



**STATEMENT FOR THE RECORD OF
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS ON
VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES**

ON

"PENDING LEGISLATION"

OCTOBER 20, 2021

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Chairwoman Luria, Ranking Member Nehls, and distinguished members of the Subcommittee, on behalf of our National Commander, Paul E. Dillard and our nearly two-million dues-paying members, we thank you for the opportunity to comment on the pending legislation being considered before this Subcommittee. The American Legion is directed by its membership who dedicate their time and resources to continued service for veterans, servicemembers, and their families. As a resolution-based organization, The American Legion's positions are guided by more than 100 years of advocacy that originates at the grassroots level of our organization. Every time The American Legion testifies before Congress, the veteran community is given a direct voice in the legislative process.

H.R. 2568 – United States Cadet Nurse Corps Service Recognition Act of 2021

To amend title 38, United States Code, to recognize and honor the service of individuals who served in the United States Cadet Nurse Corps during World War II, and for other purposes.

The United States Cadet Nurse Corps (CNC) was created in July 1943 to help alleviate the nursing shortage that existed during World War II. The program was open to all women between the ages of 17 and 35 who were in good health and had graduated from an accredited high school. At the time, CNC was the largest of the federal nurse-training programs, allowing young women to serve their country in uniform while being protected by law against discrimination. It operated from 1943 to 1948 and during this period, more than 124,000 student nurses graduated from participating nursing schools. Now, it serves as the only uniformed service from World War II whose members are not recognized as veterans for Department of Veterans Affairs (VA) purposes.

The American Hospital Association credited the cadet student nurses with helping to prevent the collapse of civilian nursing in the United States during the war. However, it is their ongoing status as "civilians" that has prevented them from receiving VA benefits. Legislation like the *United States Cadet Nurse Corps Service Recognition Act* will rectify this issue by recognizing service in the CNC with an honorable discharge "active duty" for the purposes of eligibility and entitlement to VA benefits.

It also directs the Secretary of Defense to issue honorable discharge certificates to former CNC members if their service record meets the appropriate criteria necessary for an honorable discharge. This legislation will ensure the large population of women veterans who are not enrolled in VA

healthcare, who feel they lack gender specific services, will have their needs met. To fix this problem, The American Legion supports VA's obligation to develop and expand healthcare services for women, the fastest growing demographic in the veteran community.

Through Resolution No. 147: *Women Veterans*, The American Legion supports legislation ensuring the current women veteran population needs are met by VA services and programs.¹ We also support legislation directing VA to provide full comprehensive health services for women veterans' department-wide of all ages. Passing the *United States Cadet Nurse Corps Service Recognition Act* will achieve this outcome and better serve the tens of thousands of older women veterans who need adequate healthcare services.

The American Legion supports H.R. 2568 as currently written.

H.R. 2724 – VA Peer Support Enhancement for MST Survivors Act

To amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide for peer support specialists for claimants who are survivors of military sexual trauma, and for other purposes.

The American Legion has actively worked to support MST impacted veterans. In July 2012, The American Legion testified before the House Committee on Veterans' Affairs (HVAC) urging VA to change the way it adjudicates PTSD claims for MST survivors. Particularly, The American Legion noted VA had changed its claims regulations making it easier for veterans who served in combat zones to obtain service-connection for PTSD, and that same relaxation of requirements should be applied to MST survivors.² Last year, in February 2020, The American Legion testified at another HVAC hearing on VA support for MST survivors where we brought attention to inadequate VBA MST training, mediocre MST claims processing times, and the implication of biases and subjective ratings.³

In 2010, the Department of Veterans Affairs (VA) Office of Inspector General (OIG) published a report entitled *Review of Combat Stress in Women Veterans Receiving VA Healthcare and Disability Benefits*.⁴ The report showed some startling issues at VA, specifically Women Veteran Coordinators (WVC) had been underutilized due to a lack of public awareness of the services and assistance provided. The Veteran Benefits Administration's (VBA) inadequate assessment of the feasibility of implementing military sexual trauma (MST) specific training and testing for claims

¹ The American Legion Resolution No. 147 (2016): [Women Veterans](#)

² The American Legion, "Easing the Burden of Proof for MST Victims," Legislative Center (The American Legion, July 19, 2012), <https://www.legion.org/legislative/211306/easing-burden-proof-mst-victims>.

