

What Every Soldier and Legal Assistance Attorney Should Know about Servicemembers Group Life Insurance

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President Abraham Lincoln promised servicemembers and veterans “to care for him who shall have borne the battle and for his widow, and his orphan.”² Today, federal law mandates the uniformed services educate servicemembers about the benefits of Servicemembers Group Life Insurance (SGLI).³ Further, U.S. Department of Defense Directive 1341.3 establishes that the uniformed services must cooperate with the U.S. Department of Veteran Affairs regarding servicemembers’ SGLI benefits.⁴ This article describes what Soldiers and legal assistance attorneys (LAAs) should know about SGLI. The first part describes SGLI in the context of other types of life insurance policies available on the U.S. market. The second part examines SGLI’s gradual expansion by analyzing its legislative history and addresses recent changes affecting SGLI. The third part focuses on counseling Soldiers on beneficiary designations and applies lessons learned from beneficiary designation caselaw to SGLI counseling for servicemembers. On 29 September 2005, SGLI celebrated its fortieth birthday. As SGLI continues to evolve and adapt to meet the needs of the servicemembers, it is essential that servicemembers and LAAs understand the new developments.

Part I. What Kind of Life Insurance Policy Is SGLI?

Servicemembers Group Life Insurance is a group life insurance policy.⁵ A group life insurance policy is provided for certain populations of individuals who share similar characteristics. Modern examples of group policies include labor unions, professional associations, or trade groups.⁶ Servicemembers Group Life Insurance automatically insures against death of any member of the uniformed services on active duty.⁷ The term “member” generally includes a person on active duty,⁸ active duty for training,⁹ or inactive duty training¹⁰ in the uniformed services.¹¹ This term also includes cadets and midshipmen of the United States Military, Naval, Air Force and Coast Guard Academies.¹² Uniformed services include all branches of the Armed Forces, Public Health Services (PHS), and National Oceanic Atmospheric Administration (NOAA).¹³ Currently, almost 2.4 million servicemembers are covered under SGLI.¹⁴ An additional 2,050,000 children and 987,000 spouses are also covered under Family SGLI.¹⁵

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² U.S. DEP’T OF VETERANS AFFAIRS, PLAN TODAY PROTECT TOMORROW: BOOKLET FOR SEPARATING SERVICEMEMBERS (2002), available at <http://www.insurance.va.gov/inForceGliSite/buying/sepBooklet.htm>.

³ 38 U.S.C.S. § 1967(d) (LEXIS 2005).

⁴ U.S. DEP’T OF DEFENSE, DIR. 1341.3, SERVICEMEMBERS’ GROUP LIFE INSURANCE (SGLI) para. 3 (12 Jan. 2005).

⁵ VETERAN’S BENEFITS ADMINISTRATION, SERVICEMEMBER’S AND VETERANS GROUP LIFE INSURANCE HANDBOOK 4 (2006), <http://www.insurance.va.gov/sgliSite/handbook/sglivgli%20handbook.pdf> [hereinafter VBA HANDBOOK].

⁶ JOHN APPLEMAN, APPLEMAN ON INSURANCE LAW AND PRACTICE § 2.5 (2d ed. 2005).

⁷ 38 U.S.C.S. § 1967(a)(1)(A).

⁸ Active duty means full time duty in the uniformed services or Armed Forces Academies. *Id.* § 1965(1)(A), 1965(1)(D).

⁹ Active duty for training means full time duty in the uniformed services performed by Reserves for training purposes or by a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises. Full time duty for training for members of the National Guard or Air National Guard of any State, is defined under 32 U.S.C.S. §§ 316, 502, 503, 504, or 505. *Id.* § 1965(2)(A), 1965(2)(D).

¹⁰ Inactive duty for training means duty other than full time duty prescribed or authorized for Reserves which duty is scheduled in advance by competent authority to begin at a specific time; and in case of a member of the National Guard or Air National Guard of any State, inactive duty for training means duty other than full time duty which is scheduled in advance by competent authority to begin at a specific time and place under 32 U.S.C.S. §§ 316, 502, 503, 504, or 505. *Id.* § 1965(3)(A), 1965(3)(B).

¹¹ *Id.* § 1965(5)(A) (2006) (referring to members as servicemembers).

¹² *Id.* § 1965(5)(D).

¹³ *Id.* § 1965(6).

¹⁴ E-mail from Connie Weedo, Associate Manager, Office of Servicemembers’ Group Life Insurance, to author (Oct. 24, 2005) (on file with author).

¹⁵ *Id.*

Servicemembers Group Life Insurance is a contract between the government and qualified private insurers¹⁶ wherein the government purchases the insurance policy for the benefit of servicemembers.¹⁷ The government partially subsidizes SGLI to lower the high cost of premiums associated with high risks of combat mortality.¹⁸ This subsidy puts a competitive life insurance policy within the servicemember's financial reach. In 1965, the U.S. Department of Veterans Affairs purchased the group life insurance policy from the Prudential Insurance Company of America, which continues to administer SGLI through the Office of the Servicemember's Group Life Insurance (OSGLI).¹⁹

There are two main types of life insurance policies: term and whole.²⁰ Servicemembers Group Life Insurance is a term life insurance policy.²¹ Under term insurance, the insured purchases coverage for a specific period of time. If the insured dies within the specific period, the beneficiary collects the proceeds.²² If the insured outlives the period covered, no money is paid to the beneficiary.²³ Term life insurance does not offer any savings, loan features, or investment opportunities.²⁴ It pays only if an insured dies during the term of the insurance coverage.²⁵ Term life insurance, including SGLI, has no set amount of coverage and can be increased at will, subject to the terms of the policy. A term life insurance policy, including SGLI, does not allow an insured to borrow against it.

A whole life insurance policy provides coverage as long as the insured is alive and pays premiums.²⁶ If the insured dies, the beneficiary collects the proceeds. The insured can also surrender or cancel a whole life policy and receive the accrued cash value.²⁷ Unlike a term life insurance policy, the insured can borrow against a whole life policy. Once a certain amount of coverage is obtained on a whole life policy, it cannot be increased or decreased. A whole life insurance policy is recommended as a way to limit estate or probate taxes, cover burial expenses, and increase liquidity.²⁸

Since SGLI is a term policy, the time when the coverage starts and ends is very important. Generally, a servicemember's SGLI coverage starts on the first day of active duty or active duty for training.²⁹ Servicemembers Group Life Insurance also covers insurable dependents,³⁰ who are defined as the servicemember's spouse and the servicemember's child,³¹ under Family SGLI (FSGLI).³² A member's spouse qualifies for FSGLI coverage upon the date of marriage to the

¹⁶ See *Johnson v. Prudential Ins. Co.* 156 N.W.2d 812 (Neb. 1968).

