

## ASSISTING VETERANS WITH CHILD SUPPORT ORDERS

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## WHO ARE OUR VETERANS?

- ~ 5% of Obligor in IV-D Caseload Nationwide are Veterans
- **Demographics of veteran population\***
  - 80% are white; increase in minority veterans with highest percent from African American population (10.1%)
  - Majority live in the South, followed by Midwest, West and Northeast.
    - Six states have more than one million veterans
      - California leads with 3.3 million
- **Veterans With Children (DOD Demographics)**
  - 60% of the 23 million veterans are parents
  - 50% of the OIF/OEF veterans are parents



\*Bench Mark Institute: Guide to Veterans Legal Issues

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## VETERAN-SPECIFIC SERVICES

- While veterans do not make up a large percentage of the IV-D caseload, outreach efforts that take into consideration their veteran status have shown considerable success.
- Tailored services can help develop trust
- **Need for education:**
  - Ability to modify and create payment plans
  - Understanding the neutral role of child support workers
  - Treatment of VA Benefits

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## The Need: CHALENG Report

Community Homelessness Assessment: Local Education and Housing Groups  
Top Ten Highest Unmet Needs Identified by Consumers FY 2008-2010

2008	2009	2010
Welfare payments	Welfare payments	Welfare payments
Child Care	Legal assistance for child support issues	Child Care
Legal assistance for child support issues	Long-term permanent housing	Legal assistance for child support issues
Guardianship (financial)	Child Care	Family reconciliation assistance
Family Reconciliation assistance	SSI/SSDI process	Guardianship (financial)
Long-term permanent housing	Legal assistance for outstanding warrants/fines	Legal assistance for outstanding warrants/fines
SSI/SSDI process	Guardianship (financial)	SSI/SSDI process
Legal assistance for outstanding warrants/fines	Family reconciliation assistance	Credit Counseling
Credit Counseling	Job training	Job training
Re-entry services for incarcerated veterans	VA disability/pension	Legal assistance to help restore driver's license

As Identified by VA and community providers (2010):

1. Child care
2. Legal assistance for child support issues
3. Legal assistance for outstanding warrants/fines
4. Family reconciliation assistance
5. Legal assistance to help restore a driver's license
6. Credit counseling
7. Long-term, permanent housing
8. Dental care
9. Help managing money
10. Guardianship (financial)

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## CHALENG REPORT (FY 2011)

1	Financial assistance to prevent eviction/foreclosure
2	Housing for registered sex offenders
3	Legal assistance to prevent eviction/foreclosure
4	Child care
5	Welfare payments
6	Legal assistance for child support issues
7	Goods (furniture, house wares) for new apartment
8	Move-in assistance (rent and utility security deposits)
9	Family reconciliation assistance
10	Legal assistance for outstanding warrants/fines

### What Changed?

- Emergence of eviction/foreclosure issues and housing for registered sex offenders
- Increased financial assistance needs
- Decreased legal services needs

2015 CHALENG survey now open at [www.va.gov/homeless/challeng](http://www.va.gov/homeless/challeng)

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## ABA/VA/HHS CHILD SUPPORT INITIATIVE FOR HOMELESS VETERANS

"Overall, family and legal concerns rank as the four highest ranked unmet needs, ahead of permanent, transitional, and emergency housing"

CHALENG report 2010

- 2010 VA goal to end veterans homelessness in 5 years
- Responding to CHALENG report data
- 10 pilot sites building service models to respond to local needs: Atlanta, Baltimore, Boston, Chicago, Los Angeles, Minneapolis, New Jersey, San Diego, Seattle, Washington, D.C.
- Projects range from pro bono to staff models
- National support from ABA Commission on Homelessness and Poverty, VA, and OCSE to coordinate efforts, training, and resources
- Successful models being shared at national conferences and replicated in other cities.

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## OUTCOMES OF PILOT PROJECT

- Increased resources available through OCSE website to address child support needs of homeless veterans
- Network of points of contact within state/county child support offices to discuss interstate cases with advocates and child support workers
- Child Support Initiative Summit (Nov 2014) at the ABA offices in Washington DC to share best practices and support ongoing projects to address child support needs of homeless and at-risk veterans
- Progress towards creating a national network of pro bono attorneys and advocates to help veterans address child support issues.

