

**STATEMENT OF  
TIFFANY M. WAGNER, EXECUTIVE OFFICER/CLERK OF COURT  
U.S. COURT OF APPEALS FOR VETERANS CLAIMS**

**FOR SUBMISSION TO THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS**

**JUNE 24, 2025**

CHAIRMAN LUTTRELL, RANKING MEMBER MCGARVEY, AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE:

Thank you for inviting the U.S. Court of Appeals for Veterans Claims (Court) to participate in the June 24, 2025, legislative hearing of the United States House of Representatives, Committee on Veterans' Affairs, Subcommittee on Disability Assistance and Memorial Affairs (Subcommittee). I'm Tiffany Wagner, the Court's Executive Officer and Clerk of Court, and I'm pleased to appear as the designee of Chief Judge Michael P. Allen on behalf of the Court. The Subcommittee is considering several bills, but we limit our comments to the Veterans Appeals Efficiency Act of 2025, and specifically, to section 2(e) titled "Expansion of Jurisdiction of Court of Appeals for Veterans Claims," that directly impacts the Court and pertains to proposed supplemental jurisdiction and limited remand authority for the Court.

At the outset, the Court notes that we presented testimony to this Subcommittee last April 10, 2024, on a similar Veterans Appeals Efficiency bill. As we stated then, Congressional modification or expansion of the Veterans Court's jurisdiction is a legislative policy determination, and respectfully, the Court cannot comment on the advisability or breadth of such. Nor can we suggest alternative language that we may be required to interpret in the context of a veteran's case. The Court speaks through its opinions in the context of concrete cases or controversies. Our testimony is thus limited to offering general observations about the potential for unintended consequences with regard to the specific language proposed in the bill.

**A. Supplemental Jurisdiction**

Section 7252 of title 38 of the U.S. Code establishes that the Court has "exclusive jurisdiction to review decisions of the Board." Proposed new subsections 7252(b)(1) and (2) would

grant the Court "supplemental jurisdiction" over certain claims that would not otherwise meet the current jurisdictional requirements and would permit concurrent processing of claims at the agency and the Court in certain circumstances. Proposed subsection 7252(b)(3) addresses tolling of the deadline for filing appeals to the Court.

As noted above, the Court does not and may not advise on how Congress may modify the Court's jurisdiction or broaden concurrent jurisdiction at both the Court and the agency. As we said, the Court may be called on to interpret any language affecting the Court's jurisdiction and we can't issue an advisory opinion on the issue today. That said, we offer a general caution that any modifications to the Court's jurisdictional statute should be as precise as possible to avoid unintended consequences. Some of the language of proposed section 7252(b) is unclear and limits any technical advice we may offer. For example, the general reference to 38 U.S.C. § 5104C(a) and the use of the phrases "notice of disagreement," "supplemental claim," and "request for administrative review" in proposed subsections 7252(b)(1) and (2), without more specific statutory citations, obfuscates the intent of those subsections. Further, the repeated use of the word "claim" in proposed subsection 7252(b)(2) makes it unclear when the draft is referring to the class proponent's claim or the potential class member's claim over which the Court would have supplemental jurisdiction.

Additionally, the Court's appellate jurisdiction under 38 U.S.C. § 7252 is separate and distinct from its jurisdiction over writs under the All Writs Act, 28 U.S.C. § 1651. Including writs in this bill as "covered proceedings," particularly in light of subsection (b)(1)(A)(ii)'s definition of the claims over which the Court would have supplemental jurisdiction, may result in unintended limitations. Again, we are not interpreting this language. We merely are flagging a potential issue for the Subcommittee to consider. Finally, proposed subsection 7252(b)(3) creates a new subcategory of timeliness/jurisdictional disputes that the Court would be called upon to decide. This alteration to the parameters of the Court's jurisdiction, like any such alteration, could grow the Court's caseload, which in turn would require reevaluation of Court processes and resource needs at a time when our Court is already receiving record numbers of appeals.

## B. Limited Remand Authority

Section 2(e)(2) of the Veterans Appeals Efficiency Act of 2025 proposes to add new 38 U.S.C § 7252(c), addressing the Court's remand authority.

Proposed new subsection 7252(c)(1) would authorize the Court to remand a matter to the Board of Veterans' Appeals "for the limited purpose of ordering the Board to address a question of law or fact" that the Court determines the Board failed to either address after it was explicitly or reasonably raised, or adequately explain the reasons or bases for the Board's decision about such question. Proposed new subsection 7252(c)(2) would direct the Court to issue Rules (1) addressing how and when a party could request a limited remand; (2) identifying the time period within which the Board would be required to issue a decision on a relevant question; (3) detailing when the Court could sua sponte or upon request of a party order a limited remand; and (4) directing the parties to provide notice to the Court when the Board issues a relevant decision following a limited remand. Proposed new subsection 7252(c)(3) would require the Court to retain jurisdiction over such remanded matters and to stay Court proceedings until the Board satisfies the remand instructions and issues a decision.

Proposed subsection 7252(c) could inject uncertainty into the law given that the Court already has the authority to employ limited remands. Currently, 38 U.S.C. § 7252(a) permits the Court to remand matters as appropriate. As the Court has held, that authority encompasses issuing limited remands, retaining jurisdiction, and setting out timetables within which the Board must act. By statutorily defining the circumstances in which the Court could order a limited remand, new subsection 7252(c)(1) may limit, rather than expand, the Court's current authority. Similarly, the requirements in proposed subsections 7252(c)(2) and (c)(3) may constrain when and how the parties may request, and the Court may ultimately use, this remedy. In deciding each case, the Court carefully considers the particular facts and circumstances of each veteran. A confining statutory framework may inhibit the Court's ability to employ what it deems as the most fitting remedy in a particular case. To be clear, the possibilities we have highlighted here are certainly within Congress' policy-based options. We make these points only to raise the issue to ensure that the choices made through the proposed amendments are intended.

In conclusion, the Court takes seriously its mission to afford veterans and their families and survivors full, fair, independent, and prompt judicial review of final Board decisions. The Court is open to ways to improve its functioning and appreciates the Subcommittee's continued interest and effort in this shared goal. Thank you for the opportunity to submit this statement.