

**COMMITTEE AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB528 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by  
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Sue Tibbs

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 528

By: Russell of the Senate

and

Banz of the House

7  
8  
9 PROPOSED COMMITTEE SUBSTITUTE

10 [ division of marital property - Military Retainer  
11 Pay Protection Act - classification of certain pay  
12 - noncodification - effective date ]  
13  
14  
15

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. NEW LAW A new section of law not to be  
18 codified in the Oklahoma Statutes reads as follows:

19 This act shall be known as the "Military Retainer Pay Protection  
20 Act".

21 SECTION 2. AMENDATORY 43 O.S. 2001, Section 134, as  
22 amended by Section 11, Chapter 407, O.S.L. 2008 (43 O.S. Supp. 2010,  
23 Section 134), is amended to read as follows:  
24

1       Section 134. A. In any divorce decree which provides for  
2 periodic alimony payments, the court shall plainly state, at the  
3 time of entering the original decree, the dollar amount of all or a  
4 portion of each payment which is designated as support and the  
5 dollar amount of all or a portion of the payment which is a payment  
6 pertaining to a division of property. The court shall specify in  
7 the decree that the payments pertaining to a division of property  
8 shall continue until completed. Payments pertaining to a division  
9 of property are irrevocable and not subject to subsequent  
10 modification by the court making the award, except as provided in  
11 subsection F of this section. An order for the payment of money  
12 pursuant to a divorce decree, whether designated as support or  
13 designated as pertaining to a division of property shall not be a  
14 lien against the real property of the person ordered to make such  
15 payments unless the court order specifically provides for a lien on  
16 real property. An arrearage in payments of support reduced to a  
17 judgment may be a lien against the real property of the person  
18 ordered to make such payments.

19       B. The court shall also provide in the divorce decree that upon  
20 the death or remarriage of the recipient, the payments for support,  
21 if not already accrued, shall terminate. The court shall order the  
22 judgment for the payment of support to be terminated, and the lien  
23 released upon the presentation of proper proof of death of the  
24 recipient unless a proper claim is made for any amount of past-due

1 support payments by an executor, administrator, or heir within  
2 ninety (90) days from the date of death of the recipient. Upon  
3 proper application the court shall order payment of support  
4 terminated and the lien discharged after remarriage of the  
5 recipient, unless the recipient can make a proper showing that some  
6 amount of support is still needed and that circumstances have not  
7 rendered payment of the same inequitable, provided the recipient  
8 commences an action for such determination, within ninety (90) days  
9 of the date of such remarriage.

10 C. The voluntary cohabitation of a former spouse with a member  
11 of the opposite sex shall be a ground to modify provisions of a  
12 final judgment or order for alimony as support. If voluntary  
13 cohabitation is alleged in a motion to modify the payment of  
14 support, the court shall have jurisdiction to reduce or terminate  
15 future support payments upon proof of substantial change of  
16 circumstances of either party to the divorce relating to need for  
17 support or ability to support. As used in this subsection, the term  
18 cohabitation means the dwelling together continuously and habitually  
19 of a man and a woman who are in a private conjugal relationship not  
20 solemnized as a marriage according to law, or not necessarily  
21 meeting all the standards of a common-law marriage. The petitioner  
22 shall make application for modification and shall follow  
23 notification procedures used in other divorce decree modification  
24

1 actions. The court that entered the divorce decree shall have  
2 jurisdiction over the modification application.

3 D. Except as otherwise provided in subsection C of this  
4 section, the provisions of any divorce decree pertaining to the  
5 payment of alimony as support may be modified upon proof of changed  
6 circumstances relating to the need for support or ability to support  
7 which are substantial and continuing so as to make the terms of the  
8 decree unreasonable to either party. Modification by the court of  
9 any divorce decree pertaining to the payment of alimony as support,  
10 pursuant to the provisions of this subsection, may extend to the  
11 terms of the payments and to the total amount awarded; provided,  
12 however, such modification shall only have prospective application.

13 E. Pursuant to the federal Uniformed Services Former Spouses'  
14 Protection Act, 10 U.S.C., Section 1408, a court ~~may~~ shall treat  
15 disposable ~~retired or~~ retainer pay payable to a military member  
16 ~~either as property solely of the member or as property of the member~~  
17 ~~and the spouse of the member~~ which is reduced compensation for  
18 reduced obligations of military service. ~~If a state court~~  
19 ~~determines that the disposable retired or retainer pay of a military~~  
20 ~~member is marital property, the court shall award an amount~~  
21 ~~consistent with the rank, pay grade, and time of service of the~~  
22 ~~member at the time of separation.~~

23 F. The provisions of ~~subsection~~ subsections D and E of this  
24 section shall have retrospective and prospective application with

1 regards to modifications for the purpose of obtaining support or  
2 termination of payments pertaining to a division of property on  
3 divorce decrees which become final after June 26, 1981, and prior to  
4 November 1, 2011. ~~There shall be a two year statute of limitations,~~  
5 ~~beginning on the date of the final divorce decree, for a party to~~  
6 ~~apply for division of disposable retired or retainer pay.~~

7 G. The provisions of subsections C and D of this section shall  
8 have retrospective and prospective application with regards to  
9 modifications of the provisions of a final judgment or order for  
10 alimony as support, or of a divorce decree pertaining to the payment  
11 of alimony as support, regardless of the date that the order,  
12 judgment, or decree was entered.

13 SECTION 3. This act shall become effective November 1, 2011.

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15 53-1-7532 SDR 04/08/11  
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