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## Resources Developed by OCSE

- For individuals and families
- For advocates and attorneys
- For child support professionals




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Assistance to child support agencies

- Reference Guide on Working with the Military as an Employer
- Trainer's Guide to Working with the Military on Child Support Matters
- State Child Support Agencies with Debt Compromise Policies (Mar. 2012), at <http://www.acf.hhs.gov/programs/css/resource/state-child-support-agencies-with-debt-compromise-policies>
- Toolkit on Assisting and Engaging Homeless and At-Risk Veterans (under review)
- Office of Child Support Enforcement, Changing a Child Support Order (2014), at [https://www.acf.hhs.gov/sites/default/files/programs/css/changing\\_a\\_child\\_support\\_order.pdf](https://www.acf.hhs.gov/sites/default/files/programs/css/changing_a_child_support_order.pdf)

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**CHILD SUPPORT INITIATIVE SUMMIT**

November 20-21, 2014 – ABA Washington, D.C. Offices

Program materials available at:  
[http://www.americanbar.org/groups/public\\_services/homelessness\\_poverty/events\\_cile/2014vcsisummit.html](http://www.americanbar.org/groups/public_services/homelessness_poverty/events_cile/2014vcsisummit.html)



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**THE MINNESOTA PILOT PROJECT**

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## MINNESOTA PILOT MODEL



### Outreach

- Referrals through VA Homeless Program
  - HUD/VASH case managers
  - Veteran Justice Outreach workers
  - Medical staff
- Veteran Service Organizations
- Legal Clinics
- StandDown Events

### Services

- Child Support Review
- Compliance Plans
- Modification Assistance
  - Representation
  - Pro Se Assistance
  - Interstate Case Assistance

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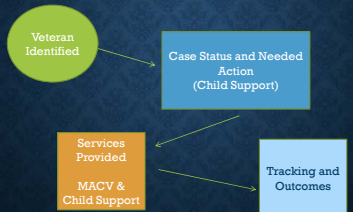
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## MINNESOTA REFERRAL PROCESS



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## MINNESOTA ASSISTANCE COUNCIL FOR VETERANS (MACV)



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## MACV HISTORY & SERVICES



MINNESOTA ASSISTANCE COUNCIL FOR VETERANS  
**MACV**  
SERVING VETERANS THROUGHOUT MINNESOTA

Statewide 501c3  
nonprofit  
established in 1990



A diagram consisting of a large teal triangle divided into four smaller triangles. The top triangle is labeled "Housing Assistance". The bottom-left triangle is labeled "Employment Assistance". The bottom-right triangle is labeled "Legal Assistance". The central inverted triangle is labeled "Case Management".

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## VETLAW SERVICES

- Brief advice and referrals
- Interstate referrals
- Legal clinics
- StandDown events
- Full representation
- Full representation partnerships with legal services offices
- Full representation with pro bono programs at law firms and in-house counsel
- William Mitchell Saturday forms clinic




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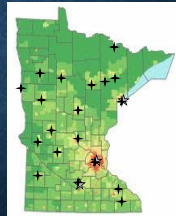
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## MACV LEGAL CLINICS

- Serves all 87 counties
- Served 1374 veterans in 2014
- 28 clinics scheduled for 2015
- Legal Clinics
  - Varied legal issues
  - Walk-ins accepted
  - Paralegals, legal secretaries, and law students used to leverage attorney time
  - Child support on-site




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## HOW CAN WE HELP YOU?

- Build trust with veterans unwilling to engage with child support
- Help educate veterans on importance of compliance with child support
- Act as advocate for veterans
- Identify veterans in the community with child support cases needing resolution

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## VETERAN-SPECIFIC CHILD SUPPORT ISSUES



- Treatment of VA Benefits
  - Service-Connected Disability Benefits
  - Education Benefits
  - VA Pension
  - Dependent Benefits
- Apportionment Process
  - Apportionment Procedure
  - Categorization of Apportionment Payments
  - Reporting to Child Support

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## CHILD SUPPORT TREATMENT OF VA BENEFITS

### Used in calculating child support

A parent's gross monthly income includes any form of periodic payment including wages, commissions, workers' compensation benefits, unemployment benefits, military payments, pensions, disability benefits, self-employment income, and Social Security benefits for the parent and for the child if based on the parent's eligibility. Gross income is calculated before any deductions for taxes, employment benefits, or retirement plans. Gross income does not include child support received, public assistance received, or the parent's current spouse's income. Court-ordered spousal maintenance obligations are deducted from monthly gross income.