³ "Subcommittee on Oversight and Investigations with the Women Veterans Task Force Oversight Hearing: Examining How the Department of Veterans Affairs Supports Survivors of Military Sexual Trauma," The House Committee On Veterans' Affairs, accessed October 15, 2021, <https://veterans.house.gov/events/hearings/subcommittee-on-oversight-and-investigations-with-the-women-veterans-task-force-oversight-hearing-examining-how-the-department-of-veterans-affairs-supports-survivors-of-military-sexual-trauma>.

⁴ Department of Veterans Affairs Office of Inspector General, "Review of Combat Stress in Women Veterans Receiving VA Healthcare and Disability Benefits." Report No. 10-01640-45 (2010).

processors exacerbated the issue.⁵ VBA had not analyzed available data on their MST-related workload and how consistently these claims were adjudicated. This trend has undoubtedly resulted in a degradation of care for those MST survivors seeking services at VA.

Despite The American Legion's requests, the VA has failed to employ additional Women Veterans Coordinators (WVCs). The underutilization of WVCs, along with the veteran population lacking general awareness of WVCs, ultimately leads to the degradation of care for MST-impacted veterans and prevents MST survivors from receiving treatment and services.⁶ A Peer Support Specialist (PSS) with formal training to support MST-impacted veterans could fill the gap that exists with WVCs in VA medical facilities.

To ensure veterans with MST get the treatment they need, *VA Peer Support Enhancement for MST Survivors Act* will make needed changes to the claims process. This would require VA to assign a Peer Support Specialist to a veteran filing an MST claim. A PSS would have to be a trained victims advocate and cannot be responsible for adjudicating claims of veterans they support. By assigning PSS's during the claims process, MST-impacted veterans would have a more personalized claims experience. Moreover, they would be better prepared for next steps in the process and have someone to answer VA claims related questions.

Through Resolution No. 67: *Military Sexual Trauma*, The American Legion urges the VA to increase access to MST counselors and other personnel to improve the claims process, and to continue universal screening of all veterans for a history of MST.⁷ MST claims and treatment involve delicate and sensitive emotional issues and deserve to be treated with the utmost care.

The American Legion supports H.R. 2724 as currently written.

H.R. 2800 – 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 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.

⁵ Department of Veterans Affairs Office of Inspector General, "Denied Posttraumatic Stress Disorder Claims Related to Military Sexual Trauma." Report No. 17-05248-241 (2018).

⁶ Department of Veterans Affairs Office of Inspector General, "Denied Posttraumatic Stress Disorder Claims Related to Military Sexual Trauma." Report No. 17-05248-241 (2018).

⁷ The American Legion Resolution No. 67 (2014): [*Military Sexual Trauma*](#)

The American Legion has more than 6,000 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 a VSO advocate on their veterans' behalf.

The American Legion opposes H.R. 2800.

H.R. 2827 – Captain James C. Edge Gold Star Spouse Equity Act

To amend titles 10 and 38, United States Code, to expand certain benefits for surviving spouses of members of the Armed Forces who die in line of duty, and for other purposes.

Gold Star families are a vital part of the veteran community who understand the weight of the ultimate sacrifices that servicemembers make. The benefits bestowed upon Gold Star families are the embodiment of the Department of Veteran Affairs' mission statement to fulfill President Lincoln's promise "to care for him who shall have borne the battle, and for his widow, and his orphan." To this end, Gold Star spouses who have lost their spouses in the line of duty currently receive benefits such as Death Gratuity, Family Survivors Groups Life Insurance, and Survivor Benefit Plan.

Currently, surviving spouses of fallen servicemembers lose their Survivor Benefit Plan benefits if they get married before turning 55. Moreover, they lose their Dependency and Indemnity Compensation benefits should they remarry before turning 57.⁸ This penalizes Gold Star spouses unfairly and mandates a forfeiture of earned benefits based on arbitrary age restrictions.

The American Legion believes it is essential for the United States to support Gold Star spouses throughout their entire lifetime, not just while they are unmarried widows. The current penalties for marriage have arbitrary age limits that are simply indefensible. H.R. 2827 would eliminate the unnecessary penalties of remarriage, remove age limits, and allow Gold Star spouses to keep their survivor benefits. Through Resolution No. 36: *Prevent Gold Star Spouses Loss of Benefits*, The American Legion believes Gold Star spouses should not lose benefits when remarrying.⁹

The American Legion supports H.R. 2827 as currently written.

