STATEMENT OF
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THE AMERICAN LEGION
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
ON
PENDING AND DRAFT LEGISLATION

FEBRUARY 7, 2018

Chairman Isakson, Ranking Member Tester, and distinguished members of the committee; On behalf of our National Commander, Denise H. Rohan, and the over 2 million members of The American Legion, we thank you for this opportunity to testify regarding The American Legion's positions on pending legislation before this committee. Established in 1919, and being the largest veterans service organization in the United States with a myriad of programs supporting veterans, we appreciate the committee focusing on these critical issues that will affect veterans and their families.

S. 242: WINGMAN Act

To amend title 38, United States Code, to provide certain employees of Members of Congress and certain employees of State or local governmental agencies with access to case-tracking information of the Department of Veterans Affairs.

The WINGMAN Act would permit certain congressional employees in the office of a member of Congress to have read-only access to all of the veteran's records in the Department of Veterans Affairs (VA) Veterans Benefits Management System (VBMS) for the purpose of assisting constituents. A Member may designate up to two such congressional employees, but the employees may not be recognized as an agent or attorney with respect to veterans' benefit claims. Funds under this bill may not be used to design or administer any training for congressional employees.

The American Legion has over 3,600 accredited representatives to assist veterans with their claims located throughout the nation. These professionals receive regular professional training to ensure they have the most current understanding of the impact of changes in statutes, regulations, and case law. It is simply not a matter of receiving initial training and meeting the requirement of being accredited; like many professions, it requires on-going, thorough training. Additionally, veterans are repeatedly advised of their opportunity to elect to have a Veterans Service Organization (VSO) represent them in their quest to receive VA disability benefits without a cost to the veteran. The American Legion does not have a resolution to support the enactment of this bill; however, we urge Congress to consider the long-term ramifications of supporting legislation that only requires their own employees to have the minimal level of understanding in veterans'

law assisting their constituents. To ensure their constituents receive the assistance they deserve, we highly recommend that a VSO advocate on their veterans' behalf.

The American Legion opposes S. 242.

S. 624

To allow servicemembers to terminate their cable, satellite television, and Internet access service contracts while deployed.

S. 624 would amend the Servicemembers Civil Relief Act (SCRA) to allow a servicemember to terminate a commercial mobile, telephone exchange, Internet access, or multichannel video programming service contract at any time after the date the servicemember receives military orders to relocate for at least 90 days to a location that does not support such service contract. Currently such provision applies to a cellular telephone service or telephone exchange service contract. A servicemember shall return any provider-owned consumer premises equipment to the service provider not later than 10 days after the service is disconnected.

The American Legion recommends these additional protections be extended to servicemembers to protect them when they are deployed. Early termination of contracts related to internet access, satellite television and cable television can range anywhere from $100-$250 each, resulting in unnecessary, unintended, and expensive costs incurred by servicemembers who are simply obeying the tasks placed upon them by duly authorized orders. Such costs coincide with negative credit reports which further interfere with the ability of the servicemember to perform his or her duty, and impacts the ability of the individual or family to realize the American dream and own a home by punitive credit rates.

The American Legion has been the leading veterans' advocacy organization since its inception in 1919. Such advocacy resulted in the creation and passage of SCRA, formerly known as the Soldiers' and Sailors' Civil Relief Act, and the original GI Bill, codifying into federal law benefits earned by active and former members of the United States military as a result of their honorable service during a time of war. SCRA has been legislatively updated on occasion by the United States Congress to reflect societal changes and rising costs of providing said benefits.

Resolution No. 342, *Support and Strengthen the Servicemembers Civil Relief Act (SCRA)* urges Congress to amend the Servicemembers Civil Relief Act to include protections for members of the Armed Forces, and their families, acting under duly authorized and issued orders to include, but not limited to, deployment and temporary duty assignment orders against fees, fines and the resulting negative credit reports by cancellation of ticketed travel on U.S. airlines or train transportation.[1]

The American Legion supports passage of S. 624.

[1] Resolution No. 342: *Support and Strengthen the Servicemembers Civil Relief Act*

S. 1072: Homeless Veterans Prevention Act of 2017

To amend title 38, United States Code, to improve the provision of services for homeless veterans, and for other purposes.

