The American Legion

OFFICE OF THE
NATIONAL COMMANDER

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October 26, 2020

The Honorable Robert Wilkie
Secretary of Veterans Affairs
810 Vermont Ave., NW
Washington, DC 20420

Dear Secretary Wilkie:

On behalf of the nearly two million members of The American Legion, I want to thank you for your continued leadership in the Department of Veterans Affairs (VA) and your dedication to helping veterans. The American Legion is concerned that under current law, veterans assigned a fiduciary by VA are also reported to the FBI's National Instant Criminal Background Check System (NICS). The American Legion believes that policy is not only bad for veterans but it also hurts suicide prevention efforts.

It is imperative that veterans do not fear the removal of their firearms, or being denied the ability to purchase one, as a result of seeking treatment. Such perceptions amongst veterans could stigmatize mental health issues and result in resistance among veterans to seek treatment. It is ironic that veterans, a community in which every member swore to uphold the United States Constitution, require advocacy to maintain their constitutional right to bear arms. The American Legion stands firm on ensuring veterans' firearms are not removed without due process under the law. A judge, magistrate, or equivalent official must be consulted before any veteran is restricted from owning a firearm.

The American Legion has previously supported legislative fixes to this issue such as H.R. 3826 - *Veterans 2nd Amendment Protection Act* and H.R. 3450. These bills would prevent veterans from losing their Second Amendment right because of a disability rating or receiving help managing their VA benefits without due process. We have strongly supported these proposals through testimony, statements for the record, and previous letters of support. However, we believe that VA can and should fix this issue preemptively by revising the fiduciary regulations to clarify the fiduciary program is only for the management of veterans benefits and not for any law enforcement purpose. As a result, **The American Legion supports the Petition for Rulemaking submitted on by The Independence Fund and Gun Owners of America on October 7, 2020, and urges VA to modify the subject regulation as soon as possible.**

Through American Legion 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 urges that VA be prohibited from "transmitting in any form, findings about a veteran's

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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."

Mr. Secretary, The American Legion appreciates your dedication and long-standing advocacy on behalf of the veteran community. The American Legion has confidence that you will do what is best for veterans and we implore you to take swift action on this Petition for Rulemaking. Please act now to ensure that veterans constitutional rights are not impeded and that they do not face increased barriers to VA services.

For God and Country,

Chanin Nuntavong
Executive Director
Government Affairs