⁸ U.S. Department of Veterans Affairs. *About VA DIC for spouses, dependents, and parents*, Available at: <https://www.va.gov/disability/dependency-indemnity-compensation/>.

⁹ The American Legion Resolution No. 36 (2021): [*Prevent Gold Star Spouses Loss of Benefits*](#)

H.R. 3402 - Caring for Survivors Act of 2021

To amend title 38, United States Code, to improve and to expand eligibility for dependency and indemnity compensation paid to certain survivors of certain veterans, and for other purposes.

The amount of Survivors' Disability and Indemnity Compensation (DIC) paid to surviving spouses, dependent children, or parents of servicemembers who died in the line of duty (or veterans with service-connected causes of death) was established in 1993. Since then, it has only received minor updates. Currently, the compensation amount for surviving spouses is \$1,357.56. Whereas, for surviving dependent children it is only \$573.20 per month. For surviving parents whose income exceeds \$6,000 per year, the monthly compensation is only \$71. Unfortunately, veterans that die from non-service-connected injuries or disease must be rated as totally disabled for at least 10 years before death for their surviving family members to be eligible.

After 10 years, the monthly amount of \$1,357.56 is less than the benefits provided by other federal survivor programs like the Federal Employees' Compensation Program.¹⁰ As a result of this 10-year rule, there is minimal financial flexibility. Additionally, if veterans die from nonservice-connected injuries/conditions before the 10-year anniversary of their effective dates for total disability ratings, the surviving family member receive no benefits whatsoever. To ensure this problem does not continue, the amounts paid to surviving families should be changed to a percentage of the monthly compensation rate, not a flat dollar amount that is unadjusted for inflation.

The *Caring for Survivors Act of 2021* expands eligibility for DIC by replacing the 10-year rule with a graduated scale of benefits beginning at five years for initial eligibility at 50 percent and gradually reaches the full benefit after 10 years. For example, if a veteran is rated totally disabled for five years and dies of a non-service-connected cause, a survivor would be entitled to 50 percent of the DIC benefit. As well, this legislation would change monthly payments for surviving spouses from a flat rate to 55 percent of monthly compensation received by the veteran.

The American Legion believes the surviving families of servicemembers should not have to worry about the financial well-being. Through Resolution No. 48: *Dependency and Indemnity Compensation for Surviving Spouses*, The American Legion supports legislation that reduces the number of years a veteran must be rated 100 percent for DIC eligibility.¹¹ A graduated approach would provide this. It is time for this legislation to be quickly signed into law to ensure survivors can focus on the more important aspects of recovering from their grief.

The American Legion supports H.R. 3042 as currently written.

¹⁰ Government Accountability Office (2009). "Military and Veterans' Benefits: Analysis of VA Compensation Levels for Survivors of Veterans and Servicemembers." GAO Publication No. 10-62.

¹¹ The American Legion Resolution No. 48 (2018): [*Dependency and Indemnity Compensation for Surviving Spouses*](#)

H.R. 3793 - Supporting Families of the Fallen Act

To authorize the Secretary of Veterans Affairs to increase the maximum amount of a policy under the Veterans' Group Life Insurance and Servicemembers' Group Life Insurance, and for other purposes.

Servicemembers' Group Life Insurance (SGLI) and Veterans Group Life Insurance (VGLI) are Department of Veterans' Affairs (VA) term life insurance plans. Service members and veterans are authorized to pay into these plans with an option of varies coverage amounts. In 2005, maximum payouts were increased to \$400,000 to account for years of inflation without cost adjustment.¹² In turn, the federal government pays the cost of all death claims with the balance made payable to beneficiaries upon the servicemember's death. These policies have not been updated in 16 years and are not enough to cover the rising cost of living expenses for surviving families.¹³

To fix this problem, the maximum payout needs to be increased to match the current cost of living. Along with the rising cost of living expenses, annual rates of inflation have continued to rise. This legislation would increase the maximum payout to the surviving families for SGLI and VGLI life insurance plans from \$400,000 to \$500,000 upon death of the veteran. It would provide relief to grieving families and update maximum payouts to keep pace with the rising costs of living.

This change would provide fair policy coverage options to veterans and their families. Through Resolution No. 377: *Support for Veteran Quality of Life*, The American Legion urges Congress to enact legislation within VA that will enhance, promote, restore, and preserve benefits for veterans and their dependents.¹⁴

The American Legion supports H.R. 3793 as currently written.