Generally, the causes of homelessness can be grouped into three categories: economic hardships, health issues, and lack of affordable housing. Although these issues affect all homeless individuals, veterans face additional challenges in overcoming these obstacles, including: prolonged separation from traditional supports such as family and close friends; highly stressful training and occupational demands, which can affect personality, self-esteem and the ability to communicate upon discharge; and non-transferability of some military occupational specialties into the civilian workforce. The Departments of Veterans Affairs (VA) and Housing and Urban Development (HUD) reported a little over 40,000 homeless veterans on a single night in January 2017.[2] We witnessed a slight uptick in homeless veterans last year, due mostly to high cost rental markets. Please note - positive progress has been driven by consistent action at all levels of government and across all sectors. Much progress has been made; however, there is still room for significant improvement with access to resources for at-risk and homeless veterans.

The American Legion supports S.1072 because it would allow the VA to enter into partnerships with other entities to expand the legal services available for veterans experiencing homelessness. The legislation would also require housing providers to take steps to better meet needs of women veterans, and would amend VA rules to ensure the children of homeless veterans are allowed to live in VA-run transitional housing programs. S.1072 would also authorize the VA to provide dental care to homeless veterans, which has been a top ten need in the VA's Project CHALENG (Community Homelessness Assessment, Local Education and Networking Groups) survey for many years. Lastly, the bill would increase the authorization limit for the Supportive Services for Veteran Families (SSVF) Program to $500 million, opening the door for the renewal of surge grants set to expire at the end of the year.

The American Legion maintains a sustained focus on the prevention of veteran homelessness ("get them before they get on the street"). We offer support to at-risk and/or homeless veterans and their families in the forms of informal advice and counseling, assistance with obtaining VA healthcare and benefits, temporary financial assistance (TFA), aid from the Child Welfare Foundation (CWF), and assistance with employment through our Career Fairs and Veteran-Owned and Service-Disabled Veteran-Owned Small Business Development Workshops (educational forums). This kind of assistance is available from the Post level up to The American Legion's national organization.

Lastly, based upon the small rise in veteran homelessness, this is no time to stop funding federal programs or not look to adding necessary resources to assist homeless veterans in obtaining housing, treatment, and financial stability. Consequently, on behalf of the 2 million members of The American Legion, we express support for S.1072, *the Homeless Veterans Prevention Act of 2017*. The American Legion applauds Congress for its substantial funding for homeless programs, while giving major thanks to VA, HUD, and the Department of Labor, for the

[2] https://www.hud.gov/press/press_releases_media_advisories/2017/HUDNo_17-109

implementation of their programs that have literally saved the lives of thousands of veterans. We strongly believe that with the path VA has begun in eliminating veteran homelessness and the proper utilization of the resources at the state level and in local communities, we can continue to make tremendous progress.

Resolution No. 324, *Funding for Homeless Veterans,* supports any legislative or administrative proposal that will provide medical, rehabilitative, and employment assistance to homeless veterans and their families.[3]

The American Legion supports passage of S. 1072.

S. 2038: Fairness for Korean DMZ Veterans Act of 2017

To amend title 38, United States Code, to provide for a presumption of herbicide exposure for certain veterans who served in Korea, and for other purposes.

S. 2038 would expand the presumption of herbicide exposure for veterans who served in the Korean Demilitarized Zone (DMZ). The bill would change the presumptive dates to cover the period of Sept. 1, 1967-Aug. 31, 1971. Currently, presumption for Korean DMZ veterans only covers the time period of April 1, 1968-Aug. 31, 1971.

Veterans who served this nation honorably should never be denied assistance when returning home from injuries sustained while fighting for this country. This bill will assist veterans in obtaining treatment from the VA by including the presumption of Agent Orange exposure to veterans who were stationed near the DMZ before April 1, 1968. Declassified Department of Defense documents indicate that the testing period occurred before the current presumptive dates.

Consistent with Resolution No. 35, The American Legion urges Congress to vigorously support the liberalization of the rules relating to the evaluation of studies involving exposure to dioxin and the adjudication of claims based on Agent Orange exposure.[4]

The American Legion support passage of S. 2038.

S. 2097: State Veterans Home Program Improvement Act of 2017

To amend title 38, United States Code, to improve the administration of State homes furnishing care to veterans under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

State Veterans Homes are facilities that provide nursing home, domiciliary, or adult day care. They are owned, operated and managed by state governments. They date back to the post-Civil

[3] Resolution No. 324, *Funding for Homeless Veterans*
[4] Resolution No. 35: *Agent Orange*

War era when many states created them to provide shelter to homeless and disabled veterans. Every state operates at least one State Veterans Home, with one in Puerto Rico, and more State Veterans Homes, and beds and other programs within them, are planned or projected to meet a growing demand for long-term care programs and facilities for America's elderly, sick, and disabled veterans.