¹⁷ 38 U.S.C.S. § 1966(a).

¹⁸ *Ridgway v. Ridgway*, 454 U.S. 46, 52 (1981).

¹⁹ U.S. Dep't of Veterans Affairs, History of Servicemember's and Veterans' Group Life Insurance, <http://www.insurance.va.gov/sgliSite/generalinfo/InsHistory.htm> (last visited Sept. 20, 2006).

²⁰ FLORIDA DEP'T OF INSURANCE, LIFE INSURANCE AND ANNUITIES CONSUMERS' GUIDE 7 (2000), available at <http://www.annuitynexus.com/PDFs/flabuyersguide.pdf> [hereinafter FLORIDA DEP'T OF INSURANCE].

²¹ VBA HANDBOOK, *supra* note 5, at 4.

²² Douglas R. Richmond, *Liability Issues in the Sale of Life Insurance*, TORT TRIAL & INS. PRAC. L.J. 878 (Spring 2005).

²³ *Id.* at 879.

²⁴ Fred Waddel, *The Two Kinds of Life Insurance*, Aug. 1998, <http://www.aces.edu/pubs/docs/H/HE-0657/>.

²⁵ *Id.* The only SGLI exception under 38 U.S.C.S. § 1980 is an Accelerated Benefits Option, which allows a terminally ill insured expected to live no more than nine months to receive a one time payment of up to fifty percent of the face value of the coverage minus an interest deduction before he dies. Only the insured, or a servicemember on behalf of a terminally ill spouse can apply.

²⁶ See Massachusetts Division of Insurance, Buying Life Insurance and Annuities in Massachusetts – Part 2, http://www.mass.gov/?pageID=ocaterminal&&L=5&L0=Home&L1=Consumer&L2=Insurance&L3=Life+Insurance&L4=Buying+Life+Insurance+and+Annuities+in+Massachusetts&sid=Eoca&b=terminalcontent&f=doi_Consumer_css_life_BuyLifeInsPartTwo&csid=Eoca (last visited Oct. 19, 2006) (describing whole life insurance policies).

²⁷ FLORIDA DEPARTMENT OF INSURANCE, *supra* note 20, at 11.

²⁸ *Id.* at 9. Life insurance is an important source of liquidity when one is faced with any outstanding tax liability. Since life insurance proceeds are payable sooner than estate taxes are due, one's life insurance policy should be at least equal to or greater than one's estimated estate tax liability.

²⁹ 38 U.S.C.S. § 1967(5)(A) (LEXIS 2006).

³⁰ *Id.* § 1967(a)(1)(A)(ii).

³¹ *Id.* § 1965(10).

³² Family SGLI is a program extended to the servicemember's spouse and dependent children if the servicemember is insured under the SGLI. The FSGLI provides the maximum coverage of \$100,000 for a spouse, or the amount of SGLI the insured servicemember has in force at the time, whichever is lower. As of 1 July 2006, spousal premiums were lowered. Current premiums are available at <http://www.insurance.va.gov/sgliSite/miscellaneous/premiumChanges.htm#fsgli>. Each of the servicemember's dependent children is insured for a maximum of \$10,000 at no cost to the servicemember. Family

servicemember.³³ A servicemember who is also a spouse can be insured under both SGLI and FSGLI. Servicemembers Group Life Insurance coverage for a servicemember's child is effective on the date of the child's birth or the date when the child acquires the status of an insurable dependent of the servicemember.³⁴ Servicemembers Group Life Insurance only covers a servicemember's period of service in the U.S. Armed Forces and 120 days following separation or release.³⁵ A member loses coverage if he is convicted of mutiny, treason, spying, desertion, or refusal to wear the uniform.³⁶ Insurance coverage will also cease when a member claims the status of a conscientious objector,³⁷ is held in civilian confinement for over thirty-one days under a sentence adjudged by civilian authorities, or is confined "by military authorities [for more than thirty-one days] under a court martial sentence involving total forfeiture of pay and allowances."³⁸

Upon separation or release from active duty, SGLI is automatically converted into Veterans Group Life Insurance (VGLI), which only covers against the servicemembers death.³⁹ A former servicemember's full coverage under VGLI continues while the servicemember is making timely payments and fulfilling other policy terms and conditions.⁴⁰ A servicemember's spouse or children are no longer covered under VGLI.⁴¹ A member can also convert SGLI to a commercial whole life policy within the 120 days of separation or release.⁴²

The Congressional intent behind SGLI was to allow active duty servicemembers deployed in combat zones to purchase life insurance at reasonable prices.⁴³ Servicemembers should be advised that SGLI is intended to provide financial security for family members.⁴⁴ There is an underlying dispute, however, between this intent and a servicemember's absolute right to designate any person or entity as the beneficiary.⁴⁵ With SGLI, servicemembers have an option to provide for their families, but they cannot be forced to do so. The insured has the right to change SGLI beneficiaries without their family's consent at any time.⁴⁶ However, spousal notice is required under the SGLI Enhancement Act of 2005.⁴⁷

Servicemembers Group Life Insurance is not assignable⁴⁸ and it does not pay dividends.⁴⁹ Unlike private group life insurance policies, SGLI cannot be divided by state courts, and state divorce decrees and separation agreements have no

coverage is not available for those insured under Veterans Group Life Insurance (VGLI), which provides post-separation insurance, allowing servicemembers to convert their SGLI coverage to renewable term insurance. See U.S. Dep't of Veterans Affairs, Veterans' Group Life Insurance (VGLI), <http://www.insurance.va.gov/sgliSite/VGLI/VGLI.htm> (last visited Sept. 20, 2006).

³³ 38 U.S.C.S. § 1967(a)(5)(E).

³⁴ *Id.* § 1967(a)(5)(F).

³⁵ *Id.* § 1968 (a)(1)(A). The SGLI coverage may be extended up to one year for servicemembers who are totally disabled at the time of separation.

³⁶ *Id.* § 1973.

³⁷ *Id.*

³⁸ *Id.* § 1968(a)(1)(B). Coverage is automatically restored to the previous level upon a servicemember's re-entrance on active duty in the U.S. Armed Forces.

³⁹ *Id.* § 1968 (b)(1)(A).

⁴⁰ *Id.* (The OSGLI will send an *SGLV Form 8714, Application for VGLI*, to a servicemember within forty-five to sixty days after his or her separation or discharge which the servicemember must fill out and return.)

