



Written Statement for the Record of  
**Montana Crow, Esq., Senior Counsel<sup>1</sup>**  
**Berry Law<sup>2</sup>**

Submitted for a Legislative Hearing before the  
U.S. House of Representatives' Committee on Veterans' Affairs,  
Subcommittee on Disability Assistance and Memorial Affairs

**February 3, 2026**

Chairman Luttrell, Ranking Member McGarvey, and Members of the Subcommittee,

My name is Montana Crow, and I am a Senior Counsel with Berry Law. I am proud to submit this statement for the record in support of the Subcommittee's work on legislation affecting veterans' disability claims adjudication and the integrity and transparency of the VA benefits system.

Berry Law represents veterans nationwide in VA disability claims, including complex cases involving chronic pain, neurological conditions, mental health disorders, and service-connected toxic exposures. Through this work, our firm has gained extensive firsthand experience with how VA health care delivery, clinical documentation, and administrative policy affect veterans' ability to establish service connection and receive accurate disability ratings.

Our attorneys and staff regularly interpret and apply VA statutes, regulations, and claims guidance, providing practical insight into how legislative and policy changes operate in practice, both in the delivery of care and in the evidentiary record used to adjudicate claims. This claims-focused perspective allows Berry Law to evaluate proposed legislation not only as a matter of policy, but also in terms of its tangible impact on veterans navigating the VA system.

Our perspective complements the indispensable work of Veterans Service Organizations by offering formal legal expertise, appellate advocacy, and an integrated understanding of how medical evidence, access to care, and benefits adjudication intersect. Because veterans' health outcomes, access to care, and disability compensation are deeply interconnected, improvements to

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<sup>1</sup> Biography available at: [www.ptsdlawyers.com/veterans-lawyers/montana-crow](http://www.ptsdlawyers.com/veterans-lawyers/montana-crow).

<sup>2</sup> Berry Law is a midwestern law firm established in 1965 that handles personal injury litigation and veterans' disability appeals, providing legal counsel to injured civilians and veterans nationwide with an emphasis on securing VA benefits and compensation entitlements. For more information, visit [www.ptsdlawyers.com](http://www.ptsdlawyers.com).

VA claims processes directly reinforce the Subcommittee’s mission of ensuring timely, high-quality care for those who served.

While this hearing primarily focuses on health care delivery and outcomes, the bill evaluations that follow also highlight how the proposed measures can strengthen VA disability compensation processes. Each analysis demonstrates that improved access to care, enhanced research, and higher-quality clinical documentation not only support health outcomes but also reinforce service-connection determinations, enable more accurate disability ratings, and improve the efficiency and fairness of claims adjudication. These recommendations are designed to complement the health-focused goals of the legislation, ensuring that enhancements in care and treatment also translate into meaningful benefits for veterans navigating the VA claims process, without creating unnecessary administrative burdens for veterans or their care teams.

The recommendations that follow are based on Berry Law’s experience representing veterans and are offered to provide practical, actionable insight into how the proposed legislation may affect both health care delivery and disability claims outcomes.

**Legislation Summary Table**

This summary provides an overview of the key provisions discussed through this testimony, their potential impacts on VA disability claims, and our recommended refinements to maximize benefits for veterans.

| <b><u>Bill Name</u></b>   | <b><u>Purpose</u></b>  | <b><u>Key Support Points</u></b>   | <b><u>Primary Recommendations</u></b>   |
|---|--|--|---|
| <i>Board of Veterans Appeals Annual Report Transparency Act of 2025</i> | Enhance BVA reporting by identifying factors driving untimely dispositions and remands     | Promotes transparency, accountability, and evidence-based process improvements; supports veteran outcomes  | Define standardized factor categories; clarify effective date; ensure public accessibility; track corrective actions  |
| <i>FRAUD in VA Disability Exams Act of 2025</i>                         | Improve detection and reporting of fraudulent DBQs   | Protects claims integrity; deters fraud; leverages OIG authority; balances oversight with veteran protections  | Define “fraud”; clarify scope and timing of audits; carefully manage veteran notifications; consider public accessibility of reports  |
| <i>Love Lives On Act of 2025</i>  | Eliminate remarriage-based penalties affecting DIC, SBP, and TRICARE for surviving spouses | Restores fairness and equity; compensates for service-connected loss; reduces financial and administrative burdens on surviving spouses; aligns survivor benefits with contemporary family realities | Automatic reinstatement of DIC; eliminate SBP delays; expand eligibility; restore TRICARE with special enrollment period; ensure VA–DoD coordination; include rule of construction to prevent benefit reduction |

| <b><u>Bill Name</u></b>  | <b><u>Purpose</u></b>  | <b><u>Key Support Points</u></b>   | <b><u>Primary Recommendations</u></b>   |
|--|--|--|---|
| <i>Justice for ALS Veterans Act of 2025</i>                    | Extend increased DIC eligibility for surviving spouses of veterans who die from ALS; require VA study on other high-mortality conditions | Recognizes ALS's rapid progression; removes arbitrary DIC exclusions; supports surviving spouses               | Reduce marriage-duration requirement; allow retroactive claims; require stakeholder-informed VA report; clarify rule of construction to avoid reducing existing benefits              |
| <i>PRESUME Act of 2025</i>                                     | Prohibit VA from requiring specific radiation dose to establish radiation-exposed veteran status   | Removes evidentiary barriers; promotes uniform adjudication; aligns with other presumptive exposure frameworks | Clarify scope to prohibit proxies; mandate VA regulation and guidance updates; apply retroactively to pending claims; require VA outreach and notice                                  |
| <i>Susan E. Lukas 9/11 Servicemember Fairness Act</i>          | Presume service connection for diseases related to toxin exposure at the Pentagon post-9/11  | Reduces evidentiary burden; aligns with other toxic exposure presumptions; broad coverage of diseases          | Clarify regulatory timelines for disease list expansion; apply retroactively to pending/denied claims; remove burden of proof for service connection; require reporting and oversight |
| <i>Veterans Burial Allowance and Reimbursement Act of 2025</i> | Standardize burial, funeral, and plot allowances; consolidate eligibility under § 2303   | Improves clarity, fairness, and administrative efficiency; explicitly includes service-connected deaths        | Specify effective date; clarify retroactive application; ensure non-service-connected eligible veterans retain benefits   |

The following sections expand on these recommendations in greater detail, offering specific guidance to ensure each bill not only advances veteran care but also directly supports the development of claim-usable evidence, strengthens clinical documentation, and improves outcomes in VA disability compensation adjudication.

**Board of Veterans' Appeals Annual Report Transparency Act of 2025 (H.R. 6698)**

*Support with Recommendations*

The Board of Veterans' Appeals Annual Report Transparency Act of 2025 would amend section 7101(d) of title 38, United States Code, to enhance transparency in Board of Veterans' Appeals reporting. The legislation would require the Board's annual report to identify factors contributing to untimely disposition of appeals under the modernized appeals system, as well as remands issued under both the legacy and modern appeals frameworks. For each factor, the Board would report the number and percentage of cases affected.