The State Veterans Home program has proven itself to be the most cost-effective source of high quality long-term healthcare services for the nation's veterans who need skilled nursing, domiciliary, adult day health care and other specialized programs to meet their needs.

Currently, states are permitted to transfer federal funds earmarked for States Homes to the general treasury of the state. S. 2097 would stop the practice of federal State Home Per Diem funding being transferred away from veterans to state government general funds, with certain strict exceptions.

This bill would improve the VA State Veterans Home Programs by ensuring that any federal funds from the State Home Per Diem Program stay inside state veterans homes to improve care for veterans. The VA Secretary may waive the above requirements with respect to a state, but only if the state submits to the Secretary a certification that the State homes located in that State do not require additional maintenance, capital improvements, or staffing; and the amounts paid to the state will be used to benefit veterans.

S. 2097 would also authorize the VA Secretary to carry out a pilot program to compensate states for furnishing care to veterans at state-operated facilities that are not intended to be used exclusively by veterans.

The American Legion believes funds earmarked for State Veterans Homes should be used for its intended purpose and only returned to the state treasury when the state has met the needs of veterans served by the state.

Through Resolutions No. 135 and 185, The American Legion supports legislation to amend Title 38, United States Code to provide clarification to the State Veterans Home, Centers for Medicare and Medicaid Services, and the Department of Veterans Affairs per diem reimbursements.[5, 6]

The American Legion supports S. 2097.

S. 2105

To modify the presumption of service connection for veterans who were exposed to herbicide agents while serving in the Armed Forces in Thailand during the Vietnam era, and for other purposes.

[5] Resolution No. 135: *State Veterans Homes' Extended Care Facilities Grant Program*
[6] Resolution No. 185: *State Veteran Home Per Diem Reimbursement*

S. 2105 would acknowledge herbicide exposure to all veterans who served at any military installation in Thailand during the Vietnam Era for purposes of determining their eligibility for VA benefits.

Currently, VA does not automatically recognize veteran exposure to herbicides while serving in Thailand during the Vietnam Era. VA does acknowledge herbicide exposure for specific military occupational specialties on the perimeter of eight specific Thai Royal Air Force Bases.

S. 2105 would automatically concede herbicide exposure for all veterans who served at military installations in Thailand during the Vietnam Era, regardless of the base, duty on the perimeter, or military occupational specialty. As a result, the presumptive diseases currently associated with herbicide exposure, including spina bifida for children, would be applicable to all veterans who served at military installations in Thailand during the Vietnam Era.

Consistent with Resolution No. 35, The American Legion supports legislation to amend title 38, United States Code, section 1116, to provide entitlement to these presumptions for those veterans who were exposed to Agent Orange while serving in areas other than the Republic of Vietnam where Agent Orange was tested, sprayed, or stored.[7]

The American Legion supports S. 2105.

S. 2107: Department of Veterans Affairs Provider Accountability Act

To amend title 38, United States Code, to require the Under Secretary of Health to report major adverse personnel actions involving certain health care employees to the National Practitioner Data Bank and to applicable State licensing boards, and for other purposes.

S. 2107 would require the VA to report major adverse actions to the National Practitioner Data Bank (NPDB) and state licensing boards within 30 days after the date a major adverse action is taken against a VA employee. The NPDB is a United States Government program that collects and discloses, only to authorized users, negative information on health care practitioners, including malpractice awards, loss of license, or exclusion from participation in Medicare or Medicaid. It would also prohibit VA from signing settlements with terminated VA employees and would forbid VA from concealing serious medical errors or to purge negative records from employees' personnel files.

The VA lists integrity as its first core value, and VA employees make the promise to act with high moral principle and adhere to the highest professional standards. The vast majority of VA healthcare providers are well-trained, caring, public servants who work hard to take care of this nation's veterans. Just like in any healthcare system, though, there are bad apples. This legislation would help ensure that incidences of malpractice do not go unreported by imposing new oversight measures on the VA, thus safeguarding the safety and wellbeing of those who are cared for by the VA healthcare system.

