

# Pending Legislation

Nov 17, 2021

Statement of

Patrick Murray, Director

National Legislative Service

Veterans of Foreign Wars of the United States

Before the

United States Senate

Committee on Veterans' Affairs

With Respect To

**“Pending Legislation”**

Washington, D.C.

November 17, 2021

## NATIONAL HEADQUARTERS

406 W. 34th Street  
Kansas City, MO 64111  
Office 816.756.3390  
Fax 816.968.1157

## WASHINGTON OFFICE

200 Maryland Ave., N.E.  
Washington, D.C. 20002  
Office 202.543.2239  
Fax 202.543.6719

info@vfw.org  
www.vfw.org

Chairman Tester, Ranking Member Moran, and members of the committee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our remarks on these important issues.

### **S. 1296, Daniel J. Harvey Jr. and Adam Lambert Improving Servicemember Transition to Reduce Veteran Suicide Act**

Service member and veteran suicide prevention continues to be a top priority for the VFW. Recent research indicates that suicide risk is increased after transition from the military. Additional research shows that risk is also heightened in individuals with mental health diagnoses. Accordingly, it is appropriate to educate and support transitioning service members with connections and resources to ensure risk factors are identified and care is given. The VFW supports this legislation, which would create a five-year pilot program to educate transitioning service members on reintegrating into civilian life and factors related to suicide risk. This pilot program would also facilitate a warm handoff of members to the Department of Veterans Affairs (VA), which would include an initial appointment, a health assessment, and a tailored treatment plan that addresses medical conditions associated with heightened suicide risk.

We do recommend that Congress ensure subsection (b)(1)(B) of this legislation occurs in a private, HIPAA-compliant setting. This would enable transitioning service members to more thoroughly understand the conditions associated with heightened suicide risk, as they may not have pre-existing diagnoses. This type of setting would also ensure a safe, confidential environment to discuss personal, service-related events that could lead to the conditions outlined in this subsection. Furthermore, the VFW also suggests that the Department of Defense (DOD) ensures appropriate processes and resources are in place to accommodate medical record requests and submissions to VA as outlined in subsection (b)(3).

### **S. 1564, Veterans Legal Support Act of 2021**

The VFW supports this proposal to provide support to university law school programs that are designed to provide legal assistance to veterans. Low income and justice-involved veterans face various challenges within the legal system. Certain university law programs offer incredible legal assistance to veterans in need, and this proposal would help expand the availability of those services.

While we strongly support this effort, we would like clarification on the eligibility of which schools can receive resources from this proposal. Are only established programs with veteran legal clinics eligible, or could this proposal be used to expand the availability of similar programs at new law schools that are not currently offering these services?

### **S. 1607, Student Veterans Transparency and Protection Act of 2021**

The VFW supports this legislation which would require necessary improvements to the GI Bill Comparison Tool and ensure veterans and individuals using VA education benefits have access to the information they need to make informed choices when selecting institutions. While measures to combat misrepresentation and aggressive recruiting from predatory institutions are important, it is also critical that individuals have the information and resources they need to accurately research and compare institutions on their own. It is important that this data is not only complete and up to date, but that it is easy to understand and digest for the average individual relying on this information to make important and life-shaping decisions. By adding clearer and expanded definitions of some of the data the tool shares, an individual researching can see not only what is important, but why it is important. Also, by disaggregating the data, veterans will be able to more clearly see outcomes an institution provides for student veterans such as job placement.

Because student veterans and individuals using GI Bill benefits are affected by school closures, faced with lost VA benefits, and possibly saddled with student loan debt, we also support measures in this legislation to restore VA education benefits to individuals who used their entitlement at institutions subject to civil enforcement action. Expanding the scope would give these students a lifeline to complete their degrees in the event their institutions close. The VFW wants the GI Bill Comparison tool to provide the most transparent and accurate record of student feedback. Understanding an institution's history with student veterans and others using VA benefits is necessary to make an informed choice. We support measures to require this feedback be shared in perpetuity, provided the

information is clear and accurate regarding each individual infraction. We would also recommend a careful review of how feedback is stored and shared through the tool in cases of change of ownership.

We also support measures to require training for VA counselors on all components of the GI Bill Comparison Tool as they advise potential students in making these decisions. As many student veterans are first-time students on active duty and make their institutional decisions while using tuition assistance benefits, it is critical that DOD counselors are trained to provide accurate and meaningful data and have full understanding of use of the comparison tool.

