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TABLE OF CONTENTS

COMMENTS

Illinois Does Not Care About Caregivers as Evidenced by the Ineffective and Exclusionary Custodial Claims Statute of the Probate Act

Mariam L. Hafezi Qualman67

Iraq Veterans' War with the U.S. Department of Veterans Affairs: Post Traumatic Stress Disorder Claims Under a Procedural Due Process Analysis

Purvi Shah97

ABSTRACTS

COMMENTS

Illinois Does Not Care About Caregivers as Evidenced by the Ineffective and Exclusionary Custodial Claims Statute of the Probate Act

Mariam L. Hafezi Qualman67

Family members taking on the responsibility of caring for sick or disabled relatives is on the rise, and it is only trending upward in the future due to a multitude of factors. Illinois appeared to be on the edge of this trend by enacting the Statutory Custodial Claims statute for the Illinois Probate Act, which allows compensation for caregiving spouses, parents, siblings, and children; however, the language of this statute is ineffective in solving the problem it purports to set out to fix by creating very cumbersome, and rather unfounded, dedication and live-in requirements that are rarely met by the caregivers. The legislators also unfairly limited the class of caregivers that can assert the claim—completely discounting the various ethnic groups and cultures in Illinois that commonly fall out of the statute’s class. The language of the statute and the strict construction of it by the courts have rendered the statute practically useless. This Comment presents some ideas for modifying the statute to perhaps curtail some of its current problems.

Iraq Veterans’ War with the U.S. Department of Veterans Affairs: Post Traumatic Stress Disorder Claims Under a Procedural Due Process Analysis

Purvi Shah97

This Comment explores the Department of Veterans Affairs and its current disability compensation and medical care systems for soldiers who have returned from the War on Terror with mental health disabilities, such as post traumatic stress disorder. More specifically, this Comment analyzes two assertions made by veterans groups—Veterans United for Truth and Veterans for Common Sense—against the VA: (1) there is a lack of neutral decision-makers for veterans who would like to appeal their compensation amount, and (2) there is a lack of an additional procedure allowing a veteran with a mental health emergency to challenge the timing of medical care if he is given a later appointment. These claims are analyzed under a procedural due process analysis by using the three prong test laid out in the landmark Supreme Court decision of Matthews v. Eldridge. Although the first prong of the test is satisfied because veterans do have a private interest at stake, the current systems do not meet the second and third prongs of the Matthews test. The current systems do not create a high risk of erroneous deprivation and adding further procedures to the current systems do not serve a substantial government interest. Nevertheless, the VA needs to strive to be more efficient and effective in the care they provide veterans suffering from mental health disorders, as the numbers of returning soldiers with PTSD are on the rise.