[7] Resolution No. 35: *Agent Orange*

Through Resolution No. 377, The American Legion urges Congress and the VA to enact legislation and programs within the VA that will enhance, promote, restore or preserve benefits for veterans and their dependents, including, but not limited to, the following: timely access to quality VA health care; timely decisions on claims and receipt of earned benefits; and final resting places in national shrines and with lasting tributes that commemorates their service.[8]

The American Legion supports S. 2017.

S. 2131: VA Newborn Emergency Treatment Act

To amend Section 1786 of title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish medically necessary transportation for newborn children of certain women veterans, and for other purposes.

Title 38 U.S.C. 1786 currently authorizes the Secretary of Veterans Affairs to furnish post-delivery care services, including routine care services, that a newborn child of a woman veteran who is receiving maternity care furnished by the Department at a facility of the Department; or another facility pursuant to a Department contract for services relating to such delivery.[9]

Since VA healthcare facilities do not offer a full-range of newborn care, women veterans are referred to community hospitals for post newborn and routine services at VA expense. The only exception is VA is not authorized to pay for medically necessary transportation for newborn children of certain veterans. This bill would provide the VA Secretary the authority to furnish medically necessary transportation for newborn children, which The American Legion supports and believes is the right thing to do.

Through Resolution No. 147, The American Legion works to ensure that the needs of the current and future women veteran populations are met; and that the VA provides full comprehensive health services for women veterans Department-wide, including, but not limited to, increasing treatment areas and diagnostic capabilities for female veteran health issues, *improved coordination of maternity care*, and increase the availability of female therapists/female group therapy to better enable treatment of Post-Traumatic Stress Disorder from combat and MST in women veterans.[10]

The American Legion supports S. 2131.

S. 2247

To amend title 38, United States Code, to provide for a consistent eligibility date for provision of Department of Veterans Affairs memorial headstones and markers for eligible spouses and dependent children of veterans whose remains are unavailable, and for other purposes.

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[8] Resolution No. 377: *Support for Veteran Quality of Life*
[9] VA Statutory New Born Care Authority https://www.law.cornell.edu/uscode/text/38/1786
[10] Resolution No. 147: *Women Veterans*

The Department of Veterans Affairs (VA) provides a memorial headstone or marker for eligible individuals or groups deceased while on active duty or veterans whose remains are not recovered or identified or are buried at sea, donated to science, or whose cremated remains have been scattered. The memorial headstone or marker may be placed in a private, military, or veteran cemetery (national or state).

Memorial headstones and markers may also be furnished in national, military post/base or state veterans cemeteries to eligible spouses and dependent children whose remains are unavailable for interment, whether or not they predecease the eligible veteran.

The current applicability date for spouses is after November 11, 1998 and dependent children after December 22, 2006. Congress first established eligibility for spouses in PL 105-368 section 401(a), which passed on November 11, 1998. Congress then extended eligibility for dependent children in 2006 as part of P.L. 109-461 section 401 on December 22, 2006. Since P.L. 109-461 did not extend eligibility retroactively, only dependent children whose remains are unavailable after December 22, 2006, are eligible for a marker.

S. 2247 would make the eligibility date for dependent children the same as the date for spouses. VA requested this legislative change in their latest budget submission and costs associated with this proposal are expected to be insignificant. Furthermore, this proposed change would simplify the process and reduce confusion for veterans and their families.

Through Resolution No. 377, The American Legion urges Congress and the VA to enact legislation and programs within the VA that will enhance, promote, restore or preserve benefits for veterans and their dependents, including, but not limited to, the following: timely access to quality VA health care; timely decisions on claims and receipt of earned benefits; and final resting places in national shrines and with lasting tributes that commemorates their service.[11]

The American Legion supports S. 2247.

S. 2248

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide headstones and markers for the graves of spouses and children of veterans who are buried in tribal cemeteries.

The Department of Veterans Affairs (VA) currently provides, on request, a headstone or marker for eligible spouses or dependent children who are buried or interned in a national, military post/base or state veterans cemeteries. Spouses and dependents are not eligible for a government-furnished headstone or marker if they are buried in a private or tribal cemetery.

[11] Resolution No. 377: *Support for Veteran Quality of Life*

S. 2248 would ensure that veterans' spouses and children who are buried at tribal veterans cemeteries are provided government-furnished headstones or markers, the same as family members buried at national and state veterans cemeteries.

Native American veterans have earned and deserve the same rights, privileges and honor that other veterans receive. The American Legion Resolution No. 146 calls on Congress to ensure that veterans' benefits are provided equitably and consistently for all. This legislation, by correcting an inequity, is consistent with the intent of this resolution.[12]

The American Legion supports S. 2248.