### **S. 1664, Department of Veterans Affairs Post-Traumatic Stress Disorder Processing Claims Improvement Act of 2021**

Post-traumatic stress disorder (PTSD) can occur after a person experiences or witnesses a traumatic event such as military sexual trauma (MST), combat, severe accident, natural disaster, and serious violence or injury. A veteran can file a disability benefit claim for PTSD as a service-connected injury. An Office of Inspector General (OIG) report from December 2020 indicated that sixteen percent of processed claims were not in accordance with VA regulations and procedures. The OIG recommended training staff in the process of how to gather evidence and verify stressors required for PTSD claims, and to track results.

The VFW supports this proposal to improve PTSD disability claim processes by updating the current training programs, ensuring participants complete required training, analyzing all claims processing error trends, and creating an annual study to guarantee consistent and current national training.

### **S. 1838, Building Credit Access for Veterans Act of 2021**

The VFW supports this legislation to implement a pilot program to allow VA home loan lenders and veterans with insufficient credit history to use VA home loan via an alternative

credit method. Service members who lived in military housing and never had cause for purchasing a vehicle, may leave active duty with much less credit history than their civilian counterparts of the same age. The VA home loan program is one of the more significant measures that provides economic opportunity and upward mobility for veterans to establish a stable life for themselves after serving. This legislation would ensure veterans are not denied that opportunity simply due to lack of credit history, if they are able to provide alternative evidence of their financial stability.

### **S. 1850, Chaplains Memorial Preservation Act**

The VFW supports this legislation to authorize updates and corrections to three chaplains' memorials located at Arlington National Cemetery, at no cost to the federal government. As a mission of the VFW is to "Honor the Dead by Helping the Living," we take very seriously our duty to pay tribute to those who gave their lives during service to our nation, the spirit of which aligns with this bill.

### **S. 1881, Veteran Education Empowerment Act**

The VFW supports this legislation to authorize grants to institutions of higher learning to establish, maintain, and improve Student Veteran Centers. These centers are a critical resource for student veterans as they pursue their degrees, and these grants are essential for institutions unable to prioritize funding for student veteran support. Having a centralized location for networking, tutoring, and resources and programs specific to student veterans may be a lifeline during their educational journey. We support expanding resources to help create these centers where most needed and maintain them over time while reporting best practices for student success. In prioritizing institutions to receive this support, we recommend that institutions with current Veterans Integration to Academic Leadership (VITAL) programs, as well as minority-serving institutions, be added to other priority considerations. We also support collecting data to help all institutions establish better practices for student veteran support services.

### **S. 1936, GI Bill National Emergency Extended Deadline Act of 2021**

The VFW supports this legislation to make permanent the extensions of time limits and eligibility periods created for students using VA education benefits during the COVID-19 pandemic. As we continue to face uncertainty, it is critical we do not force student veterans to ponder the fate of their education benefit in times of national emergency. The VFW supports making these extensions automatic and believes that any time limit, age limit, period of eligibility, or delimiting dates should be removed from VA education and employment benefits, as these are truly lifelong needs for veterans and their families. To this extent, we also support measures in this legislation to remove the age limit from individuals using VA education benefits under Chapter 35, Survivors' and Dependents' Educational Assistance (DEA). The VFW further supports measures in this legislation to require in-state tuition for survivors utilizing DEA, providing parity to those students along with all other VA education benefit users and allowing those students to maximize their Chapter 35 benefit.

We have been pleased to hear continued reporting from the Veterans Benefits Administration (VBA) on the status of Digital GI Bill upgrades and continued meeting of milestones toward automation. Automating these information technology services will streamline the process for determining eligibility, provide much greater accuracy, and improve communication between VA and institutions. We support measures in this legislation that codify technological improvements, and we believe these enhanced technology measures will have a direct impact on student success and prevent overpayments that may cause student financial distress.

The VFW also supports measures in this legislation that would establish grants to pilot fellowships up to twenty weeks in three to five states. Fellowship programs such as DOD SkillBridge have shown success, though still struggle with outreach and the ability to support participation prior to leaving active duty service. Providing veterans in need with fellowship opportunities to learn and prove their worth in new civilian fields would be a big step in the right direction in ensuring seamless transition to civilian life and that transition assistance does not abruptly end at the conclusion of active service.

## **S. 2089, Burial Equity for Guards and Reserves Act of 2021**

The VFW supports this legislation which would ensure that VA grants to state veteran cemeteries do not restrict states from burying veterans who served in the National Guard and Reserve with honorable discharges.

