The Price Some Reservists Have To Pay

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Most of the reservists called up to serve in the Iraq war have paid a big price: a significant reduction of their wages as they transferred from civilian to military jobs, separation from their loved ones, and of course the risk of battle wounds or death. Regrettably, on their return home, those who are divorced fathers could face another grievous penalty: loss of their children, financial ruin, prosecution as "deadbeat dads," and even jail.

Reservists' child-support orders were based on their civilian wages, and when they are called up to active duty, that burden doesn't decrease. Few can get court modification before they leave, modifications are seldom granted anyway, and even if a father applied for modification before deployment the debt continues to grow until the case is decided much later.

These servicemen fathers cannot get relief when they return because federal law forbids a court to reduce the debt retroactively. Once the arrearage reaches $5,000, the father becomes a felon subject to imprisonment plus the loss of his driver's and professional licenses and passport.

Likewise, there is no forgiving of the interest and penalties on the child-support debt even though it is sometimes incurred because of human or computer errors. States have a financial incentive to refuse to reduce obligations because the federal government rewards the states with cash for the "deadbeat dad" dollars they collect.

Laws granting deployed service personnel protection against legal actions at home date back decades, but they are ignored in the family courts. Child kidnapping laws do not protect military personnel on active duty from their ex-wives relocating their children.

This injustice to our reservists serving in Iraq should be remedied by Congress and state legislatures before more fathers meet the fate of Bobby Sherrill, a father of two from North Carolina, who worked for Lockheed in Kuwait before being captured and held hostage by Iraq for five terrible months. The night he returned from the Persian Gulf he was arrested for failing to pay $1,425 in child support while he was a captive.

Just last week, a Wilkes Barre, PA judge sentenced 28 to jail for failure to pay small amounts of child support, one as little as $322. One of the most common punishments for falling behind in family-court-ordered payments is to take away a father's driver's license, costing him his job, then demand that he make his child-support payments anyway, and throw him in jail when that proves impossible.

Politicians today are engaged in a spirited debate about giving driver's licenses to illegal aliens so they can get to work. But somehow the law has already decided that a divorced father, who may have fallen behind in child-support payments, should be punished by having his driver's license taken away.

The New York Times just exposed the ridiculous case of truck driver Donald Gardner who was left penniless after a 1997 car accident cost him three years of hospitalization. When he tried to return to work, he found that the state had taken away his driver's license because he owed $119,846 in child support.

The Times reported that, as of 2003, fathers allegedly owed $96 billion in child-support. However, 70 percent is owed by men who earn less than $10,000 a year or have no wage earnings at all, so we have a $3 billion government bureaucracy working to get blood out of a turnip.

The most bizarre part of the system is that child-support payments are not required to be spent on the children and are not based on any estimates of their needs or expenses. The support orders come from court-created formulas based on the income of the father, while the mother is allowed to treat the payments like any other entitlement such as welfare or alimony.

Although there are no official statistics, estimates are that more than 100,000 fathers are jailed each year for missing their child-support payments. Another perverse feature of the current system is that child-support payments have nothing to do with whether the father is allowed to see his children and there is no enforcement of his visitation rights.

Debtors' prisons were common in colonial times, but they were abolished by the new United States government, one of the great improvements we made on English law. Then we adopted bankruptcy laws to allow people a fresh start when they are overwhelmed by debt, but child-support debts are not permitted to be discharged in bankruptcy.

The federal Bradley Amendment, named for the liberal Senator Bill Bradley, takes us back to the cruel days of debtors' prisons. It requires that a child-support debt cannot be retroactively reduced or forgiven, and the states enforce this law no matter what the change in a father's income, no matter if he is sent to war or locked up in prison, no matter if he is unemployed or hospitalized or even dead, no matter if DNA proves the guy is not the father, and no matter if he is never allowed to see his children.

Charles Dickens famously said, "The law is an ass."