S. 2294: Securing Electronic Records for Veterans' Ease Act of 2017

To amend title 38, United States Code, to ensure that individuals may access documentation verifying the monthly housing stipend paid to the individual under the Post-9/11 Educational Assistance Program of the Department of Veterans Affairs.

The Post 9/11 GI Bill provides veterans a monthly housing allowance based on the ZIP code of the location of the school. While this is an invaluable benefit, veterans have increasingly reported challenges in explaining this allowance when applying for new housing. Typically, rental and lease applications require proof of income verified by W-2s, IRS Form 1099s, 1040s or even letters from employers. Without any documentation affirming their Post-9/11 GI Bill monthly benefits, many rental agencies and property owners do not recognize the monthly Basic Allowance for Housing (BAH) as a form of income to be applied to credit worthiness.

S. 2294 would immediately remedy this housing challenge by requiring the Department of Veterans Affairs to make available to beneficiary's documentation that verifies the amount of the monthly housing stipend the individual shall receive.

Through Resolution No. 318: *Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education*, The American Legion supports any legislative or administrative proposal that improves the GI Bill.[13]

The American Legion supports passage of S. 2294.

S. 2304: Protecting Veterans from Predatory Lending Act of 2018

To amend title 38, United States Code, to protect veterans from predatory lending, and for other purposes.

[12] Resolution No. 146: *Veterans Receive Same Level of Benefits*
[13] The American Legion Resolution No. 318 (2016): *Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education*

The Serviceman's Readjustment Act of 1944 established, among other things, a home loan guaranty program now administered by the Department of Veterans Affairs (VA). The two purposes of the original program were to help returning World War II veterans in their readjustment to civilian life and to stimulate the economy by assisting those veterans in obtaining mortgage financing from the private sector. Because of the popularity and success of the VA Loan Guaranty Program, and due to how it benefitted the economy as well as eligible veterans, Congress decided to make that five-year pilot program permanent. To date the VA has guaranteed over 20 million loans to eligible veterans and has, for the most part, maintained a lower default rate than private sector mortgages. VA home loans are provided by private lenders, such as banks and mortgage companies, but VA guarantees a portion of the loan, enabling the lender to provide veterans with more favorable terms.

Many veterans have approached The American Legion recently with concerns about unscrupulous banks marketing mortgage refinance offers to them – many of whom have said they are no better off for having taken the offer. Instead, these veterans find themselves incurring larger or longer term loans than they had before.

Our veterans did not swear an oath to the Constitution and place themselves in harm's way overseas while fighting under our flag only to be cheated or tricked by banks or mortgage companies when they return home. These mortgage "churning" schemes are based on refinancing debt obligations more frequently than normal and injure the financial well-being of veterans and their families. It also increases risks to the VA Home Loan Guaranty Program.

S. 2304 would protect veterans from targeted predatory home loan practices by requiring lenders to demonstrate a material benefit to consumers when refinancing their mortgage. The American Legion believes this bill is a measured approach, and is encouraged by the bipartisan group of original co-sponsors of the legislation. We look forward to working with all parties as Congress continues to address this important issue.

Through Resolution No. 329: *Support Home Loan Guaranty Program*, The American Legion supports any administrative and/or legislative efforts that will improve and strengthen the Loan Guaranty Service's ability to serve America's veterans.[14]

The American Legion supports S. 2304.

S. 2341: Veterans' Debt Fairness Act

A bill to improve the processing of veterans benefits by the Department of Veterans Affairs, to limit the authority of the Secretary of Veterans Affairs to recover overpayments made by the Department and other amounts owed by veterans to the United States, to improve the due process accorded veterans with respect to such recovery

The American Legion has worked extensively on matters concerning VA debt management. Recognizing the importance of these issues, The American Legion has had dedicated

[14] Resolution No. 329: *Support Home Loan Guaranty Program*

representatives at the VA's Debt Management Center in Saint Paul, MN since 1978 specifically to support and assist veterans who fall into debt with VA. With nearly 40 years of service, our representatives have been instrumental in assisting thousands of veterans avoid financial hardships by; filing waivers, negotiating offsets of current VA benefits, establishing reasonable monthly payment plans to avoid financial burdens, and has assisted in ending erroneous collection actions; and has correct or helped to reclaim improper collections.