H.R. 4191 - Gold Star Spouses Non-Monetary Benefits Act

To restore certain non-monetary Federal benefits to surviving spouses, eligible for the Gold Star lapel button, who remarried, and for other purposes.

Military service is a life of sacrifice, long days away from home, and countless stressors to be borne by the military family. Gold Star spouses receive several benefits, both monetary and non-monetary, to assist them as they rebuild their lives after losing their loved one.

Under current law, Gold Star spouses lose their benefits if they remarry before turning 55 or 57, respectively. This bill would restore certain non-monetary survivor benefits to the remarried spouses of fallen U.S. servicemembers. Specifically, it would reinstate eligibility for the federal noncompetitive hiring appointment, access to commissaries, Morale, Welfare, and Recreation

¹² Veterans Benefits and Health Care. (2021). *Servicemembers' Group Life Insurance (SGLI)*. Department of Veteran Affairs. <https://www.va.gov/life-insurance/options-eligibility/sgli/>

¹³ Rose, V. (2005) *Servicemembers' Group Life Insurance*. OLR Research Report. <https://www.cga.ct.gov/2005/rpt/2005-R-0210.htm>

¹⁴ The American Legion Resolution No. 377 (2018): [*Support for Veteran Quality of Life*](#)

retail facilities, restoration of access to pre-transitional TRICARE services for a three-year period, and eligibility for the Department of Veteran Affairs-guaranteed home loan benefit if the survivor is unable to qualify based on their own service.¹⁵

Through Resolution No. 36: *Prevent Gold Star Spouses Loss of Benefits*, The American Legion stands with Gold Star spouses and supports legislation that does not take away benefits from surviving spouses.¹⁶ Grieving spouses should not also have to face the predicament where earned benefits are lost when they remarry and begin new families after losing their loved one.

The American Legion supports H.R. 4191 as currently written.

H.R. 4772 – Mark O’Brien VA Clothing Allowance Improvement Act

To amend title 38, United States Code, to improve the application and review process of the Department of Veterans Affairs for clothing allowance claims submitted by veterans, 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 or in meetings of the National Executive Committee. 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 position on this draft legislation.

Discussion Draft

To improve coordination between the Veterans Health Administration and the Veterans Benefits Administration with respect to claims for compensation arising from military sexual trauma, and for other purposes.

Military sexual trauma (MST) is the term used by Department of Veterans Affairs (VA) to refer to experiences of sexual assault and harassment experienced during military service. This includes any sexual activity servicemembers are involved in against their will. At VA, the national screening program results indicate one in three women and one in 50 men have experienced MST.¹⁷

¹⁵ “Stefanik, Kim Introduce Bipartisan Bill to Support Gold Star Families.” Congresswoman Elise Stefanik, June 25, 2021. <https://stefanik.house.gov/2021/6/stefanik-kim-introduce-bipartisan-bill-to-support-gold-star-families>.

¹⁶ The American Legion Resolution No. 36 (2021): [Prevent Gold Star Spouses Loss of Benefits](#)

¹⁷ “Military Sexual Trauma Fact Sheet - Veterans Affairs” (Department of Veterans Affairs), accessed October 15, 2021, https://www.mentalhealth.va.gov/docs/mst_general_factsheet.pdf.

In response to this issue, the Veterans Benefits Administration (VBA) provided guidance to ensure consistency and fairness regarding evidence VBA would accept to identify MST stressors.¹⁸ Furthermore, VA Office of Inspector General (OIG) conducted a review to determine whether staff processed veterans MST claims in accordance with VBA policy prior to denying claims. Based on the review, VA OIG found half of denied MST claims were not properly processed.

In February 2020, VA OIG argued VHA must ensure administrative and oversight responsibilities are being carried out by MST Coordinators with MST training. Moreover, VBA's delay in implementing OIG recommendations resulted in MST survivors being discouraged from reporting misconduct.¹⁹ Better coordination is critical between VHA and VBA to assist MST survivors with their disability claims. To ensure this collaboration, this draft legislation would require veterans be provided outreach letters, Veterans Crisis Line information, and instructions on how to find a mental healthcare provider.