Berry Law supports the purpose of this legislation. Delays in appeals and remands continue to be among the most significant sources of frustration for veterans seeking benefits, and meaningful reform requires clear, data-driven insight into the underlying causes of these outcomes. By mandating that the Board identify and quantify contributing factors, the bill would provide Congress and other stakeholders with the information necessary to improve adjudication efficiency, accountability, and overall timeliness of veterans' appeals.

### **A. Rationale for Support**

The Board of Veterans' Appeals (Board) plays a central role in the VA benefits system, yet the factors driving delays and remands are often opaque to veterans, accredited representatives, and policymakers. While the Board currently publishes annual performance data,<sup>3</sup> these reports do not consistently identify the root causes of untimely decisions or repeated remands, limiting the usefulness of the information for oversight and reform.

Requiring the Board to analyze and report these factors would enhance transparency and accountability, while providing an evidence-based foundation for targeted improvements. Data showing whether delays result from evidentiary development errors, insufficient or incomplete medical examinations, procedural deficiencies, staffing constraints, or other systemic issues would allow Congress and VA leadership to prioritize reforms more effectively. For veterans, clearer insight into the causes of remands could reduce repeated delays, promote more consistent decision-making, and strengthen confidence in the appeals process.

The bill appropriately addresses both the modernized appeals system established under the *Veterans Appeals Improvement and Modernization Act of 2017* (Pub. L. 115-55) and the legacy appeals framework. Maintaining visibility into both tracks ensures that reforms are informed by the full scope of the Board's workload during this transitional period. While Berry Law strongly supports the bill's objectives, several targeted refinements could further enhance the clarity, consistency, and practical value of the reports, ensuring they serve as a meaningful tool for Congress, VA leadership, and the veteran community.

### **B. Concerns and Recommendations**

#### **(1) Standardization of Reported Factors**

The value of the reporting requirements hinges on the consistent identification and categorization of factors contributing to delays and remands across fiscal years. Without standardized definitions and methodologies, year-to-year comparisons could be unreliable, misleading, or difficult to interpret. As currently drafted, the bill does not require the Board to define or standardize the categories used to classify contributing factors, nor does it specify how

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<sup>3</sup> [www.department.va.gov/board-of-veterans-appeals/annual-reports-to-congress](http://www.department.va.gov/board-of-veterans-appeals/annual-reports-to-congress).

percentages should be calculated. This gap could lead to inconsistent reporting practices that undermine the utility of the data for policymakers, VA leadership, and stakeholders.

To maximize transparency and support evidence-based reform, Congress should direct the Board to establish clear, standardized factor categories and uniform calculation methods, ensuring that each annual report produces reliable, comparable, and actionable information.

Proposed Language:

*STANDARDIZATION OF REPORTING METHODOLOGIES.* The Board of Veterans' Appeals shall:

1. Define and publish standardized categories for factors contributing to the untimely disposition of appeals and remands; and
2. Establish uniform methodologies for calculating the number and percentage of cases affected by each factor.

The Board shall apply these definitions and methodologies consistently across all annual reports and shall review and update them as needed to ensure comparability, reliability, and transparency over time.

## (2) Implementation Burden and Resource Considerations

Accurate reporting on contributing factors requires staff time, analytical capacity, and careful review of large volumes of appeals. Without clear guidance and sufficient resources, the reporting requirement could place additional burdens on Board personnel<sup>4</sup> and potentially divert attention from core adjudicatory functions. While the VA could argue that it is capable of developing reporting methods internally, leaving factor definitions, categories, and calculation methods to agency discretion risks inconsistent reporting, uneven comparisons across fiscal years, and reduced accountability.<sup>5</sup>

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<sup>4</sup> Potential challenges associated with enhanced reporting requirements for the Board include: (1) administrative burden, as staff might be required to manually review every case to identify contributing factors, creating a workload that could overwhelm existing personnel; (2) diversion from core duties, since time spent on labor-intensive reporting could reduce the Board's capacity to issue timely decisions, exacerbating existing delays; (3) inconsistent reporting, because without standardized guidance, different offices or staff might apply ad hoc methods, resulting in unreliable or non-comparable data across fiscal years; and (4) legal and political risk, as incomplete or inconsistent reports could undermine the Board's credibility or prompt unnecessary follow-up legislation.

<sup>5</sup> The U.S. Government Accountability Office (GAO) has found that federal agencies, including VA, have produced inconsistent or incomplete reports when left to develop reporting methods internally. For example, GAO identified flaws and gaps in VA clinical quality measures, noting that metrics were incomplete and unreliable for oversight purposes, and reported that VA lacked comprehensive tracking systems for certain claims data, resulting in uneven and non-comparable reporting across periods. See [www.gao.gov/assets/gao-25-107469.pdf](http://www.gao.gov/assets/gao-25-107469.pdf) and [www.vaogig.gov/sites/default/files/reports/2023-09/VAOIG-22-02064-155.pdf](http://www.vaogig.gov/sites/default/files/reports/2023-09/VAOIG-22-02064-155.pdf).

To mitigate these risks, Congress should clarify that the Board may rely primarily on existing case-tracking systems, claims data, and adjudicatory records to generate reports, rather than mandating time-intensive, case-by-case narrative analyses. This approach would preserve the integrity and usefulness of the reports while minimizing administrative strain on Board operations.

Proposed Language:

The requirements of subparagraphs (H) and (I) may be satisfied through analysis of existing adjudicatory data, case-tracking systems, and quality-review findings, and shall not require the preparation of individualized narrative explanations for each appeal.

### (3) Public Accessibility of Reports

Transparency is meaningful only if the information is readily accessible to veterans, accredited representatives, and other stakeholders. Although Board annual reports are generally posted on the VA website, the bill does not explicitly mandate public dissemination of the new reporting elements. Without a statutory requirement, accessibility could vary depending on administrative practice, potentially limiting the usefulness of the reports for oversight, advocacy, and research.

Congress should clarify that the Board's annual report, including all newly required data on contributing factors to delays and remands, must be made publicly available in a timely and easily accessible format.

Proposed Language:

The annual report required under this subsection, including the information described in subparagraphs (H) and (I), shall be made publicly available on the website of the Department of Veterans Affairs.

### (4) Effective Date and First Reporting Year

Clear and explicit effective-date provisions are critical to ensuring timely compliance, preventing confusion, and avoiding disputes over which annual report must first include the newly mandated reporting elements. Without specifying the first applicable fiscal year, VA staff may face uncertainty in planning data collection, analysts may struggle to identify relevant cases, and Congress and stakeholders may be unable to rely on the reports for oversight or policymaking. This ambiguity could delay implementation, compromise the accuracy and completeness of reported data, and reduce the usefulness of the report for identifying systemic issues in appeals adjudication.