Currently, only certain veterans are eligible for burial at cemeteries managed by VA's National Cemetery Administration (NCA). This includes service members who died on active duty, those who served on active duty and received an other than dishonorable discharge, and those who served in the National Guard or Reserve for at least twenty years and received an other than dishonorable discharge. Service members of the National Guard and Reserve who serve for less than twenty years and have no time on active duty, even if discharged under honorable conditions, do not qualify.

Service members of the National Guard and Reserve, many of whom also have access to VA health care, education benefits, and VA home loan eligibility, should have the right to be buried in a state veterans cemetery. States that choose to broaden the eligibility of veterans beyond what the NCA currently allows should not be restricted from the Veterans Cemetery Grants Program.

### **S. 2329, BEST for Vets Act of 2021**

The VFW supports this bill, which would ensure only licensed health care professionals furnish medical disability examinations under an existing VA pilot program. A March 2021 Government Accountability Office study reported a significant increase in the use of VBA contractors to perform examinations versus Veterans Health Administration (VHA) medical centers. Therefore, the pilot program established in section 504(a) of the *Veterans' Benefits Improvements Act of 1996* for contracted medical disability examinations would mimic VHA's health care professional medical disability examiners. We do want to clarify that even though this would increase the number of medical disability examiners and create parity between VA and the contracted pilot program, each health care professional needs to furnish these examinations within their scope of practice. The VFW wants to ensure that VA's high-quality standards are maintained with contractors as well.

### **S. 2405, Commitment to Veteran Support and Outreach Act**

The VFW supports the intent of this legislation to improve outreach to veterans regarding the VA benefits to which they are entitled. We see it as a duty of the Department, with the help of Veterans Service Organizations (VSOs) and partners, to continuously seek to improve communications and outreach to veterans regarding their earned benefits, health care, and other services. This legislation would allow VA to award grants to states for outreach activities, to assist veterans in the development and submittal of VA claims, or to hire additional county or tribal veterans service officers, select state service officers, or publicly funded entities.

The VFW believes that language should be clarified in this legislation to ensure states have the flexibility to further allocate grant funds not only to state, county, and tribal service officers, but also to service officers from private VSOs like the VFW and others that are recognized by VA for the preparation, presentation, and prosecution of claims before the agency. Many states do not utilize County Service Officers and the VFW would like to ensure these states are not inadvertently overlooked in this proposal. States such as Rhode Island, Mississippi, Kansas, and Montana utilize State Service Officers or have VSOs perform those duties on behalf of the state. We would like to see this proposal be all encompassing to make sure veterans in every state can benefit.

The VFW appreciates the effort within this legislation to address shortages of accredited service officers in certain parts of the country and for the extra focus on areas where there are high veteran suicide rates. We look forward to working with the committee to make this proposal as inclusive as possible to meet the needs of the veterans' community. We believe we should direct resources such as VSOs and additional Vet Centers toward areas that have a high demand.

The VFW strongly believes that ensuring veterans gain access to their earned VA health care and benefits can significantly impact a veteran's well-being and mental health. We support expanding access to accredited service officers and Vet Centers to provide additional mental health services in rural areas, as well as increasing funding for a variety of VA economic opportunity and housing programs. Improving outreach to veterans and informing them about VA resources is important in reducing risk factors of veteran suicide.

### **S. 2431, Department of Veterans Affairs Office of Inspector General Training Act of 2021**

The VFW supports this proposal to require each Department employee to receive training

developed by the VA OIG for the reporting of wrongdoing, responding to requests, and cooperating with the OIG. The VFW believes the OIG performs a critical role in overseeing and investigating the practices of VA, and a vital component of this role is employee input. Training the employees on the role, responsibilities, and legal authority of the Inspector General and the duty of employees for engaging with the OIG is important to accomplishing its mission.

This training would also empower the employees to identify the circumstances and mechanisms for reporting fraud, waste, abuse, and other wrongdoing, including making confidential complaints. It would help protect the men and women who help our service members, veterans, and families, every single day

#### **S. 2513, Brian Neuman Department of Veterans Affairs Clothing Allowance Improvement Act of 2021**

Veterans may qualify for the VA Clothing Allowance when they have prosthetics, orthopedic devices, or skin medicine that affects their clothing. Veterans must reapply for this benefit each year even though, in many cases, the circumstances which qualify them for the benefit will not change over time. The VFW supports this legislation that would require a veteran to apply for the clothing allowance only one time. Once granted, these payments would continue each year until VA determines that the veteran is no longer eligible for the benefit. This would remove the burden from the veteran of having to reapply each year.