In February 2020, The American Legion testified before the House Committee on Veterans Affairs in support of veteran MST survivors receiving MST-specific VA care.²⁰ Through Resolution No. 67: *Military Sexual Trauma*, The American Legion believes MST impacts thousands of servicemembers and veterans which can sadly lead to many health and economic consequences.²¹ When VHA and VBA collaborates to adjudicate MST claims in a timely and sensitive manner, the veteran's health is protected. It is critical legislation which enhances this collaborative relationship is signed into law to ensure veterans receive benefits in a timely and reasonable manner.

The American Legion supports this discussion draft *as currently written*.

Discussion Draft

To amend title 38, United States Code, to improve the manner in which the Board of Veterans' Appeals conduct hearings regarding claims involving military sexual trauma and to direct the Secretary of Veterans Affairs to improve the language and practices of the Department of Veterans Affairs with respect to such claims.

Last August, Department of Veterans Affairs (VA) Office of Inspector General (OIG) reported Veterans Benefits Administration (VBA) claims processors do not follow the policies and procedures for processing military sexual trauma (MST) claims.²² Furthermore, VBA did not ensure adequate governance over MST claims processing. Unfortunately, this non-compliance occurred because VBA ineffectively implemented VA OIG's recommendations from an August 2018 report. As a result, the review team found 57 percent of denied MST claims were still not being processed correctly from October 1 to December 31, 2019.

¹⁸ VBA Training Letter 11-05, "Adjudicating PTSD Claims Based on MST," December 2, 2011.

¹⁹ Statement of Julie Kroviak, M.D., deputy assistant inspector general for healthcare inspections, VAOIG, before the House Subcommittee on Oversight and Investigations, February 5, 2020.

²⁰ Mackenzie Wolf, "American Legion Testifies on Military Sexual Trauma," The American Legion, February 7, 2020, <https://www.legion.org/legislative/248276/american-legion-testifies-military-sexual-trauma>.

²¹ The American Legion Resolution No.67 (2014): *Military Sexual Trauma*

²² Department of Veterans Affairs Office of Inspector General report, "Improvements Still Needed in Processing Military Sexual Trauma Claims," August 5, 2021.

Another contributing factor to this problem is VA OIG's report did not address how VA's Board of Veterans Appeals (BVA) conducts hearings for veterans whose MST claims have been initially denied. To address this issue, several members of Congress sent a letter to VA Secretary McDonough recommending policy changes that would support MST survivors with their benefits claims.²³

This draft legislation would incorporate those recommendations by allowing MST disability claimants to require their hearing is conducted by a board member of a specific gender. It would require a board member conducting the hearing to refrain from asking questions relating to the appellant's MST if the information is already included in the evidentiary record. It would also establish protocols for contract medical providers to ensure the medical providers conduct examinations regarding covered claims using trauma-informed practices. By making these needed reforms to the MST claims process, veterans will be able to safely navigate the disability claims process. The purpose of BVA hearings is to allow appellants to offer testimony as evidence, not to retraumatize a survivor.

The American Legion continuously advocates for veteran MST survivors. At the start of the 117th Congress, The American Legion published the 2021 Legislative Agenda.²⁴ Included in the agenda were legislative action items pertaining to addressing MST disability claims issues such as long wait times and improper VA treatment. Additionally, The American Legion testified before the House Committee on Veterans Affairs Subcommittee on Oversight and Investigation and the Women Veterans Task Force regarding MST.²⁵ We made recommendations regarding re-evaluating the duties of MST Coordinators, enforcing the zero-tolerance policy on MST claims, and providing resources to VA employees they can use for compassion fatigue.

Through Resolution No. 67: *Military Sexual Trauma*, The American Legion supports VA and congressional efforts to address veteran MST disability claims issues.²⁶ Expanding the use of virtual BVA hearings is one effective tool in reducing the number of appeals and hearings pending. A previous BVA report showed veterans who opted for virtual hearings received favorable decisions 57 percent of the time, which is substantially higher than the other grant rates.²⁷ Innovative, modern, and transparent tools need to be implemented to address this issue. We look forward to seeing these ideas, and the above referenced legislation, receive due consideration before this committee to achieve that outcome.

The American Legion supports this discussion draft *as currently written*.

²³ See "Reps. Luria and Nehls Call for Policy Changes to Support Survivors of Military Sexual Trauma," press release from Congresswoman Elaine Luria's office, March 30, 2021.

²⁴ "The American Legion Legislative Agenda for the 117th Congress," Legislative Center (The American Legion), accessed October 7, 2021, <https://www.legion.org/legislative/agenda>.