Congress should explicitly designate the first reporting year to which the new requirements apply, providing clear guidance to the Board, ensuring that the reports are produced on schedule, and maximizing the transparency, accountability, and policy value of the information collected.

Proposed Language:

The amendments made by this Act shall apply to the first annual report of the Board of Veterans' Appeals submitted for a fiscal year beginning after the date of enactment of this Act.

(5) Tracking Corrective Actions

Identifying contributing factors is only valuable if it leads to meaningful accountability and measurable improvement. While the bill mandates reporting on the factors that contribute to untimely decisions and remands, it does not require the Board to explain how it is responding to those findings. Past experience demonstrates the importance of linking reporting to corrective action: a GAO review found that the Board lacked a systematic approach to analyze trends in errors and remands, limiting its ability to implement targeted improvements.<sup>6</sup> Similarly, research on the Board's internal quality review programs has shown that tracking errors without corresponding operational responses does not reliably reduce remand rates or improve decision quality.<sup>7</sup> Without a mechanism to require the Board to describe corrective steps, reporting risks becoming a purely descriptive exercise rather than a tool for reform.

Congress should, therefore, require the Board to include in each annual report a description of steps taken or planned to address identified drivers of delay and remand, including process changes, resource allocations, or policy adjustments. This approach would ensure that reporting not only informs Congress and stakeholders but also drives tangible improvements in adjudication timeliness, consistency, and accountability.

Proposed Language:

Each annual report submitted under this subsection shall include a description of any corrective actions taken or planned by the Board in response to the factors identified under subparagraphs (H) and (I).

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The *Board of Veterans' Appeals Annual Report Transparency Act of 2025* represents a significant step toward enhancing transparency, accountability, and evidence-based reform within the VA appeals system. By requiring the Board to identify and quantify the factors driving delays and remands, the bill would provide Congress, VA leadership, and stakeholders with actionable insight into the systemic and procedural challenges affecting timely adjudication.

To maximize the effectiveness of this reporting, Berry Law recommends several targeted refinements. Standardizing factor categories and calculation methodologies will ensure that the

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<sup>6</sup> [www.gao.gov/products/gao-24-106156](http://www.gao.gov/products/gao-24-106156).

<sup>7</sup> Ho, DE, C Handan-Nader, D Ames, & D. Marcus. (2018). Quality review of mass adjudication: A randomized natural experiment at the Board of Veterans Appeals, 2003-16. *Stanford Institute for Economic Policy Research*. Available at: [www.drive.google.com/file/d/1m5VFTvPcBRF61LpLiCbrNLh0OLbllNvc](http://www.drive.google.com/file/d/1m5VFTvPcBRF61LpLiCbrNLh0OLbllNvc).

data is consistent, reliable, and comparable across fiscal years. Explicitly requiring public dissemination guarantees that veterans, accredited representatives, and researchers can access the information and use it to monitor trends, advocate for improvements, and hold the Board accountable. Specifying the first applicable reporting year provides clarity to VA staff and prevents confusion or gaps in data collection. Finally, mandating that reports describe corrective actions taken or planned ensures that reporting moves beyond description to drive tangible improvements in appeals adjudication.

With these refinements, the legislation would not only illuminate the causes of untimely decisions and remands but also create a clear link between transparency and corrective action. The result would be more consistent, timely, and accountable decision-making at the Board, ultimately improving outcomes for veterans and their families. In short, this bill, as strengthened by targeted amendments, would transform the Board's annual reporting from a purely informational exercise into a practical tool for reform, oversight, and enhanced service to the veteran community.

**Fraud Reduction and Uncovering Deception (FRAUD)**  
**in VA Disability Exams Act (H.R. 5723)**

*Support with Recommendations*

The *Fraud Reduction and Uncovering Deception (FRAUD) in VA Disability Exams Act* would enhance oversight, detection, and reporting of fraudulent activity related to Disability Benefits Questionnaires (DBQs) submitted in support of VA disability claims. The legislation would add a new section 5322 to title 38, United States Code, directing the Secretary of Veterans Affairs to identify suspected fraud regardless of the source of a DBQ, refer suspected fraud to appropriate investigatory authorities, conduct recurring audits, notify affected claimants, and submit annual reports to Congress. The bill also expands the authority of the VA Office of Inspector General (OIG) to investigate suspected fraud and places limits on VA's ability to reopen final decisions absent a criminal conviction.

Berry Law supports the bill's goal of preserving the integrity of the VA disability compensation system. Fraud undermines public confidence, diverts scarce resources, and can delay benefits for deserving veterans. At the same time, reforms in this area must be carefully calibrated to protect veterans acting in good faith and to ensure that fraud-detection mechanisms themselves do not introduce unnecessary delay, administrative burdens, or procedural unfairness. With targeted refinements, the legislation can strike an appropriate balance between accountability and veteran protections, promoting both confidence in the system and timely access to earned benefits.

**A. Rationale for Support**

Disability Benefits Questionnaires play a critical role in VA disability adjudication by providing medical evidence specifically tailored to rating criteria. Because DBQs may be

completed by private clinicians outside the VA system, they also present a potential avenue for misuse or fraudulent activity if robust safeguards are not in place.

The bill addresses this concern in a measured and balanced manner. The bill enhances oversight through recurring audits, reporting requirements, and expanded involvement of the OIG, while explicitly limiting the VA's authority to reopen final decisions absent a criminal conviction. This framework preserves the finality of legitimate awards and protects veterans from administrative challenges based solely on suspicion or disagreement over claim adjudication.

Requiring annual reports to Congress further strengthens transparency and accountability, providing insight into both the prevalence of suspected fraud and the VA's response. Leveraging the expertise of the OIG is particularly appropriate, as the office is uniquely positioned to investigate complex fraud allegations in accordance with established investigatory standards and protocols.

While Berry Law supports the bill's objectives, several targeted refinements would improve clarity, fairness, and implementation consistency.

## **B. Concerns and Recommendations**

### **(1) Definition and Standards for "Suspected Fraud"**

Clear definitions are critical to ensuring consistent application of the statute and to preventing over-reporting, arbitrary referrals, or unnecessary investigations. As drafted, the bill does not define "fraud" or "suspected fraudulent activity" in the context of DBQs. In the absence of statutory or regulatory standards, determinations may vary across regional offices, creating inconsistent referrals, potential delays, and the risk of harm to veterans who are acting in good faith.

Congress should require the VA to apply a clearly defined standard, aligned with existing federal fraud statutes, and to establish a reasonable factual basis before initiating a referral, notifying a claimant, or taking any action that could affect an award

Proposed Language:

Definitions. For purposes of this section:

1. Fraud means the knowing submission of a false or materially misleading statement, representation, or document with the intent to obtain VA benefits or avoid a VA obligation, consistent with applicable Federal fraud statutes.
2. Suspected fraudulent activity means conduct for which there is a reasonable factual basis to believe that fraud, as defined above, has occurred.