• Minn. Stat. § 91BA.29

### Child support collection

- VA benefits, in general, cannot be directly garnished by court order or child support enforcement. 42 U.S.C. 659(h)(1)

Exception: If veteran has waived a portion of military retirement pay in order to receive service-connected disability the amount waived is available for garnishment from the disability pay. 42 U.S.C. 659(a)(1)(a)(v)

- Spouse, former spouse, or custodian of dependent child(ren) may request garnishment through the apportionment process. 38 C.F.R. §§ 3.450 - 3.458

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## CHILD SUPPORT TREATMENT OF VA BENEFITS: SPECIAL CONSIDERATIONS

- Treatment of Education Benefits
  - Portion of education benefit paid directly to veteran are treated as income for child support purposes
  - Payments often fluctuate based on enrollment; important for veteran to provide child support with average amount received over a given year.
- Dependent Benefits
  - Included in calculation of income for child support purposes
  - Payable to veteran but can be assigned to dependent(s)
- Compensated Work Therapy
  - Payments made under CWT programs are considered part of health benefits
  - Not classified as employment relationship or wage payments

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### WHEN APPORTIONMENT IS ALLOWABLE

#### § 3.450 General

(a)(1) All or any part of the pension, compensation, or emergency officers' retirement pay payable on account of any veteran may be apportioned.

(i) On behalf of his or her spouse, children, or dependent parents if the veteran is incompetent and is being furnished hospital treatment, institutional, or domiciliary care by the United States, or any political subdivision thereof.

(ii) If the veteran is not residing with his or her spouse, or if the veteran's children are not residing with the veteran and the veteran is not reasonably discharging his or her responsibility for the spouse's or children's support.

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#### § 3.458 Veteran's benefits not apportionable. Veteran's benefits will not be apportioned:

(a) Where the total benefit payable to the disabled person does not permit payment of a reasonable amount to any apportionee.

(b) Where the spouse of the disabled person has been found guilty of conjugal infidelity by a court having proper jurisdiction.

(c) For purported or legal spouse of the veteran if it has been determined that he or she has lived with another person and held herself or himself out openly to the public to be the spouse of such other person, except where such relationship was entered into in good faith with a reasonable basis (for example trickery on the part of the veteran) for the spouse believing that the marriage to the veteran was legally terminated. No apportionment to the spouse will thereafter be made unless there has been a reconciliation and later estrangement.

(d) Where the child of the disabled person has been legally adopted by another person, except the additional compensation payable for the child.

(e) Where a child enters the active military, air, or naval service, any additional amount will be paid to the veteran unless such child is included in an existing apportionment to an estranged spouse. No adjustment in the apportioned award will be made based on the child's entry into service.

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### APPORTIONMENT PROCEDURE

Governed by 38 C.F.R. §§ 3.450 - 3.458

1. Person requesting apportionment requests an apportionment review from the VA Regional Office that services the veteran's benefits.
2. Requesting party submits VA Form 21-4138, the "Statement in Support of Claim".
3. The VA Regional Office notifies the veteran of the apportionment request.
4. The veteran has 60 days to provide the VA with information and documentation challenging the apportionment.
5. The VA may freeze a portion or the entire amount of benefits requested in the apportionment request during the investigation to prevent a future overpayment if the apportionment request is approved.

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### APPORTIONMENT CHALLENGES

- Apportionment statutes do not directly refer to compliance with a court-ordered child support payment as proof that the veteran is meeting his or her responsibility to support a spouse or child(ren).
- Amounts apportioned are not reported to Child Support Enforcement by the VA.
- Frozen benefits are not released to either party; depending on the length of time it takes to make a decision on the apportionment, both parties can experience financial hardship during this period. The veteran could potentially be found non-compliant with child support obligation by Child Support Enforcement if they are unable to make full payments due to a portion of his or her benefits being frozen.

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### INTERSTATE CHILD SUPPORT CASES

- Create significant barriers to accessing legal services
  - MN attorneys can only give advice on MN law
  - Many legal services programs have geographic service areas
- How can a veteran address his/her case without traveling to another state?
  - Contact child support office in the jurisdiction directly to request information
  - Request a review or reconsideration of the case
  - Some jurisdictions allow appearance by telephone
- What can be done without giving legal advice?
  - Information and/or forms may be found online
  - Request court documents and payment history if veteran does not have copies
  - Help advocate for veteran with child support and/or attorneys

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### QUESTIONS?

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