⁴¹ *Id.* § 1968 (b)(1)(A). A spouse cannot convert her or his FSGLI policy to VGLI, but can convert it to a commercial policy under the same conditions as a servicemember. *Id.* § 1968(b)(3)(A).

⁴² *Id.* § 1968 (b)(1)(B). Servicemembers may convert SGLI to a commercial policy at standard premium rates, without having to provide proof of good health. The conversion policy must be a permanent policy, such as a whole life policy. Servicemembers must select a company participating in the SGLI and VGLI program, apply to the company's local sales office, obtain a letter from the OSGLI verifying coverage and submit the letter with the servicemember's separation documents to the company's agent.

⁴³ *Ridgway v. Ridgway*, 454 U.S. 46 (1981).

⁴⁴ See U.S. DEP'T OF ARMY, REG. 27-3, THE ARMY LEGAL ASSISTANCE PROGRAM para. C-2 (21 Feb. 1996) [hereinafter AR 27-3].

⁴⁵ 38 U.S.C.S. § 1949.

⁴⁶ *Id.* The only restriction is that the Secretary must notify the spouse of the change at the last address of the spouse. However, a failure to provide the notification in a timely manner does not affect the validity of any new election or beneficiary designation made by the servicemember.

⁴⁷ *Id.* § 1967 (f)3. The spouse has to be notified by the Secretary concerned in the following situations: when a married servicemember initially declines to be insured, when a married and insured servicemember decides to lower the coverage, and when a married and insured servicemember decides to designate someone other than a spouse or dependent child as a beneficiary. The spouse does not have to be notified when the spouse already received such a notification and if immediately prior to such a new designation the spouse is not designated as a beneficiary under the SGLI.

⁴⁸ 38 C.F.R. § 9.6. (2006).

effect on original designations.⁵⁰ This provision has withstood the scrutiny of the U.S. Supreme Court.⁵¹ Similarly, a last will and testament, a power of attorney, or any other document does not change or cancel SGLI designations.⁵²

For the last forty years, SGLI coverage has been increasing steadily and currently stands at \$400,000.⁵³ A member's spouse qualifies for \$100,000⁵⁴ of coverage and each child for \$10,000.⁵⁵ A member's coverage can be decreased but only in increments of \$50,000.⁵⁶ The spouse's coverage can be decreased in increments of \$10,000.⁵⁷ The coverage for a servicemember's child may not go below \$10,000.⁵⁸ The FSGLI coverage of civilian spouses may not exceed that of their military spouses.⁵⁹ A servicemember must notify his spouse if he does not designate the spouse as a beneficiary on the SGLI or if he selects less than the full coverage.⁶⁰

Members planning to purchase a commercial life insurance policy are often not sure which policy best suits their needs. Industry experts constantly debate the desirability of term life insurance versus whole life insurance. One fact is certain: term life insurance is usually more transparent because it is less confusing for consumers to understand and it is more easily comparable with other term life insurance policies.⁶¹ Term life insurance also usually offers the greatest return on death benefits based on payments made.⁶²

Other less common types of life insurance policies include universal life, variable life, and variable universal life. A universal life insurance policy is similar to a whole life insurance policy because it provides a death benefit and accumulates cash value on a tax-deferred basis.⁶³ Variable life and variable universal life insurance policies accumulate cash value on a tax-deferred basis and allow the insured to borrow against them. The latter two policies, however, carry some risks as they operate just like any family of mutual funds and do not guarantee cash returns.⁶⁴ Servicemembers should seek specific advice from an insurance agent before selecting a commercial life insurance policy. Legal assistance attorneys should advise servicemembers to carefully select policies, scrutinize prospectuses, and seek a second opinion.

For many reasons, SGLI is unique among other life insurance policies. The coverage begins the minute a servicemember joins the Armed Forces and is assigned to a unit.⁶⁵ Additional coverage for 120 days upon separation or release is provided at no expense to the servicemember. Premiums are not increased as a servicemember ages. Proceeds are payable upon a servicemember's death even if self-inflicted. State courts cannot divide proceeds during divorce or legal separation proceedings, or during actions initiated by creditors.⁶⁶ Servicemembers Group Life Insurance and VGLI proceeds are also not assignable.⁶⁷ Congress specified that SGLI disbursements "shall not be liable to attachment, levy, or seizure by or under

⁴⁹ VBA HANDBOOK, *supra* note 5, at 4. Just like SGLI, VGLI has no cash, loan, paid-up, or extended insurance values and does not pay dividends.

⁵⁰ U.S. DEP'T OF ARMY, REG. 600-8-1, ARMY CASUALTY OPERATIONS/ASSISTANCE INSURANCE para. 12-19 (7 Apr. 2006) [hereinafter AR 600-8-1].

⁵¹ *Ridgway v. Ridgway*, 454 U.S. 46, 56 (1981).

⁵² AR 600-8-1, *supra* note 50, para. 12-19a.

⁵³ 38 U.S.C.S. § 1967(a)(3)(A)(i) (LEXIS 2006).

⁵⁴ *Id.* § 1967(a)(3)(A)(ii).

⁵⁵ *Id.* § 1967(a)(3)(A)(iii).

⁵⁶ *Id.* § 1967(a)(3)(B).

⁵⁷ *Id.*

⁵⁸ *Id.* § 1967(a)(3)(B).

⁵⁹ *Id.* § 1967(a)(1)(3)(C).

⁶⁰ National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, 119 Stat. 3136 (2006).

⁶¹ Richmond, *supra* note 22, at 879.

⁶² *Supra* note 26.

⁶³ Richmond, *supra* note 22, at 881.

⁶⁴ *Id.* at 882.

⁶⁵ 38 U.S.C.S. § 1967(a)(5). *Foreman v. Prudential Ins. Co. and the United States*; *Moore v. Prudential Ins. Co. and the United States*, 657 F.2d 717, 724 (1981). In this consolidated appeal, two first-time National Guard enlistees died in separate accidents before they were scheduled for any active duty training. The court held that they were covered under SGLI because they enlisted, were assigned to Guard units and met the statutory requirements.

⁶⁶ *Ridgway v. Ridgway*, 454 U.S. 46, at 59 (1981).

⁶⁷ 38 C.F.R. § 9.6 (2006).

any legal or equitable process whatever, either before or after receipt by the beneficiary.”⁶⁸ While other life insurance policies place strict requirements on their renewal, SGLI is renewed automatically upon a servicemember’s re-entrance on active duty. Servicemembers Group Life Insurance is designed to meet unique needs of Soldiers, Marines, Sailors, Airmen, cadets, midshipmen, and many other various groups of federal employees and their families.