## (2) Veteran Notification Safeguards

Transparency with claimants is important, but notifying veterans of suspected fraud carries significant emotional, reputational, and legal consequences. Notifying veterans of suspected fraud carries significant emotional, reputational, and legal consequences. Government imposter scams, such as Social Security Administration letters threatening benefit suspension or alleged Internal Revenue Service enforcement notices, have repeatedly caused undue stress and confusion among beneficiaries when recipients believe the communications are official before being informed they are fraudulent.<sup>8</sup>

Congress should therefore clarify that any notification must be carefully worded to avoid implying guilt, must clearly distinguish between suspicion and confirmed misconduct, and must include information on the veteran's procedural rights, avenues for appeal, and opportunities to respond. Such safeguards are essential to ensure that anti-fraud measures protect both the integrity of the system and the rights and well-being of claimants.

### Proposed Language:

Any notification provided under this subsection shall clearly state that a finding of suspected fraudulent activity is not a determination of wrongdoing, shall not affect entitlement to benefits unless fraud is established by conviction, and shall include notice of the claimant's rights and available assistance.

## (3) Protection for Veterans Acting in Good Faith

The vast majority of veterans and clinicians submit DBQs in good faith. Veterans service organizations and OIG have confirmed through oversight measures that only a very small percentage of compensation-related fraud investigations involve veterans themselves, despite millions of beneficiaries in the system, indicating that most DBQ submissions support legitimate claims and should be treated as such.<sup>9</sup> Any fraud-detection framework should avoid discouraging the submission of legitimate medical evidence or penalizing inadvertent errors. Without explicit statutory protections, veterans may fear that submitting private medical documentation could trigger adverse consequences, potentially undermining access to entitled benefits.

Congress should clearly provide that a mere suspicion of fraud may not be used to deny, reduce, or delay benefits, ensuring that fraud prevention measures do not inadvertently harm veterans acting in good faith.

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<sup>8</sup> [www.oig.ssa.gov/scam-alerts/2025-07-17-social-security-benefit-suspension-scam](https://www.oig.ssa.gov/scam-alerts/2025-07-17-social-security-benefit-suspension-scam).

<sup>9</sup> <https://www.vfw.org/advocacy/national-legislative-service/congressional-testimony/2025/10/putting-veterans-first-is-the-current-va-disability-system-keeping-its-promise>.

Proposed Language:

No benefit may be denied, reduced, delayed, or recouped under this title based solely on suspicion of fraudulent activity absent a final conviction for fraud.

#### (4) Coordination With Existing VA and OIG Processes

VA and the OIG already have established authorities and processes for detecting, investigating, and reporting fraud. For example, the OIG is statutorily empowered to investigate and audit VA programs to *prevent and detect fraud, waste, and abuse*, including suspected fraudulent activity related to benefits claims. (Pub. L. 95-452). Additionally, VA provides fraud reporting guidance and directs veterans to report suspected fraud through a hotline,<sup>10</sup> reinforcing that VA already has operational processes for identifying and investigating fraud. Any new statutory requirements should supplement and enhance these existing mechanisms, rather than duplicate or conflict with them. Without explicit direction to coordinate, the proposed section could lead to overlapping audits, inconsistent investigative standards, or unnecessary administrative burdens.

Congress should require that new reporting, referral, and audit procedures be aligned with existing VA and OIG fraud-prevention frameworks to ensure efficiency, consistency, and effective use of resources.

Proposed Language:

In carrying out this section, the Secretary shall coordinate with existing fraud prevention, quality review, and Inspector General processes to avoid duplication and ensure consistent application of standards.

#### (5) Reporting Transparency and Public Access

Empirical evidence indicates that transparency and public accountability mechanisms not only deters potential misconduct but also strengthens trust in the VA benefits system. Greater public disclosure and transparency have been associated with lower rates of corruption and stronger public confidence, as transparency increases scrutiny and makes misconduct more difficult to conceal.<sup>11</sup> While the bill mandates reporting to congressional committees, it does not explicitly require that aggregate findings be made publicly available.

Congress should ensure that annual reports are posted in a publicly accessible format, with appropriate safeguards to protect claimant privacy, so that stakeholders, including veterans, advocates, and researchers, can meaningfully assess the prevalence of fraud and the effectiveness of VA's oversight measures.

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<sup>10</sup> [www.news.va.gov/90676/protect-benefits-reporting-scams-fraud](http://www.news.va.gov/90676/protect-benefits-reporting-scams-fraud).

<sup>11</sup> [www.sciencedirect.com/science/article/abs/pii/S1057521925008336](http://www.sciencedirect.com/science/article/abs/pii/S1057521925008336).

Proposed Language:

The Secretary shall make publicly available, in an aggregate and non-identifying format, the annual reports submitted under this subsection.

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The *FRAUD in VA Disability Exams Act* represents a carefully targeted approach to strengthening the integrity of the VA disability compensation system. By expanding audit authority, leveraging the expertise of the VA Office of Inspector General, and requiring annual reporting to Congress, the bill addresses genuine vulnerabilities in DBQ submissions while preserving the finality of legitimate awards.

At the same time, the legislation's effectiveness depends on clear definitions, consistent standards, and procedural safeguards. Specifically, codifying definitions for "fraud" and "suspected fraudulent activity," ensuring notifications to veterans are carefully framed and protective of rights, and explicitly shielding good-faith claimants from adverse action will help prevent unintended consequences, maintain trust, and encourage submission of legitimate medical evidence.

With these targeted refinements, the bill strikes an appropriate balance between accountability and claimant protections. It would enhance oversight, promote transparency and public confidence, and ensure that fraud-detection mechanisms serve as a constructive tool to protect both the integrity of the VA benefits system and the veterans it exists to serve.

### **Love Lives On Act of 2025 (H.R. 1004)**

#### *Support with Recommendations*

The *Love Lives On Act of 2025* amends Titles 10 and 38, United States Code, to eliminate remarriage-based penalties that affect surviving spouses' eligibility for Dependency and Indemnity Compensation (DIC), Survivor Benefit Plan (SBP) annuities, and TRICARE coverage. These reforms represent a significant step toward modernizing survivor benefit policies, aligning them with contemporary family structures and the realities faced by the surviving spouses of veterans and service members.

Berry Law strongly supports the intent and overarching objectives of H.R. 1004. Survivor benefits are earned through service-connected sacrifice and should not be conditioned on personal life decisions unrelated to that service. At the same time, we respectfully recommend targeted clarifying amendments to ensure that Congress's intent is fully realized in practice, so that benefits are restored consistently, procedural hurdles are minimized, and unnecessary disputes or litigation are avoided.