Benefit debt is the most common type of VA debt affecting veterans, which is why The American Legion's primary focus in our debt collection management office is assisting veterans affected by overpayments of benefits, and addressing how to best mitigate or repay the funds owed. Of the millions of dollars in benefits awarded to veterans by the VA every year, thousands of veterans are paid incorrect amounts. When these incorrect payments are more than the amount due to a veteran, debt is incurred and collection actions will ultimately be triggered. A VA benefit debt can be generated through a number of actions, like: change in income or net worth, dependent status, receipt of retired pay, school attendance, failure to obtain the release of home loan liability, hospitalization, treatment co-payments, overpayments to schools while using the G.I. Bill, and double payments of drill pay and VA benefits pay to members of the Reserves and National Guard.

S. 2341 would require VA to make the following improvements, among others, to the overpayment, notification and collection process:

- Only allowing the VA to collect debts that occur as a result of an error or fraud on the part of a veteran or their beneficiary.
- Requiring that the VA cannot deduct more than 25 percent from a veteran's monthly payment in order to recoup overpayment or debt. This amount may be further reduced if the deduction puts that veteran at risk of financial hardship, for example if the veteran is living on a fixed income.
- Preventing the VA from collecting debts incurred more than five years prior. Currently there is no time limit on how long after a payment a veteran can be billed.
- Requiring the VA to provide veterans with a way to update their dependency information on their own, eliminating a key processing delay for veterans, which frequently contributes to the VA making overpayments.
- Implements limitations on interest and fees charged during period of dispute

The American Legion is confident that this proposed legislation would afford important protections to veterans and their families who, through no fault of their own, have incurred VA-related debt. These protections are warranted and a symbol of the debt of gratitude our nation owes to those who have served. Through Resolution No. 228, The American Legion supports placing greater emphasis on the timely and proper processing of overpayments by the VA in a manner that does not cause a financial hardship to the veteran.[15]

The American Legion supports passage of S. 2341.

[15] Resolution No. 228: *Timely Processing of Overpayments for Reserve Components and/or Active Duty Pay*

Draft Bill

To amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish organ transplant care to veterans at non-Department of Veterans Affairs facilities, and for other purposes.

The provisions of this bill fall outside the scope of established resolutions of The American Legion. As a large, grassroots organization, The American Legion takes positions on legislation based on resolutions passed by the membership in meetings of the National Executive Committee or National Convention. With no resolutions addressing the provisions of the legislation, The American Legion is researching the material and working with our membership to determine the course of action which best serves veterans.

The American Legion has no current position on this Draft Bill.

Draft Bill

To amend title 38, United States Code, to clarify the conditions under which certain persons may be treated as adjudicated mentally incompetent for certain purposes.

Under current practice, if a veteran or beneficiary is appointed a fiduciary from the Department of Veterans Affairs (VA), they are labeled as mentally incompetent in VA's system, and the department automatically sends the veteran's name to the Federal Bureau of Investigation's National Criminal Background Check System (NICS). Inclusion on the NICS list may prohibit the beneficiary from legally purchasing or owning a firearm. A beneficiary may apply for relief from the firearms prohibitions included in current policy, but that leaves a VA bureaucrat – not a magistrate or other judicial authority – with the power to determine whether or not relief is warranted.

The American Legion, by resolution, fully supports the 2nd Amendment rights of American citizens. The American Legion has concerns about this current infringement on the rights of some veterans, and supports this legislation to help improve the system and ensure that veterans' rights are not removed without proper due process. Unless deemed unfit to possess weapons by a judicial authority with the full benefit of due process, The American Legion believes that each veteran, regardless of disability, should maintain the right to possess a firearm. Furthermore, any constitutional right should be protected with this same expectation of careful scrutiny, to ensure that no right is removed without due process.

This draft legislation, as written, would protect veterans' 2nd Amendment rights and help ensure due process before they can be reported to NICS. The American Legion recognizes this bill does not go as far as we would like, but we must support legislation ensuring basic constitutional rights to veterans currently denied due process. Currently, the VA reports individuals to NICS more than 100 times than the rest of the government combined. This legislation will most

certainly reduce this gross imbalance to a program that has unjustly referred over 200,000 veterans to NICS since its inception.[16]

Through Resolution No. 27: *Amend Title 38, United States Code, to Clarify the Treatment of a Veteran as Adjudicated Mentally Incompetent for Certain Purposes*, The American Legion supports this legislation to amend Title 38, United States Code, to clarify the treatment of a veteran as adjudicated by the Department of Veterans Affairs as mentally incompetent for certain purposes.[17] The VA should be barred from transmitting in any form, findings about a veteran's mental status or ability to handle his or her own funds, to other agencies without the order or finding of a judge, magistrate, or other judicial authority of competent jurisdiction.