#### **S. 2644, GRAD VA Educational Assistance Parity Act of 2021**

The VFW supports this legislation which would allow members of the National Guard and Reserve to earn eligibility toward the Post-9/11 GI Bill education benefit through the full scope of their types of duty. As our country increasingly calls upon the service of our Guard and Reserve forces in times of national crisis, and as the nature of the orders on which these individuals are activated varies, it is important that their service and sacrifice is recognized and that they are able to earn time toward GI Bill benefits alongside their active duty counterparts.

## **S. 2687, Strengthening Oversight for Veterans Act of 2021**

The VFW supports this proposal to provide the OIG testimonial subpoena authority, and believes

the OIG performs a critical role in overseeing and investigating the practices of VA. In December 2020, the VA OIG produced a report titled *Senior VA Officials' Response to a Veteran's Sexual Assault Allegations*. In this report the OIG stated, "The OIG's investigation was hindered by the refusal of several senior VA officials to cooperate with requests for follow-up interviews to clarify and resolve conflicts that arose when additional information was gathered after their initial interviews." Although authorized by statute and regulation to require VA employees to testify in its investigations, the OIG lacks independent authority to compel Department staff to appear for interviews. It depends on the cooperation of VA officials to hold employees accountable for meeting their obligations to cooperate in an investigation. This proposal would strengthen OIG's authority to subpoena certain individuals in order to properly perform its charged duties. This change would allow for OIG to ensure full completion of its critical role.

## **S. 2761, Every Veteran Counts Act of 2021**

The VFW supports this legislation to collect, maintain, and publish veteran demographic information. We suggest that language be added to identify whether the veteran has a general caregiver as that term is defined in section 71.30 of Title 38, United States Code. In addition, we want to ensure the current crop of VA users is included in this repository of information. The VFW believes detailed data collection and transparency of which specific veterans are affected by which specific issues will help determine how we should focus resources and attention in the future.

Understanding the veteran population as a whole, including those not utilizing the VA system, is beneficial to any needs assessment, particularly when determining gaps in social determinants of health, mental health access, and suicide prevention and postvention. Data provided and publicly disseminated on the continuously changing veteran population will allow stakeholders to create and develop programs, apply for grants, direct resources, and advocate on legislation to better affect veterans and the communities in which they reside.

Year after year, VA's *National Veteran Suicide Prevention Annual Report* continues to disregard the full scope of veterans' engagement with VBA programs. The VFW insists that VA stop viewing suicide simply as a mental health crisis. It must remove the blinders and gain a better understanding of other underlying causes. The current report lacks information key to examining veterans' social determinants of health like housing security, benefit usage, workforce skill attainment, and steady income, which VA's research indicates is often a better predictor of suicide and suicidal ideation.

We believe this legislation would benefit all veterans, VA, Congress, state and federal government agencies, VSOs, advocacy groups, and stakeholders who are committed to better the lives of veterans and their families. Having a public facing database of this information creates opportunities for development and dissemination of relevant data to empower engagement and innovation of these organizations with veterans and their families.

### **S. 2794, Supporting Families of the Fallen Act**

The Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) maximum payouts have remained at \$400,000 for the last sixteen years. The VFW supports this legislation which would increase the maximum payout to \$500,000 to adjust for inflation. Service members and their families should have peace of mind when selecting either of these insurance policies for the maximum amounts, anticipating what their needs might be in the event of the individual's passing while considering overall rising costs over time due to inflation.

### **S. 3047, Veterans Pro Bono Corps Act of 2021**

The VFW supports the intent of this bill, but we have concerns about unintended confusion

it would cause if implemented. Currently, VA is denying third party medical evaluations through the Disability Benefits Questionnaire (DBQ) at a much higher rate than VA provided evaluations. This is adding to the backlog by requiring redundant examinations to verify medical information already provided by outside examiners. Until VA stops this unnecessary practice, we are concerned that allowing medical residents and fellows to perform examinations will exacerbate this issue as we believe VA would treat these examinations the same as third party examiners.

Compensation and pension (C&P) examinations have a current backlog, but it is not entirely due to a lack of examiners. The Covid-19 pandemic delayed C&P exams because some medical providers were not seeing routine patients, and some patients were not willing to travel to medical facilities to participate in routine examinations. Additionally, a common concern we hear from veterans we represent is a delay in specialty examinations in their respective areas. Veterans in Long Island, New York are being sent to Connecticut for dermatology. Veterans in Birmingham, Alabama are being sent all over the state for audiology. Specialized C&P examinations are needed more than general examinations, and while this proposal does not specifically include or exclude expanded specialty examiners, it is open-ended which would allow for more than just specialty providers to participate in this grant program.