## A. Rationale for Support

Surviving spouses play a critical, and often underrecognized, role in the military community. Through our nationwide representation of veterans and surviving spouses, Berry Law routinely observes the significant burdens borne by families during a veteran's active dying process and the long-term ramifications after their transition, including caregiving responsibilities for service-connected disabilities, financial and administrative challenges, and the complex navigation of VA benefits.

Data from the Department highlights the real-life consequences of service-connected conditions on veteran mortality. Research indicates that veterans with severe service-connected disabilities experience significantly reduced life expectancy compared to the general population. For example, VA studies have shown that veterans with service-connected conditions such as amyotrophic lateral sclerosis, posttraumatic stress disorder, and severe musculoskeletal injuries often face a shortened lifespan, leaving surviving family members to navigate the complex VA benefits system during an emotionally and financially vulnerable period.<sup>12</sup>

Remarriage penalties embedded across VA and Department of Defense (DoD) survivor benefit programs exacerbate these challenges by forcing surviving spouses to choose between financial security and remarriage. These restrictions are inconsistent with the fundamental purpose of survivor benefits, which is to compensate for the loss of a service member or veteran due to service-connected causes, not to regulate or discourage personal life decisions.

DIC is a tax-free monthly benefit available to eligible surviving spouses, children, and parents of veterans whose death was service-connected or otherwise meets statutory eligibility criteria.<sup>13</sup> Currently, more than 506,000 surviving families receive DIC,<sup>14</sup> underscoring the critical role of and widespread reliance on this benefit. Even modest reductions or loss of these benefits due to remarriage can impose significant financial hardship and psychological stress, compounding the challenges of rebuilding life after the loss of a loved one.

H.R. 1004 appropriately recognizes this principle and takes meaningful steps toward restoring fairness, equity, and dignity for surviving spouses. By eliminating remarriage-based penalties for DIC, SBP annuities, and TRICARE coverage, the legislation ensures that these earned benefits reflect service-connected sacrifice rather than personal life choices, aligning survivor support with contemporary family realities. While we strongly support these objectives, we respectfully offer the following observations and recommendations to enhance clarity, consistency, and implementation.

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<sup>12</sup> See generally [www.va.gov/vetdata](http://www.va.gov/vetdata).

<sup>13</sup> [www.va.gov/family-and-caregiver-benefits/survivor-compensation/dependency-indemnity-compensation](http://www.va.gov/family-and-caregiver-benefits/survivor-compensation/dependency-indemnity-compensation).

<sup>14</sup> See [www.taps.org/advocacy/2025/mar4](http://www.taps.org/advocacy/2025/mar4). Earlier estimates indicate that 465,000 survivors received benefits between FY 2023 and FY 2024. [www.taps.org/advocacy/2024/jan30](http://www.taps.org/advocacy/2024/jan30).

## **B. Concerns and Recommendations**

### (1) Section 2: Modification of 38 U.S.C. § 103(d), Entitlement to Veterans Dependency and Indemnity Compensation for Surviving Spouses Who Remarry.

Section 2 eliminates remarriage- and age-based restrictions that currently terminate DIC eligibility, bringing the benefit into closer alignment with its core purpose: providing compensation to survivors of veterans whose deaths were service-connected. This reform addresses one of the most punitive and outdated elements of VA survivor benefits law.

As drafted, the bill does not explicitly address surviving spouses whose DIC benefits were previously terminated solely due to remarriage. Without clear statutory direction, VA may require affected survivors to refile claims, adjudicate disputes over effective dates, or engage in unnecessary appeals. These gaps could undermine congressional intent and create avoidable administrative burdens and litigation.

To ensure equitable and efficient implementation, Congress should direct automatic reinstatement of DIC benefits terminated solely due to remarriage, establish a clear effective date for resumed payments, and mandate proactive VA outreach to affected surviving spouses. Together, these measures would provide certainty to survivors, honor their earned benefits, and minimize administrative complexity.

#### Proposed Language:

The Section is further amended by adding at the end the following new section: RESTORATION OF BENEFITS PREVIOUSLY TERMINATED DUE TO REMARRIAGE.

(A) The Secretary of Veterans Affairs shall reinstate dependency and indemnity compensation under sections 1311 and 1562 of title 38, United States Code, for any surviving spouse whose entitlement to such compensation was terminated solely by reason of remarriage prior to the date of enactment of this Act.

(B) Reinstatement under subparagraph (A) shall—

(i) occur automatically to the maximum extent practicable, without requiring the filing of a new claim; and

(ii) be effective not later than the date of enactment of this Act.

(C) The Secretary shall provide notice to all individuals reasonably identifiable as potentially eligible for reinstatement under this paragraph.

(D) At the election of the surviving spouse, reinstated benefits may include retroactive payment to the date on which such benefits were terminated due solely to remarriage.

(2) Section 3: Modification of 10 U.S.C. § 1450(b)(2), Continued Eligibility for Survivor Benefit Plan for Certain Surviving Spouses Who Remarry.

Section 3 addresses remarriage penalties affecting SBP annuities, particularly for surviving spouses of service members who died on active duty. This provision moves SBP policy closer to parity with VA survivor benefits and reflects a more equitable treatment of surviving spouses across federal benefit programs.

As currently drafted, the bill delays the resumption of SBP payments for one year following remarriage, imposing unnecessary financial hardship during a period of transition. In addition, eligibility is limited to surviving spouses of service members who died on active duty, excluding surviving spouses of veterans who later died from service-connected conditions. Finally, the bill does not establish explicit coordination requirements between the DoD and VA, increasing the risk that survivors could lose one benefit while another is restored.

The one-year delay and exclusion of survivors of veterans who died from service-connected conditions are particularly concerning because they create inequitable treatment among similarly situated surviving spouses. Survivors who remarried or whose spouses died after military service may face sudden gaps in income precisely when financial stability is most critical, navigating funeral costs, household expenses, and ongoing medical or caregiving needs. Limiting eligibility in this manner also undermines the principle that survivor benefits are intended to compensate for the loss of a veteran due to service-connected causes, not to penalize personal life decisions or the timing of a veteran's death.<sup>15</sup>

We recommend eliminating the one-year payment delay, expanding eligibility to include surviving spouses of veterans whose deaths were service-connected, and requiring formal coordination and timely notice between DoD and VA to prevent gaps, offsets, or duplication of survivor benefits.

Proposed Language:

TREATMENT OF SURVIVING SPOUSES. The Secretary may not terminate payment of an annuity for a surviving spouse described in section 1448(d)(1), or for a surviving spouse of a member or former member who died as a result of a service-connected disability, solely because that surviving spouse remarries.