Part II. World War I and Other Armed Conflicts Leading to the Birth of the SGLI Legislation

History shows that Congress provides life insurance to servicemembers in times of anticipated or ongoing armed conflicts. The United States began providing voluntary insurance to Soldiers upon entering World War I (WWI) with the 1917 amendment of the War Risk Insurance Act of 1914.⁶⁹ Over 90 percent of eligible servicemembers obtained the coverage during WWI.⁷⁰ The act was designed to provide financial support to American families of servicemembers when life insurance was not widely available in the United States. During WWI, 116,516 servicemembers lost their lives on the battlefields of Europe.⁷¹ In 1940, shortly before the United States entered World War II (WWII), Congress passed the National Service Life Insurance Act.⁷² Another 405,399 servicemembers were killed by the end of WWII, many of whom were covered under the first military insurance program.⁷³ Congress, however, allowed the act of 1940 to lapse after the end of the Korean conflict. The government provided temporary insurance but stopped short of a permanent fix. The problem of uninsured servicemembers did not appear on the political agenda again until the Vietnam conflict.

As the U.S. military began to suffer heavy casualties in Vietnam, private life insurance companies were reluctant to provide life insurance coverage at reasonable premiums to servicemembers.⁷⁴ Servicemembers heading to Vietnam who were unable to obtain insurance created the Armed Services Mutual Benefit Association.⁷⁵ Since 1963 this nonprofit military benefit association has been providing life insurance to them.⁷⁶ Recognizing servicemembers’ serious need for life insurance, Congress responded, albeit two years later. On 29 September 1965, Congress passed the new law establishing Servicemembers’ Group Life Insurance.⁷⁷ The initial coverage was limited to \$10,000 for all active duty servicemembers and members of the Commissioned Corps of the PHS and the NOAA.⁷⁸ On 25 June 1970, as the Vietnam conflict escalated, the government increased coverage to \$15,000.⁷⁹ Two years later the government extended coverage to cadets and midshipmen in the U.S. military service academies.⁸⁰ Then, on 24 May 1974, the government again increased coverage to \$20,000 and extended policies to servicemembers of the Ready Reserves and Retired Reserves. In addition, since the Vietnam conflict was drawing to an end and more and more servicemembers were leaving the military, the government also allowed servicemembers to convert their life insurance coverage to a five-year-nonrenewable-term policy—VGLI.⁸¹

Between 1 December 1981 and 6 January 1997, SGLI and VGLI have undergone significant changes. Arguably the most significant change for servicemembers and LAAs mandated that LAAs must provide general information regarding SGLI and VGLI to servicemembers. Legal assistance attorneys must explain a servicemember’s SGLI rights, benefits, and privileges upon the servicemember’s entrance into the U.S. military.⁸² While not binding on LAAs, the *Servicemember’s*

⁶⁸ 38 U.S.C.S. § 1970(g) (LEXIS 2006).

⁶⁹ U.S. Dep’t of Veterans Affairs, History of US Government Involvement, <http://insurance.va.gov/inForceGliSite/generalinfo/InsHistory.htm> (last visited Oct. 19, 2006).

⁷⁰ *Id.*

⁷¹ American Battle Monuments Commission, World War I Listing, <http://www.abmc.gov/search/wwi.php> (last visited Oct. 19, 2006).

⁷² Pub. L. No. 76-801, 54 Stat. 1008 (1940).

⁷³ American Battle Monuments Commission, World War II Listing, <http://www.abmc.gov/search/wwii.php> (last visited Oct. 19, 2006).

⁷⁴ *Ridgway v. Ridgway*, 454 U.S. 46, 50 (1981).

⁷⁵ Armed Services Mutual Benefit Association, Armed Services Mutual Benefit Association, <http://www.asmba.com/index.cfm> (last visited Oct. 19, 2006).

⁷⁶ Armed Services Mutual Benefit Association, What Is ASMB, http://www.asmba.com/menu_about.cfm. (last visited Oct. 19, 2006).

⁷⁷ 38 U.S.C.S. § 1976 (LEXIS 2006).

⁷⁸ Pub. L. No. 89-214, 79 Stat. 880 (1965).

⁷⁹ Pub. L. No. 91-291, 84 Stat. 326 (1970).

⁸⁰ Pub. L. No. 92-315, 86 Stat. 227 (1972).

⁸¹ Veterans’ Insurance Act of 1974, Pub. L. No. 93-289, § 777(b), 88 Stat. 165 (1974).

⁸² See AR 27-3, *supra* note 44, para. C-2a.

and *Veterans Group Life Insurance Handbook* specifically states that servicemembers should be provided with information regarding the purpose and role of life insurance in financial planning, the difference between term life insurance and whole life insurance, the relationship between SGLI and the VGLI, and the availability of commercial life insurance.⁸³ Other changes in the law included increasing coverage to \$200,000,⁸⁴ renaming the program Servicemembers Group Life Insurance,⁸⁵ extending VGLI to servicemembers of the Individual Ready Reserves and Inactive National Guard, and allowing VGLI to be renewed beyond the initial five-year-period. Members of the Retired Reserved were also extended coverage under VGLI.⁸⁶ Another change allowed servicemembers to convert VGLI into a commercial life insurance policy at any time without waiting the initial five-year enrollment period.⁸⁷

On 9 February 1999, the Accelerated Benefit Option was established allowing SGLI proceeds to be paid out before the servicemembers' death.⁸⁸ Then, on 1 April 2001, the government increased the maximum SGLI coverage to \$250,000.⁸⁹ More changes followed in 2005. On 11 May 2005, Congress passed the Emergency Supplemental Appropriations Act for Defense, The Global War on Terror, and Tsunami Relief Act.⁹⁰ The law increased SGLI coverage to \$400,000 beginning 1 September 2005,⁹¹ costing servicemembers twenty-six dollars per month or three dollars and twenty-five cents for every fifty-thousand dollars. The increase in coverage was temporary, however, until the passage of the Servicemembers Group Life Insurance Enhancement Act of 2005.⁹² The increased coverage is retroactive to 7 October 2001 for servicemembers who took part in *Operations Enduring or Iraqi Freedom*.⁹³ Servicemembers obtaining retroactive coverage, however will not be charged retroactive payments.

