

**NINETY-EIGHTH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
Cincinnati, Ohio
August 30, 31, September 1, 2016**

Resolution No. 117: Disability and Death Pension Program

Origin: Maryland

Submitted by: Convention Committee on Veterans Affairs & Rehabilitation

WHEREAS, Public Law 95-588, the Veterans and Survivors Pension Improvement Act of 1978, provided major changes in the disability and death pension program for the veterans of World War I, World War II, the Korean, Vietnam, and Gulf Wars and their surviving spouses and children; and

WHEREAS, This pension program established different guaranteed annual income levels for necessary economic support; and

WHEREAS, After extensive study, The American Legion concludes that certain inequities exist in the Improved Pension program that need to be addressed by Congress; and

WHEREAS, Under the current Death Pension program, the annual benefit rate for a surviving spouse with no income and no dependents is \$8,219 or about only two thirds of the amount received by a veteran with no income and no dependents; and

WHEREAS, In addition, current regulations provide that surviving spouses are not entitled to pension benefits for the month in which the veteran dies, if they are not found eligible for death pension; and

WHEREAS, The majority of these surviving spouses are elderly and disabled and are living below the poverty level; and

WHEREAS, Under the current Death Pension program, the annual benefit rate for a surviving child with no income where there is no surviving spouse is \$2,093 or seventeen percent of the amount received by a veteran with no income or dependents; and

WHEREAS, This limited amount may impose a severe financial hardship on the surviving child; and

WHEREAS, Under title 38, United States Code, section 1543 where the surviving child is residing with a person who is legally responsible for such child's support, the income and corpus of estate of that person is countable for the purposes of determining entitlement or continued entitlement to pension benefits; and

WHEREAS, Currently, when two veterans are married to one another where both meet the disability, service and income requirements, basic pension benefits are payable only at the rate of a "veteran with one dependent," which is currently \$16,051 annually; and

WHEREAS, The American Legion believes that since each veteran in their own right meets the eligibility criteria for pension with the exception of being married to another veteran, this discriminatory provision of the law should be eliminated and each veteran should be paid at the basic pension rate of a single veteran without dependents which is \$12,256, reduced by the amount of countable family income; and

WHEREAS, In the determination of annual income, payments under all Government Life Insurance programs are countable, but proceeds from fire and casualty insurance policies may be excluded; and

WHEREAS, Previous pension programs have excluded the proceeds of Government Life Insurance Policies in the determination of annual income; and

WHEREAS, Currently, the effective date of reduction or discontinuance of pension based on a change of income shall be the last day of the month in which the change occurred; and

WHEREAS, The American Legion believes it would lessen the financial hardship of such adjustments to pension if any such change would be made as of the last day of the calendar year in which the change occurred; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Cincinnati, Ohio, August 30, 31, September 1, 2016, That The American Legion support amendments to title 38, section 1543, United States Code, to accomplish the following:

1. Establish the pension rates of surviving spouses at ninety percent of the rate for a veteran without dependents;

2. Establish the pension rate for a surviving child where there is no surviving spouse entitled at ninety percent of the rate of a veteran without dependents;

3. Delete the requirement that the income and corpus of estate of a person legally responsible for the support of a surviving child be counted in the determination of annual income of such child;

4. Provide that when two veterans, who meet the service, disability and income requirements for pension eligibility, are married to one another, each shall be paid at the rate of a single veteran without dependents reduced by the amount of countable family income;

5. Exclude in the determination of annual income payments all proceeds from Government Life Insurance policies;

6. Change the effective date for reduction or discontinuance of pension based on a change of income from the last day of the month in which the change occurred to the last day of the calendar year in which the change occurred.