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<sup>15</sup> A 2002 House Committee Report on DIC reform explains that the indemnity aspect of DIC is intended “to meet, at least in part, the Government’s obligation to those who died in the defense of our country,” and that marital status decisions should not eliminate the underlying basis for compensation. It notes that “*the basis for compensation is not eliminated by the surviving spouse’s remarriage*” (emphasis added). This reinforces the idea that survivor benefits should not be conditioned on personal decisions that are unrelated to service-connected sacrifice. [www.govinfo.gov/content/pkg/CRPT-107hrpt472/html/CRPT-107hrpt472.htm](http://www.govinfo.gov/content/pkg/CRPT-107hrpt472/html/CRPT-107hrpt472.htm).

COORDINATION WITH DEPARTMENT OF VETERANS AFFAIRS. The Secretary of Defense shall coordinate with the Secretary of Veterans Affairs to ensure that surviving spouses eligible for benefits under this subsection receive timely notice regarding the interaction between Survivor Benefit Plan annuities and dependency and indemnity compensation under title 38, United States Code.

(3) Section 4: Modification of 10 U.S.C. § 1072(2), Continued Eligibility for Survivor Benefit Plan for Certain Surviving Spouses Who Remarry.

Section 4 restores TRICARE eligibility for surviving spouses whose remarriage has ended, promoting continuity of healthcare coverage during periods of significant personal and financial disruption. While restoring eligibility is a critical step, eligibility alone does not guarantee access. Surviving spouses whose remarriage ended years earlier may be excluded due to enrollment deadlines, prior lapses in coverage, or administrative hurdles, effectively limiting the practical benefit of the reform.

To ensure the intent of this provision is fully realized, Congress should pair restored eligibility with a special enrollment period and explicitly clarify that prior coverage lapses, interruptions, or missed deadlines do not preclude access to TRICARE benefits. These measures would provide certainty, reduce administrative barriers, and protect surviving spouses during a period when continuity of care is most critical.

Proposed Language:

**SPECIAL ENROLLMENT PERIOD.** The Secretary of Defense shall establish a special enrollment period of not less than 180 days for individuals who become eligible for TRICARE coverage by reason of the amendments made by this section, notwithstanding any otherwise applicable enrollment deadline.

**RESTORATION OF ELIGIBILITY.** Eligibility under this subsection shall apply regardless of when the subsequent marriage of the widow or widower ended, including marriages that ended prior to the date of enactment of this Act.

(4) Bill-Wide Technical Recommendation: Rule of Construction.

Because H.R. 1004 affects multiple survivor benefit programs administered by two federal agencies, interacting statutes and regulations could unintentionally reduce or offset existing benefits if not clearly addressed. As previous experience with the SBP-DIC offset (“Widow’s Tax”) demonstrates, survivors were legally entitled to both VA and DoD benefits but received reduced

total payments due to conflicting statutory rules, a situation Congress ultimately corrected only after prolonged advocacy and legislative action.<sup>16</sup>

We recommend including a rule of construction to ensure that no surviving spouse receives fewer benefits as a result of the Act.

Proposed Language:

RULE OF CONSTRUCTION. Nothing in this Act shall be construed to reduce, offset, or otherwise adversely affect any benefit to which a surviving spouse was entitled under title 10 or title 38, United States Code, as of the day before the date of enactment of this Act.

\* \* \*

The *Love Lives On Act of 2025* takes an important step toward eliminating outdated remarriage penalties that have historically limited DIC, SBP, and TRICARE benefits for surviving spouses. Berry Law strongly supports the bill's intent to align survivor benefits with their core purpose: compensating for the loss of a veteran due to service-connected causes, not regulating personal life decisions.

Targeted clarifying amendments, such as automatic reinstatement of DIC, clear effective dates, special TRICARE enrollment, elimination of SBP delays, expanded eligibility, and VA–DoD coordination, would ensure consistent, equitable, and efficient implementation. Adopting these refinements would provide certainty to surviving spouses, reduce administrative burdens, and fully honor the service and sacrifice of veterans and their families.

### **Justice for ALS Veterans Act of 2025 (H.R. 1685)**

#### *Support with Recommendations*

The *Justice for ALS Veterans Act of 2025* would amend title 38, United States Code, to extend eligibility for the increased rate of DIC to surviving spouses of veterans who die from amyotrophic lateral sclerosis (ALS), regardless of how long the veteran lived with the disease prior to death. The bill also directs VA to study whether other high-mortality service-connected conditions warrant similar treatment under the DIC statute.

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<sup>16</sup> [www.aafmaa.com/resource-center/repealing-the-widow-s-tax-important-changes-you-need-to-know](http://www.aafmaa.com/resource-center/repealing-the-widow-s-tax-important-changes-you-need-to-know).

As the Federal Circuit explained in *Sharp v. United States*, the statutory provisions governing SBP and DIC were “at odds: the SBP scheme call[ed] for reducing SBP payments by the amount the recipient receive[d] in DIC benefits, whereas the post-2003 DIC scheme prohibit[ed] such reductions for surviving spouses who remarry after age 57.” 580 F.3d 1234, 1237 (Fed. Cir. 2009). The Court’s analysis underscores Congress’s intent that later-enacted statutes designed to prevent benefit reductions take precedence over earlier provisions that might otherwise diminish survivor benefits.

Berry Law supports the purpose of this legislation. ALS is a uniquely devastating, rapidly progressive, and uniformly fatal disease, and the current statutory framework can unjustly exclude surviving spouses from enhanced DIC benefits based on timing requirements that bear little relationship to service or sacrifice. We respectfully recommend targeted amendments to ensure the bill is applied equitably, consistently, and in a manner that fully reflects congressional intent.

### **A. Rationale for Support**

ALS is presumptively service connected under VA law due to its well-established association with military service.<sup>17</sup> Unlike many other service-connected conditions, ALS typically progresses rapidly following diagnosis, often resulting in death within a short period of time. Median survival after diagnosis is approximately 2-5 years, although survival can vary with age and other factors.<sup>18</sup> Surviving spouses are frequently left with limited opportunity to prepare financially or navigate VA's administrative processes before the veteran's death.

Under current law, increased DIC under 38 U.S.C. § 1311(a)(2) is generally available only if the veteran was rated totally disabled for a specified period prior to death. That framework does not adequately account for diseases like ALS, where the speed and severity of progression make lengthy total-disability rating periods medically unrealistic or impossible. By treating veterans who die from ALS as having met the total-disability-duration requirement regardless of how long the disease was present, the bill appropriately recognizes medical reality and prevents arbitrary denial of enhanced DIC benefits to surviving spouses.

While we support the intent of the *Justice for ALS Veterans Act of 2025*, we recommend several targeted refinements to ensure that the legislation achieves its full purpose in practice. Specifically, Congress should consider reducing or providing exceptions to the eight-year marriage requirement for ALS-related deaths, clarify the effective date to allow retroactive or pending claims to receive enhanced DIC, require VA to include stakeholder consultation and actionable recommendations in its report on other high-mortality service-connected conditions, and add a bill-wide rule of construction to prevent any reduction or offset of existing survivor benefits. These measures would promote equitable, consistent, and administrable implementation, ensuring that surviving spouses receive the protections and compensation intended by the statute.