The new legislation also allowed servicemembers suffering from traumatic injuries to obtain coverage.⁹⁴ Traumatic SGLI (TSGLI) came into force on 1 December 2005. The TSGLI program is designed to cover a servicemember's expenses of recuperating from traumatic injuries received in the line of duty. The servicemember can, however, use TSGLI benefits for any other purpose as well. Unlike SGLI, spouses and children are not the beneficiaries. The servicemember is the beneficiary and TSGLI proceeds can only go to a guardian or an attorney-in-fact if the servicemember is declared incompetent.⁹⁵ Members are automatically enrolled into TSGLI for a cost of an additional one dollar per month. The TSGLI charge appears on a servicemember's leave and earning statement under the SGLI deduction.

Servicemembers enrolled in SGLI will receive the TSGLI proceeds if they sustain a traumatic injury on or after December 1, 2005 that results in a qualifying loss. "[Traumatic SGLI] coverage will pay a benefit of between \$25,000 and \$100,000 depending on the qualifying loss."⁹⁶ A qualifying loss is specified by statute.⁹⁷ It must result directly from a traumatic injury sustained while the member is covered against the loss and from no other cause.⁹⁸ The loss must occur

⁸³ VBA HANDBOOK, *supra* note 5, at 9.

⁸⁴ National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106 § 646, 110 Stat. 186.

⁸⁵ Veterans' Benefits Improvements Act of 1996, Pub. L. No. 104-275 § 405(a), 110 Stat. 3322.

⁸⁶ Veterans' Administration Health-Care Amendments of 1985, Pub. L. No. 99-166 § 401, 99 Stat. 941.

⁸⁷ Veterans' Benefits Improvements Act of 1996, Pub. L. No. 104-275 § 403(a)(2)(A), 110 Stat. 3322.

⁸⁸ Veterans Programs Enhancement Act of 1998, Pub. L. No. 105-368, § 302, 112 Stat. 3315; *see* note 25 for Accelerated Benefit Option Requirements.

⁸⁹ Veterans Benefits and Health Care Improvement Act of 2000, Pub. L. No. 106-419 § 312(a), 114 Stat. 1822.

⁹⁰ Pub. L. No. 109-13, 119 Stat. 231 (2005).

⁹¹ 38 U.S.C.S. § 1967(a)(3)(A)(i) (LEXIS 2006).

⁹² Pub. L. No. 109-80, 119 Stat. 2045 (2005).

⁹³ Pub. L. No. 109-13, 119 Stat. 231 (2005); *see* also U.S. Dep't of Veterans Affairs, Frequently Asked Questions about SGLI, <http://www.insurance.va.gov/sgliSite/SGLI/sgli%20faq.htm#27> (last visited Oct. 22, 2006).

⁹⁴ 38 U.S.C.S. § 1980A. Traumatic injuries include the following injuries: total and permanent loss of sight; loss of hand or foot by severance at or above the wrist or an ankle; total and permanent loss of speech, total and permanent loss of hearing in both ears; loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints; quadriplegia, paraplegia, or hemiplegia; burns worse than second degree, covering 30 percent of the body or face; and coma or the inability to carry out two out of the six activities of daily living due to traumatic brain injury. *See* 38 U.S.C.S. § 1980A(b)(1).

⁹⁵ VBA HANDBOOK, *supra* note 5, at 32.

⁹⁶ U.S. Department of Veterans Affairs, Life Insurance, Frequently Asked Questions about Traumatic SGLI, <http://www.insurance.va.gov/sgliSite/TSGLI/TSGLIFAQ.htm#cov1> (last visited Sept. 21, 2006) (providing the TSGLI Schedule of Payments for Traumatic Losses); *see also* 38 U.S.C.S. § 1980A(d).

⁹⁷ 38 U.S.C.S. § 1980A(b)(1); *see* note 94.

⁹⁸ *Id.* § 1980A(c)(1).

within 365 days of the traumatic injury. The traumatic injury must occur prior to midnight of the day that a servicemember separates from the military. A member who obtained TSGLI proceeds after suffering from a traumatic injury can receive the TSGLI proceeds again if he suffers from a separate traumatic injury.⁹⁹ Servicemembers who suffered a qualifying loss as a direct result of injuries incurred in *Operations Enduring or Iraqi Freedom* on or after 7 October 2001 but before 1 December 2005 are entitled to retroactive TSGLI coverage as well. A member must have SGLI coverage to qualify to receive TSGLI proceeds.¹⁰⁰ Traumatic SGLI coverage is not available for FSGLI and VGLI policy holders. If a servicemember dies before all of the TSGLI benefits are paid, the remaining TSGLI benefits will be paid to the servicemember's beneficiaries as designated under SGLI.¹⁰¹

If a servicemember declines SGLI coverage, family members will lose their coverage under FSGLI. The spouse will also be notified that the servicemember has declined the coverage.¹⁰² If a servicemember selects someone other than his family member as a beneficiary, the spouse will also be notified of such election. No notification is necessary, however, if the servicemember has previously selected a non-family member and elects to change his beneficiary to another non-family member.¹⁰³

The National Defense Authorization Act of 2006 further expanded servicemembers' SGLI benefits.¹⁰⁴ The Act specified that servicemembers who served during *Operations Enduring or Iraqi Freedom* would receive a monthly reimbursement of the first \$150,000 of the SGLI coverage.¹⁰⁵ The Act also requires that servicemembers be notified about these new benefits.

Part III. SGLI Counseling by Legal Assistance Attorneys and Servicemember Designations

A. General Counseling Requirements

All servicemembers must be advised that their SGLI designation questions will be answered by LAAs at no expense to the servicemembers.¹⁰⁶ Servicemembers who decline SGLI coverage or select less coverage than the maximum allowed must also be furnished with general information regarding the purpose and role of life insurance in financial planning, various types of life insurance policies, availability of commercial life insurance, and the relationship between SGLI and VGLI.¹⁰⁷ Each uniformed service is responsible to provide this information to its servicemembers.

B. Designation of Beneficiaries

Servicemembers may designate principal and contingent beneficiaries. The contingent beneficiary will receive the SGLI proceeds if the principal beneficiary dies before the servicemember.¹⁰⁸ Servicemembers can designate beneficiaries either through a usual designation or an unusual designation. A usual designation includes a servicemember's family members as beneficiaries. When a servicemember makes a usual designation, counseling by written handouts provided by LAAs is sufficient.¹⁰⁹ An unusual designation occurs when a servicemember designates an unrelated person, organization, private corporation, or church as a beneficiary.¹¹⁰ When a servicemember elects an unusual designation, he must receive counseling from a designated Soldier in the grade of E7 or above, a civilian employee in the pay grade of GS5 or above, or a

⁹⁹ 38 C.F.R. 9.20(e)(5)(iii) (2006).