Lastly, we question how the “opt-in” for veterans would take place. The current process for C&P examinations is that when a veteran files a claim it triggers an examination. VA can either accept the claim or order a follow-on examination. The veteran is notified of the scheduled examination with either a VA examiner or a VA contract examiner. The examination then takes place. The VFW believes asking veterans to opt in to a third alternative that is outside the VA system would create confusion unless it is expressly conveyed to the veteran.

### **S. 3094, Reaching Every Homeless Veteran Act of 2021**

The VFW supports this legislation which would provide grants toward homeless reintegration programs and enhance outreach to areas that may lack awareness of employment and training programs available for veterans in need. As housing security and employment security can be a vicious cycle with each relying on the other, homeless veteran reintegration programs that provide job training, counseling, and placement services are

critical. Especially during a time where we face a nationwide housing crisis, we must break the cycle and support resources and organizations that help find veterans struggling with housing to find the employment they need.

## **RURAL Exams Act of 2021**

C&P examinations are a critical part of the VA disability claims process. The VFW supports this legislation to improve data collection from C&P examinations to better track timeliness, quality, and veteran satisfaction. The VFW has asked for this information to better understand the quality of both VA and contract examinations in all parts of the country. It would also provide performance-based incentives for contractors to provide high-quality examinations in rural areas, and require inspections of contractor facilities to ensure examinations are conducted in safe and appropriate locations.

## **Veterans Benefits Improvement Act of 2021**

The VFW supports some portions of this bill but has concerns with other sections of this proposal:

### **Title I - Board of Veterans' Appeals Matters**

The VFW supports the establishment of a competitive internship program at the Board of Veterans' Appeals (BVA). VA has historically been a robust training ground for medical personnel, and the VFW believes this proposed program aligns with the spirit of continuing to recruit and train the best and the brightest within VA.

We also support the creation of an Honors program to officially recruit high-achieving individuals as entry-level attorneys at BVA. Pairing employment incentives with completion of the competitive internship program would potentially provide BVA with high-quality and knowledgeable employees.

The VFW supports implementing a program to reimburse certain claimants for travel to BVA tele-hearings. Not all veterans have access in their homes to high-speed internet, or the access to computers with updated live-virtual programs. This lack of access may require certain veterans to travel to alternate locations in order to participate in tele-hearings. We believe that if certain veterans need to travel in order to participate in their appeals hearings, whether those hearings are virtual or in-person, they should be allowed to file for reimbursement.

## Title II - Medical Disability Exam Matters

The VFW supports the section to improve the DBQ forms. DBQs are an integral part of the claims process and need to be kept as simple and user friendly as possible since many times these forms are being used by examiners who are not part of the VA system. Recent changes to the DBQ process were not helpful for veterans, and we are glad to see this committee is committed to make sure DBQs are made as beneficial to veterans as feasible.

The VFW also supports the portions of this proposal to improve matters for veterans seeking disability examinations outside the borders of the United States, and to update permissions for contract examiners. VA is shifting many of its disability examinations to non-VA providers, and it may eventually move one hundred percent of them to outside examiners. The VFW believes it is imperative to ensure contract examiners are provided the same permissions and are held to the same standards as their VA counterparts.

## Title III - Other Matters

The VFW does not support the section of this proposal to establish a pilot program for VA to accredit governmental Veterans Service Officers. VA should not focus on training, accrediting, and overseeing its own accredited representatives, but should instead work toward the oversight of current representatives who process disability claims.

We believe the intent of this section is to ultimately provide more information and transparency to veterans who have VA claims. The VFW supports changes to ensure veterans have more knowledge about their claims, and adding permission for read-only access to accredited representatives would accomplish that mission. We support adding read-only access to individuals in the VA Office of General Counsel accreditation database in order to allow any accredited representative to share the status of claims with individuals, even if those individuals are not represented by the accredited representative.

We also appreciate this committee's efforts to help improve the notification of claims to veterans. The pre-decisional review process was eliminated by previous VA Secretary Robert Wilkie. This change hurt veterans and it made it harder for their representatives to assist with their claims. Pre-decisional review is an important tool in the claims process, and we are grateful that the current administration has reinstated a review and notification process. It is still in the second phase of the current pilot program, and we await further information from VA to determine the effectiveness of this new notification pilot program.

Chairman Tester, Ranking Member Moran, this concludes my testimony. I am prepared to answer any questions you or the committee members may have.