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<sup>17</sup> Under VA regulations, the development of ALS at any time after discharge or release from active service is sufficient to establish service connection for that disease for veterans who served at least 90 continuous days. See 38 CFR § 3.318(a). These regulations are authorized by the Secretary's general rulemaking authority under 38 U.S.C. § 501(a)(1), reflecting VA's recognition of the strong association between ALS and military service.

<sup>18</sup> [www.congress.gov/committee-report/118th-congress/house-report/660/1](http://www.congress.gov/committee-report/118th-congress/house-report/660/1). See also [www.als.org/understanding-als/stages](http://www.als.org/understanding-als/stages).

## **B. Concerns and Recommendations**

### **(1) Section 2: Modification of 38 U.S.C. § 1311(a), Extension of Increased DIC to Surviving Spouses.**

Section 2 ensures that veterans who die from ALS are treated as if they satisfied the total-disability-duration requirements for increased DIC, regardless of the length of time between diagnosis and death. This approach aligns the statute with both medical reality and basic principles of equity for surviving spouses.

However, subparagraph (C) limits eligibility for increased DIC to surviving spouses who were married to the veteran for a continuous period of eight years or longer prior to death. While the eight-year marriage requirement appears elsewhere in § 1311, applying it rigidly in the ALS context risks perpetuating the very inequities the bill seeks to correct.

Because ALS often leads to death within a short time of diagnosis, this requirement may exclude surviving spouses in cases where the couple married after service but long before diagnosis, where the marriage began shortly before diagnosis, or where the couple shared a lengthy committed relationship but were legally married for less than eight years. In these circumstances, the marriage-duration requirement bears little relationship to the purpose of the enhanced DIC benefit. Congress should consider reducing the marriage-duration requirement for ALS-related deaths or providing a targeted exception where ALS is the cause of death.

Proposed Language:

(C) For purposes of the payment of compensation under this subsection by reason of the death of a veteran described in subparagraph (B), the term ‘surviving spouse’ means a person who was married to the veteran for a continuous period of not less than one year, or for any period of time if a child was born of the marriage, prior to the death of the veteran.

### **(2) Section 2: Modification of 38 U.S.C. § 1311(b), Applicability Date and Retroactivity**

Subsection (b) limits applicability to veterans who die from ALS on or after October 1, 2025. Effective-date provisions are a common source of VA disputes and appeals, particularly when similarly situated survivors are treated differently solely based on the date of death.<sup>19</sup> A strictly prospective application would exclude surviving spouses whose veterans died of ALS shortly before the effective date, despite identical medical and factual circumstances. This arbitrary distinction is difficult to justify and likely to generate unnecessary litigation.

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<sup>19</sup> VA’s official summary of effective dates shows that even small differences in timing, such as whether a DIC claim is filed within one year of death, can change the effective date and thus the amount of benefits and back pay a survivor receives. [www.va.gov/disability/effective-date](http://www.va.gov/disability/effective-date).

Congress should consider extending applicability to claims pending on or after the date of enactment or providing retroactive relief for cases in which enhanced DIC was previously denied due to duration requirements.

Proposed Language:

Subparagraphs (B) and (C) shall apply to any claim for dependency and indemnity compensation based on a death from amyotrophic lateral sclerosis that is pending on or after the date of enactment of this Act.

### (3) Section 3: Report on Additional Medical Conditions

Section 3 appropriately recognizes that ALS may not be the only service-connected condition with a rapid or terminal course that warrants special treatment under § 1311(a)(2). VA's existing presumptive disease frameworks already reflect this principle, treating a wide range of serious chronic illnesses, including malignant tumors, various cancers, and respiratory conditions, as presumptively service connected when service criteria are met.<sup>20</sup> Conditions such as brain cancer, gastrointestinal cancers, melanoma, and chronic obstructive pulmonary disease have been added under recent expansions like the PACT Act,<sup>21</sup> reflecting VA's recognition that these diseases may be linked to service and carry high morbidity and mortality. These examples demonstrate that multiple serious conditions beyond ALS can have life-shortening impacts. By requiring VA to identify other high-mortality service-connected conditions and associated life-expectancy data, Section 3 lays the foundation for evidence-based expansion of survivor protections.

However, the bill currently requires VA only to submit a report, without ensuring that its findings will result in policy improvements or future legislative or regulatory action. Without stakeholder engagement or actionable recommendations, the report risks remaining informational rather than operational. Congress should direct VA to consult with affected stakeholders and include recommendations for legislative or regulatory action where appropriate to ensure the report leads to meaningful improvements in survivor protections.

Proposed Language:

The Secretary shall consult with veterans service organizations, accredited representatives, and medical experts in preparing the report required under this section and shall include recommendations for legislative or regulatory action, as appropriate.

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<sup>20</sup> [www.news.va.gov/press-room/va-makes-several-cancers-presumptive-for-service-connection-lowering-the-burden-of-proof-for-veterans-to-receive-no-cost-health-care-and-earned-benefits](http://www.news.va.gov/press-room/va-makes-several-cancers-presumptive-for-service-connection-lowering-the-burden-of-proof-for-veterans-to-receive-no-cost-health-care-and-earned-benefits).

<sup>21</sup> [www.va.gov/resources/the-pact-act-and-your-va-benefits](http://www.va.gov/resources/the-pact-act-and-your-va-benefits).

#### (4) Bill-Wide Technical Recommendation: Rule of Construction

Because the bill modifies interaction with other provisions of title 38 and title 10 could unintentionally disadvantage some surviving spouses absent clear statutory guidance. When statutes governing survivor benefits overlap across agencies and programs, conflicting language can reduce or offset benefits that Congress intended to be cumulative, a problem that has occurred historically and required later legislative correction.<sup>22</sup>

To prevent similar unintended consequences, Congress should include a rule of construction clarifying that no surviving spouse's existing benefits may be reduced, offset, or otherwise adversely affected by the enactment of this Act. This language would protect against inadvertent interactions with other statutory benefit structures and ensure that survivors receive the full protections Congress intends.

Proposed Language:

*RULE OF CONSTRUCTION.* Nothing in this Act shall be construed to reduce, offset, or otherwise adversely affect any dependency and indemnity compensation to which a surviving spouse was entitled under title 38, United States Code, as of the day before the date of enactment of this Act.

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The *Justice for ALS Veterans Act of 2025* addresses a longstanding inequity by recognizing the uniquely rapid and fatal progression of ALS and ensuring that surviving spouses are not denied enhanced DIC benefits due to arbitrary timing requirements. By treating veterans who die from ALS as having met the total-disability-duration requirement and by mandating VA study of other high-mortality service-connected conditions, the bill takes important steps toward evidence-based, equitable survivor protections.

