

**EARL G. JAQUES, JR**  
STATE REPRESENTATIVE  
Twenty - Seventh District



HOUSE OF REPRESENTATIVES  
STATE OF DELAWARE  
LEGISLATIVE HALL  
DOVER, DELAWARE 19901

COMMITTEES  
Veterans Affairs, Chair  
Education  
Health & Human Development  
Labor  
Transportation, Land Use &  
Infrastructure

**Veterans Affairs Committee**  
Meeting Minutes  
June 9, 2010

Chairman Jaques called the meeting to order at 4:20 p.m. Members present included Reps. Wilson, Brady, Outten, Atkins, and Carson. For a list of guests, please see the attached document.

Chairman Jaques deferred to Rep. Brady to introduce **HCR 46, SUPPORTING THE CREATION OF A NATIONAL POW/MIA TRAILWAY SYSTEM AND RECOMMENDING THAT THE SEGMENT OF THE ABANDONED PENNSYLVANIA RAILROAD RUNNING FROM SOUTH MARKET STREET IN WILMINGTON TO BATTERY PARK IN NEW CASTLE BE DESIGNATED AS THE FIRST SEGMENT THEREOF.** Rep. Brady stated that this concurrent resolution supports the creation of a national POW/MIA Trailway system running from the South Market Street Bridge in Wilmington to Battery Park in New Castle. This area is the first segment of the National POW/MIA Trailway system.

Rep. Atkins motioned to release the bill. Rep Wilson seconded the motion. The bill was released from committee with 11 votes on its merits.

Rep. Brady then turned the committee's attention to the conference call. He introduced Mark Sullivan, an attorney that practices law in Raleigh, North Carolina. Mr. Sullivan is also a retired Army Reserve JAG Colonel, author of The Military Divorce Handbook that was adopted and published by the American Bar Association, a previous chair of the military committees of the American Bar Association's Family Law Section and of the North Carolina State Bar Association, and chief advisor to the Committee on Military Custody and Visitation of the National Conference of Commissioners on Uniform State Laws. Mr. Sullivan has also taught military custody and visitation at the Army JAG School for 25 years and wrote the North Carolina Statute on military custody and visitation (N.C. Gen. Stat. 50-13.7A).

Mr. Sullivan was introduced to testify on behalf of **HB 418, AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO CUSTODY PROCEEDINGS.** Mr. Sullivan thanked the committee for their time and also their interest in protecting those serving in the military. He stressed the importance of caring for the children whose parents have answered the call to serve their country, and how this issue is especially important for single parents. Mr. Sullivan has helped nine other states pass bills similar to this legislation. He stated that while this legislation is consistent with

statutes passed by other states such as Nebraska, Hawaii, and Vermont, upon passage, Delaware will have the strongest statute supporting those serving in the military.

Mr. Sullivan clarified that this act adopts a “Military Parents’ Rights Act” to provide military service members with certain substantive rights and procedural protections designed to ensure that an absence due to military deployment does not result in a forfeiture or diminution of the military parent’s custody or visitation rights. He highlighted that this act incorporates existing Delaware law by providing that any custody, primary residential placement, or visitation order entered when a military parent is deploying or deployed shall be an interim order, which may be modified upon the service member’s return to the United States or termination of service. The act also guarantees that a military parent’s absence due to deployment shall not constitute the sole basis for a modification of any existing custody, residential placement or visitation order.

Jamie Nutter, House Attorney, continued with many of Mr. Sullivan’s points. He stated that while the legislation was drafted based on the model by Mr. Sullivan, it was made Delaware specific as well. He stated that the key points of this legislation include that any custody, residential placement, or visitation orders or requests for a temporary modification are heard on an expedited basis by the Family Court; military service members are allowed to delegate their visitation rights to another family member, such as a parent or current spouse, if the Family Court determines that the delegation of visitation rights is consistent with the child’s best interests; and finally, the act permits military service members to provide evidence by electronic means if they cannot appear due to deployment and further imposes obligations on both the deploying and non-deploying parent to cooperate and disclose information in an effort to resolve any custody, residential placement, and visitation matters related to the military service member’s deployment.

Julie Gifford, the Mid-Atlantic Regional Liaison for the Deputy Under Secretary of Defense for Military Community and Family Policy, voiced her support of the legislation. She stated that the divorce rate among military continues to climb, with many divorced service members having custody of, or visitation rights with, children whose other parent is not the service member’s current spouse. Many of these service members who are deployed away from their family also find that states do not consider the unique aspects of military service when making custody decisions. Absences due to military service can undermine and disrupt existing arrangements, creating stress on parents and children. It is this stress and inequity that caused the Secretary of Defense to make child custody matters involving service members one of his top ten key issues affecting military families.

Ms. Gifford stated that although the Department of Defense believes the welfare of the child is paramount, it also believes the demands of military service should not revoke a parent’s right. The department, like the American Bar Association, thinks the states, not the federal government, are in the best position to balance such equities and believes there are several protections states could enact which would serve both the parent’s rights and the welfare of the children. She stated that the proposed legislation will greatly assist

in addressing the unique aspects of military service and thanked Rep. Brady for his support and sponsorship of the legislation.

Rep. Caron motioned to release the bill. Rep. Wilson seconded the motion. The bill was released from committee with 11 votes on its merits.

Chairman Jaques thanked Mr. Sullivan for speaking to the committee on behalf of the committee and without any further questions or comments, adjourned the meeting at 4:35 p.m.

Respectfully submitted,

Amy Clark