²⁵ Mackenzie Wolf, "American Legion Testifies on Military Sexual Trauma" (The American Legion, February 7, 2020), accessed October 7, 2021 <https://www.legion.org/legislative/248276/american-legion-testifies-military-sexual-trauma>.

²⁶ The American Legion Resolution No. 67 (2014): [*Military Sexual Trauma*](#)

²⁷ The American Legion Resolution No. 9 (2021): [*Expanded Use of Virtual Hearings by the Board of Veterans Appeals*](#)

Draft Legislation

To amend title 38, United States Code to extend increased dependency and indemnity compensation paid to surviving spouses of veterans who die from amyotrophic lateral sclerosis, regardless of how long the veterans had such disease prior to death.

Veterans, regardless branch of service, era of service, or peace or combat service, are twice as likely to die from amyotrophic lateral sclerosis (ALS) than the general population.²⁸ In an effort to address this ongoing issue, the Department of Veterans Affairs (VA) announced its intention to establish ALS as a presumptive condition for veterans who served at least 90 days of continuous active-duty service. Shortly thereafter, VA's final rule to classify ALS as a presumptive condition was published in the Federal Register.²⁹ This action came about because of a November 2006 report by the Institute of Medicine which VA Secretary Dr. James Peake acted on.³⁰

As a result, VA regulation presumes ALS was incurred or aggravated by a veteran's service in the military. This ensures ALS-suffering veterans, survivors, and their families are eligible for service-connected benefits.³¹ Qualifying ALS-suffering veterans, survivors, and their families are entitled to receive Dependency and Indemnity Compensation (DIC). DIC benefits are a VA monetary benefit paid monthly and varies with the degree of disability and the number of veteran's dependents.

Specifically, eligible survivors can receive about \$288 monthly in DIC benefits if a veteran, at the time of death, was totally disabled from service-connected disabilities for at least eight years.³² However, the average life expectancy for most ALS patients is three to five years.³³ This means VA's current eight-year requirement for additional DIC benefits eliminates from consideration virtually all surviving families of veterans who have died from ALS.

This draft legislation would create an exception for the eight-year rule to ensure the surviving families of ALS-suffering veterans receive the benefits they are owed. The surviving families would be eligible for DIC benefits, regardless of when the veteran passed away. Overall, by rescinding the eight-year loophole this legislation will ensure surviving families are not penalized for the quick death of a loved one.

Through Resolution No. 48: *Dependency and Indemnity Compensation for Surviving Spouses*, The American Legion supports legislative efforts to reduce the number of years a veteran must be rated 100 percent from 10 years to 5 years for eligibility for DIC payments.³⁴ Many veterans do not reach the 100 percent level until they are much older because their conditions worsen. In the

²⁸ "VA Provides Benefits to Veterans with ALS and Families," ALS Association website, accessed October 12, 2021, http://web.alsa.org/site/PageServer?pagename=va_provides_benefits

²⁹ "Presumption of Service Connection for Amyotrophic Lateral Sclerosis" Federal Register, Nov. 4, 2009.

³⁰ "VA Secretary Establishes ALS as a Presumptive Compensable Illness," VA news release, Sept. 23, 2008.

³¹ See 38 CFR § 3.318.

³² "2021 VA DIC rates for spouses and dependents," Department of Veterans Affairs website, accessed October 12, 2021, <https://www.va.gov/disability/survivor-dic-rates>

³³ "Amyotrophic Lateral Sclerosis (ALS)," Muscular Dystrophy Association website, accessed October 12, 2021, <https://www.mda.org/disease/amyotrophic-lateral-sclerosis#life-expectancy>

³⁴ The American Legion Resolution No. 48 (2018): [*Dependency and Indemnity Compensation for Surviving Spouses*](#)

meantime, loved ones who served as caretakers are left behind and can no longer count on VA benefits for assistance. This issue must be rectified, and we look forward to seeing this draft legislation signed into law to ensure it is fixed.

The American Legion supports this draft legislation *as currently written*.

CONCLUSION

Chairwoman Luria, Ranking Member Nehls, and distinguished members of the Disability Assistance and Memorial Affairs Subcommittee, The American Legion thanks you for your long-standing work to fulfill the needs of the veteran population and for allowing us the opportunity to explain the position of our nearly two million members on these relevant legislative matters. For additional information regarding this testimony, please contact Mr. Advait Thampi at The American Legion's Legislative Division at (202)-263-2986 or AThampi@legion.org.