¹⁰⁰ 38 U.S.C.S. § 1980A(c)(1).

¹⁰¹ The Internal Revenue Service has not yet ruled on whether TSGLI benefits are taxable. However, *AR 600-8-1, para. 12-37d* states that TSGLI benefits are not taxable because all benefits paid under any law administered by the Department of Veteran's Affairs are exempted from taxation.

¹⁰² 38 U.S.C.S. § 1967(f)(3).

¹⁰³ *Id.* § 1967(f)(3).

¹⁰⁴ Pub. L. No. 109-163, 119 Stat. 3136 (2006).

¹⁰⁵ *Id.* § 613. Monthly allowances are adjusted to a level of coverage selected by a servicemember if it is lower than \$400,000.

¹⁰⁶ See AR 27-3, *supra* note 44, para. C-2a.

¹⁰⁷ 38 U.S.C.S. § 1967(d)(1)-(4).

¹⁰⁸ AR 600-8-1, *supra* note 50, para. 12-17b.

¹⁰⁹ See AR 27-3, *supra* note 44, para. C-2a.

¹¹⁰ See 600-8-1, *supra* note 50, para. 12-18c.

contractor.¹¹¹ At a minimum, the counselor must advise the servicemember that SGLI is intended to provide some form of financial support to his family members and parents and that an SGLI designation is a personal choice to be made after careful consideration. The counselor must notate the date of the counseling on *SGLV Form 8286, SGLI Election and Certificate*.¹¹²

Minor servicemembers can make valid beneficiary designations even if the applicable state law provides otherwise.¹¹³ Unlike other servicemembers, Soldiers are prohibited from designating beneficiaries “by law” or “by will.”¹¹⁴ A number of lawsuits seeking to reinterpret a servicemember’s intent based on previous divorce decrees forced the Army to implement this prohibition.¹¹⁵

Servicemembers should designate each beneficiary by relationship¹¹⁶ or name.¹¹⁷ Courts apply strict interpretations of all designations to avoid administrative burdens on insurers and to avoid second guessing a servicemember’s original intent.¹¹⁸ Legal assistance attorneys must properly counsel servicemembers so that the servicemember’s SGLI designations indicate their true intent and can withstand potential legal challenges. Designations by relationship are preferable if they eliminate the need for a continuation sheet to the *SGLV Form 8286*.¹¹⁹ Designations by relationship may, however, exclude intended beneficiaries from non-traditional families. Unborn children should be designated by relationship.¹²⁰ Designations by relationship also forego the need to include beneficiaries’ names, addresses, and social security numbers.¹²¹

Court involvement has occurred when servicemembers list their stepparents as their parents on the *SGLV Form 8286*.¹²² A stepfather who raised a servicemember but never adopted the servicemember is not entitled to the SGLI proceeds if he was designated as a parent on the *SGLV Form 8286* because the law doesn’t recognize him as such.¹²³ Similar issues exist when servicemembers’ stepchildren are listed as their children. Servicemembers Group Life Insurance caselaw excludes stepchildren and certain illegitimate children.¹²⁴ To overcome this exclusion, the language in the designation must list stepchildren and stepparents by their full names.

During counseling, LAAs must also pay close attention when a servicemember’s parents are divorced and at least one parent has remarried while both natural parents are still alive or when a servicemember has remarried but wants to designate children living with the first spouse as the beneficiaries.¹²⁵ Designations of distant relatives or friends must be carefully scrutinized as well.¹²⁶ Legal assistance attorneys can establish a beneficiary’s relationship to the servicemember and obtain a beneficiary’s full legal name through a thorough interview. A thorough interview ensures a legally proper designation that meets the servicemember’s true intent. It will also prevent lawsuits from delaying the distribution of SGLI proceeds.

¹¹¹ *See id.*

¹¹² *Id.*; Servicemembers’ Group Life Insurance Election and Certificate, Form 8286 (Sept. 2005).

¹¹³ Johnson v. Prudential Ins. Co., 156 N.W.2d 812 (Neb. 1968).

¹¹⁴ AR 600-8-1, *supra* note 50, para. 12-17a.

¹¹⁵ Prudential Ins. Co. of America v. Smith, 762 F.2d 476, 477 (4th Cir. 1985); Prudential Ins. Co. v. Hearon, 833 S.W.2d 31, 32 (Mo. Ct. App. 1992).

¹¹⁶ *Army Regulation 27-3* cites “my child(ren)” as a sample designation by relationship. This designation also includes additional children born after the designation is made. AR 27-3, *supra* note 44, para. C-1a.

¹¹⁷ AR 27-3, *supra* note 44, para. C-1a. A sample designation by name can be “Jane C. Smith.” Also, if the beneficiary is a married woman, use her given first and middle names. For example, use Mary Lisa Smith, instead of Mrs. John Smith.

¹¹⁸ Coomer v. United States, 471 F.2d 1, 6 (5th Cir. 1973); Stribling v. United States, 419 F.2d 1350, 1354 (8th Cir. 1969).

¹¹⁹ AR 27-3, *supra* note 44, para. C-1c(1).

¹²⁰ *Id.*

¹²¹ *Id.* para. C-1c(2).

¹²² Lanier v. Traub, 934 F.2d 287, 290 (11th Cir. 1991).

¹²³ 38 U.S.C.S. § 1965(9) (LEXIS 2006); Prudential Ins. Co. v. Johnson, 200 N.W.2d 115, 118 (N.D. 1972).

¹²⁴ 38 U.S.C.S. § 1965(8).

¹²⁵ These situations warrant special attention because the likelihood of incorrect designation is great. A servicemember may designate children from a previous marriage as “My children from my marriage to Jane C. Smith.” *See* AR 27-3, *supra* note 44, para. C-1c(3). Whenever there is a doubt as to who is the designated beneficiary, LAAs should encourage the servicemember to complete *SGLV Form 8286* to clearly identify the beneficiaries to whom the SGLI proceeds should be paid.

¹²⁶ *See* VBA HANDBOOK, *supra* note 5, at 17. Distant relatives should be designated by their full legal name.

C. Designation of Minor Beneficiaries

Congress gave servicemembers an absolute right to designate any persons or entities as beneficiaries, including minors.¹²⁷ Designating minors as beneficiaries is often the most complex part of all SGLI counseling. Generally, there are three ways of designating minors as beneficiaries: through an outright gift, through a custodianship, or through a trust. In making any designation, the servicemember's relationship to the designee and the designee's name is most important.

