probably discouraged some type of men. As a woman, being married isn't everything but it's sure a part of a feeling of being whole again."

"I have been a widow for 10 years this coming Christmas Day. I have been in a relationship with my boyfriend for 6 years now. Though he has asked, I've asked him to 'postpone' his proposal as I do not want to risk losing my VA Benefits. It's unfortunate that I have to choose money over love, but it is being stuck between a rock and a hard place as the VA benefits are my source of income and healthcare. And though he would be able to provide for me, I have 3 children that I still provide for so it would not be fair to him to have to compensate if I lost my benefits. Therefore, we choose not to marry at this time. Do I think it's fair? No. My husband fought and died for, well, a lot. And to make sure his family was secured in the event of his death brought him comfort on his deployments. He was taken from me. I didn't leave him. I don't think it's fair that I would lose everything my husband fought and died for simply because I want to move forward with my life. Those benefits are owed to me. And though I'm not the type of person to feel entitled to anything, the truth is I am. My husband died under the U.S. Government's watch."

"At the time of my husband's death, we had been married for 18 years, all served on active duty. His military career was all I'd ever known and our families only financial future. Multiple deployments and overseas moves greatly limited my ability to work. When he died, I found myself raising 3 kids alone without the

means to financially support them myself. Giving up his benefits for a choice of remarriage is not something I feel that I could ever do. Not only did he serve for those benefits, I served alongside him too. His benefits are also my benefits and the only retirement plan that I have.”

“I’m engaged with a plan to get married next year. My fiancé is nervous to even set a date because he feels guilty of me losing my benefits. My son has no security legally without Chris and I being married. I have made my will so that Chris will become his legal guardian if something happens to me. It’s scary living in a way where there’s no foundation, because we’re not able to build one with the way our benefits are set up. It feels like we’re ‘playing house’.”

Access to Children’s Medical Records

In addition to losing financial benefits, ID cards and TRICARE for themselves, surviving military spouses lose access to electronic medical records and referrals for their children. The referrals have to be physically mailed as opposed to being able to immediately access it. In addition, they no longer have access to the electronic records. Minor children do not have their own accounts, its under their parents’ account. If the parent is no longer in the system under TRICARE the remaining parent cannot access them.

The story of Kaanan Mackey-Fugler is representative of so many surviving military spouses who have remarried and been hit with the penalties to their children. Had she known that her daughter was going to be diagnosed with T1 diabetes and almost die, and she could not access any of her medical records, she may have waited to legally remarry (her words). Here is her story:

“June of 2018, my then 9-year-old daughter was admitted to ICU in DKA and diagnosed with T1 diabetes. While at the hospital I learned that Tricare would not speak to me. Why? Because as their only living parent I needed to sign a new HIPPA form as their guardian to allow me to talk to someone. That was only the beginning of what I would encounter since that day! My status as their only living parent did not change only my marital status. Let that sink in; while my child is in critical condition in ICU I had to fill out a new HIPPA form just to have someone that would speak to me!”

“The next was trying to change her PCM from one that had left her in a room for 4 hours and doing no tests on her that could have prevented my daughter from almost dying. After trying to log on to the website to change her PCM, I

discovered I no longer had access to her "privilege" information to be able to access, change, or even view referrals. I called DMDC and was told that I'm no longer privileged to that information on my minor children. I would have to call, make a request, and wait for the mail referrals. Once I finally got someone to help me transfer PCM, I learned that I could only get the referrals for my children sent to my mail. Why? Because I was no longer granted access to any of their electronic files through DMDC."

"After numerous referrals had to go through for nutrition, dietitian, and an endocrinologist and I had to wait for it to come in the mail to schedule these things (all of which are specialties and are backlogged normally) it further put my child behind on adequate healthcare. Because I was punished by DoD for getting remarried and giving up my benefits. I was unable to access their Survivor Benefit Plan online, their MyBenefit portal is no longer something I can access. If my child needs anything medically I have to hope I can get someone on the phone after a long wait time hoping they don't disconnect in the middle of the call and then I have to wait for a mailed out form to say whether it's granted or not. If they need proof of anything, I CAN NOT provide them with copies. I can't even get them a copy showing they have dental insurance because I have no access."

"I truly just want electronic access to her referrals so I can set up appointments for specialty doctors and equipment like her insulin pump and continuous glucose monitor (both of which took over a month to get a paper copy to send and get these lifesaving things ordered even though the referral was approved in days.) Further, to be able to access my children's MyBenefit and to be able to access their survivor benefit plan through DMDC are all things that my children should have access to as it's their benefits and as minors they can't access for themselves. That should not be too much to ask as I am their ONLY living parent. It shouldn't matter if I'm remarried or not, I am still the ONLY living parent that these children have left."

Maintaining Education Benefits After Remarriage

One of the things TAPS would like to see added to the bill is the inclusion of allowing surviving military spouses to maintain education benefits after remarriage. As many studies have shown, the GI Bill is an investment in the future for both the student and the economy. It's why we have done so much to strengthen it over the past 10 years. Remarried spouses are no different. They would like the opportunity to use those benefits to pursue a degree and career. Many may not have had the opportunity to

pursue them while being a military spouse, and if they are losing all other benefits due to remarriage, they will need the ability to financially help their family.

“At the time of my remarriage, I had just finished my bachelors degree and wasn't sure what to do. I had a child who required multiple doctors and therapy appointments, making going to school hard and graduate school impossible. I still had time to use my benefits, which had made it possible for me to return to school as a single parent. After graduation, I was given the opportunity to serve my community as a police officer. My plan had always been to go back to school, as I am now a Ph.D. candidate, and had saved a portion of my education benefits for that purpose but at the time, I had to make a choice. I could stay widowed and risk state intervention if I died on duty or I could remarry to protect my son and lose my benefits. I chose my son. As a result, the benefits that would have helped me get my masters and doctorate disappeared, and I have had to pay for it myself. The assistantship I have barely covers rent and bills, much less anything extra my son may need.”

TAPS knows that ending the remarriage penalty as a whole will be a difficult and expensive bill to get done. We believe doing a smaller bill that handles education benefits, holding yourself out to be married, and the medical records would be a good foot in the door to start building support for eventually ending the remarriage penalty, and would have a huge impact on many surviving military families. However, we still hope to see pieces of the remarriage penalty eliminated this year and support built for eventually doing away with it completely, just like our friends in the UK.

TAPS thanks the committee for starting the conversation on this important legislation and thanks Representatives Waltz, Moulton and Bacon for introducing a bill that addresses the remarriage penalty. We greatly appreciate your thoughtful consideration of the needs of our nation's veterans and surviving families.

It is the responsibility of the nation to provide for the support of the loved ones of those who have paid the highest price for freedom. Thank you for allowing us to speak on their behalf.