The American Legion supports passage of this Draft Legislation.

Draft Bill

To amend title 38, United States Code, to provide outer burial receptacles for remains buried in National Parks, and for other purposes.

The American Legion's National Cemetery Committee formulates and recommends to the National Executive Committee, through the Veterans Affairs & Rehabilitation Commission, policies, plans and programs as they relate to Department of Veterans Affairs' national cemeteries, and the internment of veterans, military and their dependents. This includes Arlington National Cemetery administered by the Department of the Army.

The National Park Service (NPS) currently controls 14 national cemeteries, although only two are still active, i.e., Andersonville National Cemetery in Georgia and Andrew Johnson National Cemetery in Tennessee. Veterans who wish to be buried at these two cemeteries must pay the cost of their own outer burial receptacle (OBR). Veterans buried in national or state cemeteries controlled by the VA's National Cemetery Administration (NCA) are provided an OBR at no cost. This gap in benefits creates an undue burden of expense.

The American Legion supports this bill because it aims to ensure that veterans receive the same level of benefits and is consistent with American Legion Resolution No. 146, which urges Congress to review current legislation and public laws to ensure that veterans' benefits are provided equitably and consistently for all veterans.[18]

The American Legion supports this Draft Bill.

[16] VA Response to Oversight Inquiry on the National Instant Criminal Background Check System, May 13, 2016
[17] Resolution No. 27: *Amend Title 38, United States Code, to Clarify the Treatment of a Veteran as Adjudicated Mentally Incompetent for Certain Purposes*
[18] Resolution No. 146: *Veterans Receive Same Level of Benefits*

Draft Bill: Accountability in Department of Veterans Affairs Scheduling and Consult Management Act

To require the Secretary of Veterans Affairs to review the processes and requirements of the Department of Veteran Affairs for scheduling appointments for health care and conducting consultations under the laws administered by the secretary, and for other purposes.

This draft bill seeks to hold the VA accountable for the amount of time it takes for veterans to see private sector providers and reduce veterans' wait times for community care by streamlining the system used to refer veterans to community providers, called "consults."

The bill would improve the VA's ability to hire staff, to process consults, and to strengthen oversight of the VA's scheduling system for VA doctor appointments. Under this bill, local VA medical facility leaders would also be able to request a mobile deployment team to help when a facility is struggling to address their backlog or to help a facility that is facing a shortage of medical professionals.

The American Legion supports a strong and robust VA that relies on outside care as little as possible and only when medically necessary, rather than a move toward vouchers and privatization. Further, The American Legion supports Congress enacting legislation that would provide additional accountability and oversight in order to ensure that veterans receive timely access to quality VA health care. Through Resolution No. 377, The American Legion urges Congress and the VA to enact legislation and programs within the VA that will enhance, promote, restore or preserve benefits for veterans and their dependents, including, but not limited to, the following: timely access to quality VA health care, timely decisions on claims and receipt of earned benefits, and final resting places in national shrines and with lasting tributes that commemorates their service.[19]

The American Legion supports the Accountability in Department of Veterans Affairs Scheduling and Consult Management Act.

Draft Bill: Department of Veterans Affairs Senior Executive Accountability Act of 2017

To amend title 38, United States Code, to provide for requirements relating to the reassignment of Department of Veterans Affairs senior executive employees, and for other purposes.

The provisions of this bill fall outside the scope of established resolutions of The American Legion. As a large, grassroots organization, The American Legion takes positions on legislation based on resolutions passed by the membership in meetings of the National Executive Committee or National Convention. With no resolutions addressing the provisions of the legislation, The American Legion is researching the material and working with our membership to determine the course of action which best serves veterans.

The American Legion has no current position on this Draft Bill.

[19] Resolution No. 377: *Support for Veteran Quality of Life*

Conclusion

The American Legion thanks this committee for the opportunity to elucidate the position of the 2 million veteran members of this organization. For additional information regarding this testimony, please contact Assistant Director of the Legislative Division, Mr. Jeff Steele, at The American Legion's Legislative Division at (202) 263-2987 or jsteele@legion.org.