When a servicemember designates a minor as a beneficiary outright, the minor will not receive the proceeds directly.¹²⁸ The SGLI program will not distribute proceeds to a minor until the minor is appointed a guardian by a state court.¹²⁹ In addition, most courts require the appointed guardian to post a surety bond. Some states limit, either by month or by year, amounts dispensed to a minor.¹³⁰ All remaining SGLI proceeds will be paid, however, once the minor turns eighteen.¹³¹ Judicial supervision reduces risks of fraud, waste, and abuse.

A servicemember may also designate a minor as a beneficiary through a custodianship under the Uniform Gift to Minors Act (UGMA) and the Uniform Transfer to Minors Act (UTMA), but under certain conditions.¹³² Legal assistance attorneys should advise servicemembers that designating a minor beneficiary using a custodian under the UGMA and UTMA is preferable to designating an individual by name under a verbal agreement that the designated beneficiary will distribute the proceeds to a minor upon the servicemember's death. A servicemember must obtain a verbal or written approval of an intended custodian who can be a person or a financial institution before the actual appointment.¹³³ Courts are usually not involved when a servicemember appoints a custodian.¹³⁴ The appointed custodian is authorized to use the proceeds for the benefit of the minor.¹³⁵ Similar to an outright gift, all remaining SGLI proceeds will be paid to the minor once the minor turns eighteen.¹³⁶ Usually, the appointed custodian will not have to post a surety bond¹³⁷ because there is no court supervision of a custodian under the UGMA and the UTMA. This, however, increases potential for waste and abuse; similarly, lack of court supervision may lead to fraud.¹³⁸

Since each state has a state specific UGMA and UTMA, there must be a connection between a servicemember, a beneficiary, or a custodian, and a particular state.¹³⁹ Legal assistance attorneys should advise a servicemember to include the following language: "John A. Jones, as custodian for each of my children, pursuant to the UGMA and the UTMA of the State of Texas, with distribution to each minor when that minor reaches age 18." This language is preferable to language without specific reference to a state because it clarifies that a servicemember selected the UGMA and the UTMA of the state of Texas. Depending on state laws, servicemembers can also specify the age of distribution.

Finally, the third type of designation to minors is a trust in a will¹⁴⁰ or outside of a will.¹⁴¹ Legal assistance attorneys

¹²⁷ Persons under the age of eighteen years are considered minors. See AR 27-3, *supra* note 44, para. C-1c(5).

¹²⁸ See 38 U.S.C. § 1970(f); see also AR 600-8-1, *supra* note 50, para. 12-18e(2)(a) (one minor who can receive SGLI proceeds directly without an appointment of a guardian is a servicemember's spouse).

¹²⁹ AR 600-8-1, *supra* note 50, para 12-18e(2)(e).

¹³⁰ See *id.* para. 12-18e(2)(c).

¹³¹ See *id.* para. 12-18e(2)(f).

¹³² See *id.* para. 12-18g.

¹³³ *Id.* para. 12-18g.

¹³⁴ See *id.* para. 12-18g(1)(a).

¹³⁵ See *id.* para. 12-18g(1)(c).

¹³⁶ *Id.* para. 12-18g(2)(a).

¹³⁷ See *id.* para. 12-18g(1)(d).

¹³⁸ *Id.* para. 12-18g(2)(c).

¹³⁹ For example, the Virginia Uniform Transfer to Minors Act states: "This chapter applies to any transfer that refers to the Uniform Transfers to Minors Act or this chapter ... by which the transfer is made if, at the time of the transfer, the transferor, the minor, or the custodian is a resident of this Commonwealth or the custodial property is located in this Commonwealth." See VA. CODE ANN. § 31-38 (LEXIS 2006).

¹⁴⁰ See *id.* para. 12-18h.

¹⁴¹ *Id.* para. 12-18i.

must advise the servicemember that a will containing a testamentary trust must be executed prior to SGLI designation.¹⁴² Servicemembers may establish a testamentary trust in a will for anyone, regardless of relationship. Legal assistance attorneys drafting the servicemember's will should insert language on *SGLV Form 8286* directing a trustee to fund a trust established for the benefit of a servicemember's children under the servicemember's will. Next, they should include in the will the combining language addressing SGLI proceeds.¹⁴³

Designating a trustee under a trust in a will is beneficial because the servicemember can specify how the trustee will use the SGLI proceeds for the benefit of the minor children. The servicemember has a greater ability to specify his wishes or desires rather than just simply designating a custodian. The need for a surety bond may be waived in the will but at the servicemember's risk.¹⁴⁴ Legal assistance attorneys should also counsel servicemembers that because the will may have to be probated,¹⁴⁵ the distribution of SGLI proceeds may be delayed¹⁴⁶ and decreased because of additional legal or court fees.¹⁴⁷

A servicemember may also designate a trustee without a will, using a trust established in a trust document. Servicemembers usually will have to pay civilian lawyers, however, to draft and execute a trust document.¹⁴⁸ Here, there is no automatic requirement for court involvement and legal fees will usually be avoided.¹⁴⁹ Since there is no surety bond required, however, servicemembers should be aware that a trustee may commit fraud, theft, or waste of the minor's funds.¹⁵⁰ Conditions may be placed on distribution of the SGLI proceeds (e.g., completion of college).¹⁵¹

D. Distribution of SGLI Proceeds

A servicemember has the following two options when selecting the distribution of proceeds: lump sum or thirty-six equal monthly installments. If the servicemember notates lump sum distribution in the payment option box on *SGLV Form 8286*, the beneficiary may later change such distribution to thirty-six equal monthly installments.¹⁵² If the servicemember notates "36," indicating monthly installment distribution, the beneficiary cannot change such election.¹⁵³ If the servicemember does not select a distribution option, the beneficiary can elect either option.¹⁵⁴ If the proceeds are to be paid in a lump sum, a personal interest bearing checking account, an Alliance account, will be opened for the SGLI or VGLI beneficiaries.¹⁵⁵ The beneficiaries will receive a checkbook for the account. This relieves the pressure on the beneficiaries to "do something with the proceeds."¹⁵⁶ Designations of beneficiaries are only valid if they are in writing, signed by the

¹⁴² *Id.* para. 12-18h.

¹⁴³ The Judge Advocate General's Corps 166th Officer Basic Course Desk Book, Estate Planning, App. A, *Anatomy of A Will*, recommends the following language for a pre-residuary SGLI trust:

If upon my death there are any life insurance policies on my life which name the trust under this Article FOURTH as the beneficiary, I give the proceeds of such insurance to be held and disposed of for the benefit of my children Ted Jones and Sonni Jones (hereinafter referred to as the "Beneficiaries") in accordance with the following provisions . . . :

THE JUDGE ADVOCATE GENERAL'S LEGAL CENTER AND SCHOOL, 166TH OFFICER BASIC COURSE DESK BOOK, ESTATE PLANNING app. A (*Anatomy of a Will*) (Mar. 2005).

¹⁴⁴ AR 600-8-1, *supra* note 50, para. 12-18h(1)(a).

¹⁴⁵ *Id.* para. 12-18h(2)(a). A will may have to be probated when heirs or other individuals want to change the terms of a will, or when there are questions to its validity. The probate process involves court hearings, making the will a public document, paying statutory fees to attorneys, executors and administrators, and waiting for creditors to file claims, even if no money is owed. A will may not have to be probated if the will disposes of small value assets or there is no transfer of a real estate title.

¹⁴⁶ *See id.* para. 12-18(2)(b).

¹⁴⁷ *See id.* para. 12-18i(2)(a).

¹⁴⁸ *See id.* para. 12-18i(2)(c).

¹⁴⁹ *See id.* para 12-18i(1)(a).

¹⁵⁰ *See id.* para. 12-18i(2)(b).

¹⁵¹ *See id.* para. 12-18i(1)(d).

¹⁵² OSGLI, SGLI Form 8286 *Directions to Servicemember* ¶ 5, [http://www.insurance.va.gov/sgliSite/forms/8286\(07-06\).pdf](http://www.insurance.va.gov/sgliSite/forms/8286(07-06).pdf) (last visited Oct. 20, 2006).

¹⁵³ *Id.*

¹⁵⁴ 38 U.S.C. § 1970(d).

¹⁵⁵ SGLI FAQ, *What Are Alliance Accounts*, <http://www.insurance.va.gov/SgliSite/SGLI/sgli%20faq.htm#19> (last visited Oct. 20, 2006).

¹⁵⁶ Kathleen T. Rhem, American Forces Press Service, *SGLI Improvements Ease Burden on Beneficiaries*, <http://www.defenselink.mil/news/Oct1999/n101>

insured, and received prior to the death of the insured by his uniformed service.¹⁵⁷ While *SGLV Form 8286* is commonly used, changes to beneficiary designations on “any other document” have been held valid.¹⁵⁸

It has been the experience of the author during Soldier Readiness Programs that a significant number of servicemembers mistakenly believe that SGLI designations are made by completing *DA Form 41, Record of Emergency Data*.¹⁵⁹ If the servicemember uses only *DA Form 41* to annotate his designations, the SGLI proceeds will be distributed as if no designated beneficiary was named.¹⁶⁰

Occasionally, designations fail for various reasons. For example, the beneficiary predeceased the servicemember or the designations were cancelled or terminated. When a designation fails, SGLI proceeds are distributed in the following order: first to the remaining spouse, then the children, then the parents in equal shares, then to the executor or the administrator of decedent’s estate, then to the remaining next of kin, and finally to other next of kin pursuant to the laws of a state of domicile of the servicemember or former servicemember.¹⁶¹ A designated beneficiary will not receive the SGLI proceeds, however, if they contribute to the death of the servicemember.¹⁶² Generally, beneficiary designations automatically terminate 120 days after the servicemember dies or terminates the coverage or when the beneficiary loses his status as an insurable dependent of the servicemember.¹⁶³ Legal assistance attorneys should advise servicemembers to keep their SGLI designations current and update them after significant events in servicemembers’ lives, such as a marriage, death of a beneficiary, or a new child.

A designated or eligible beneficiary must file a claim of payment on the *SGLV Form 8283, Claim of Death Benefits*, with the OSGLI office upon a servicemember or former servicemember’s death.¹⁶⁴ If the designated beneficiary fails to file a claim of payment within one year of the servicemember’s death, or if the beneficiary is prevented by federal law to file such claim, then the proceeds will be distributed as if the designated beneficiary predeceased the servicemember or former servicemember.¹⁶⁵ The designated beneficiary has two years to file the claim for SGLI benefits.¹⁶⁶ If an eligible beneficiary does not file a claim within two years, the SGLI proceeds will be paid to a person who may be equitably entitled to the proceeds based on the OSGLI’s determination. Such payment bars anyone else from claiming the SGLI proceeds after the two years period.¹⁶⁷ Any settlement of an SGLI claim is strictly a matter between the claimant and the OSGLI.

Part IV. Conclusion

The government has been providing life insurance coverage to servicemembers for almost ninety years. In December 1965, the SGLI became the first permanent, government-subsidized, group life insurance program widely accessible to servicemembers. The SGLI has been specifically created by Congress to meet servicemembers’ unique needs. These needs are affected each time the United States is involved in an armed conflict. Hence, legislative changes to SGLI closely parallel U.S. military global commitments. Legal assistance attorneys must be familiar with SGLI rights, obligations, and privileges and they must carefully counsel servicemembers about the designation of principal and contingent beneficiaries. The servicemember’s intent must withstand legal scrutiny, if challenged.

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¹⁵⁷ 38 U.S.C.S. § 1970(a) (LEXIS 2006).

¹⁵⁸ *Prudential Ins. Co. v. Smith*, 762 F.2d 476, 482 (1985).

¹⁵⁹ U.S. Dep’t of Defense, DD Form 93, Record of Emergency Data (Aug. 1998 (EG)).

¹⁶⁰ *See Prudential Ins. Co. v. West*, 324 F. Supp 1049, 1053 (1971).

¹⁶¹ 38 U.S.C § 1970(a).

¹⁶² *Prudential Ins. Co. v. Tull*, 690 F.2d 848, 849 (1982).

¹⁶³ 38 U.S.C. § 1968(a)(5). A beneficiary spouse can lose a status of an insurable dependent when a servicemember divorces the spouse and the unchanged SGLI designation states “to my spouse”, or when servicemember gives up parental rights over a minor child and the designation is “to my child.” Another example is when a servicemember’s parent legally abandons the servicemember, hence loses the status, and the servicemember’s SGLI designation states “to my parent.”

¹⁶⁴ AR 600-8-1, *supra* note 50, para. K-3c.

¹⁶⁵ 38 U.S.C. § 1970(b).

¹⁶⁶ *Id.* § 1970(c).

¹⁶⁷ *Id.*