With targeted refinements, specifically, adjusting or providing exceptions to the marriage-duration requirement, clarifying applicability and retroactivity, ensuring stakeholder-informed and actionable reporting, and including a rule of construction to prevent reductions or offsets of existing benefits, H.R. 1685 would fully realize its intent and minimize administrative burdens or litigation.

Berry Law strongly supports this legislation and its objectives, and we urge Congress to adopt these recommended amendments to ensure that surviving spouses receive the protections and benefits they have earned through the service and sacrifice of their loved ones.

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<sup>22</sup> *Supra* Note 16.

**Providing Radiation Exposed Servicemembers  
Undisputed Medical Eligibility (PRESUME) Act of 2025 (H.R. 4469)**

*Support with Recommendations*

The *PRESUME Act of 2025* would amend 38 U.S.C. § 1112(c) to prohibit the VA from requiring evidence of a specific radiation dose to determine whether a veteran qualifies as a “radiation-exposed veteran.” The bill addresses a longstanding evidentiary barrier that has resulted in inconsistent adjudication and frequent denial of claims for radiogenic diseases, particularly in cases where dose reconstruction is unreliable, incomplete, or impossible decades after service.

Berry Law strongly supports the core purpose of the PRESUME Act. Veterans exposed to radiation often confront insurmountable proof requirements due to classified missions, missing or destroyed records, and the passage of time. By preventing VA from imposing quantitative exposure thresholds that are inherently unattainable, this legislation restores the presumptive framework Congress intended, ensuring that these veterans can access benefits based on their service and risk, rather than arbitrary evidentiary hurdles.

**A. Rationale for Support**

Radiation-exposed veterans, particularly those who participated in atmospheric nuclear testing, cleanup operations, nuclear weapons handling, or other classified or poorly documented activities, face unique disadvantages in the VA claims system. The U.S. Government Accountability Office (GAO) has reviewed the DoD’s dose reconstruction process used in VA disability claims and identified significant concerns regarding both the reliability and oversight of radiation dose estimates. GAO reported that key stakeholders with the veteran claims community lack confidence in the process, citing incomplete data, questionable assumptions, and limited transparency in how exposure levels are calculated.<sup>23</sup> Despite these acknowledged shortcomings, VA adjudication frequently relies on retrospective dose reconstructions, rather than contemporaneous measurements, as determinative evidence in radiation claims.<sup>24</sup> These estimates, developed decades after service, can be speculative, inconsistent, and inherently uncertain, yet they often serve as the basis for denying benefits to radiation-exposed veterans.<sup>25</sup>

By prohibiting VA from requiring proof of a specific radiation dose to establish radiation-exposed veteran status, the PRESUME Act restores fidelity to the principles of presumptive service connection.<sup>26</sup> Congress has long recognized that radiation exposure cases warrant relaxed

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<sup>23</sup> [www.gao.gov/assets/hehs-00-32.pdf](http://www.gao.gov/assets/hehs-00-32.pdf).

<sup>24</sup> [www.ncbi.nlm.nih.gov/books/NBK221591](http://www.ncbi.nlm.nih.gov/books/NBK221591). See also Note 12.

<sup>25</sup> [www.ncbi.nlm.nih.gov/books/NBK221601](http://www.ncbi.nlm.nih.gov/books/NBK221601).

<sup>26</sup> Presumptive service connection under title 38 is generally based on qualifying service rather than individualized exposure measurement. See 38 U.S.C. §§ 1112(c), 1116; 38 C.F.R. § 3.309; *Brown v. Gardner*, 513 U.S. 115, 118 (1994) (where the Court held that ambiguities in veterans’ benefits statutes are resolved in the veterans’ favor); and *Hodge v. West*, 155 F.3d 1356 (Fed. Cir. 1998) (confirming the pro-claimant, non-adversarial nature of the VA benefits system and Congress’s intent to reduce evidentiary burdens).

evidentiary standards, given that accurate dose reconstruction is often impossible due to lost records, classified operations, and the passage of time.<sup>27</sup>

This reform would reduce reliance on flawed dose-reconstruction methodologies, promote consistency across VA regional offices, and align radiation claims with other presumptive exposure frameworks where exposure is established categorically rather than quantitatively,<sup>28</sup> ensuring that veterans receive benefits based on service risk rather than technical evidentiary hurdles.

## **B. Legal and Practical Significance for VA Claims Adjudication**

The proposed amendment directly addresses a persistent source of error, delay, and litigation in VA claims adjudication. In practice, VA has frequently treated reconstructed radiation dose estimates as dispositive, even in cases governed by statutory presumptions intended to relieve veterans of onerous proof requirements.<sup>29</sup> Although VA's own regulation, 38 C.F.R. § 3.311, calls for dose assessments only in non-presumptive radiation claims, these modeled estimates, often based on incomplete data and layered assumptions, are routinely afforded determinative weight. Independent reviews have identified significant uncertainty in dose-reconstruction methodologies,<sup>30</sup> yet veterans are nonetheless denied benefits based on exposure estimates that fall below internally applied thresholds not expressly required by statute.

These determinations routinely result in protracted appeals before the Board of Veterans' Appeals and the U.S. Court of Appeals for Veterans Claims, driven less by factual disputes than by scientific uncertainty and methodological disagreement. In *Skaar v. McDonough*, 57 F.4th 1015 (Fed. Cir. 2023), the Federal Circuit affirmed the Veterans Court's remand of a radiation claim where the Board failed to meaningfully address challenges to the underlying dose-estimation methodology, improperly treating an unexamined dose model as "sound scientific evidence." The case illustrates how reliance on disputed scientific assumptions, rather than contested facts, frequently drives litigation in radiation claims.

By eliminating dose-based evidentiary requirements where presumptions apply, the amendment would reduce reliance on speculative medical opinions and advisory referrals, streamline claims processing, decrease avoidable appeals, and promote more consistent and equitable outcomes for veterans whose service involved inherently undocumented or classified risks.

While Berry Law strongly supports the PRESUME Act's intent, we have several recommendations to strengthen and clarify the legislation. These proposals, discussed in detail below, are designed to ensure that the bill is applied consistently across the VA system, fully

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<sup>27</sup> 38 U.S.C. § 1112(c) and 38 C.F.R. § 3.311(a)(4). See also [www.ncbi.nlm.nih.gov/books/NBK221583](http://www.ncbi.nlm.nih.gov/books/NBK221583).

<sup>28</sup> See [www.va.gov/disability/eligibility/hazardous-materials-exposure/agent-orange](http://www.va.gov/disability/eligibility/hazardous-materials-exposure/agent-orange). See also [www.va.gov/disability/eligibility/hazardous-materials-exposure/specific-environmental-hazards](http://www.va.gov/disability/eligibility/hazardous-materials-exposure/specific-environmental-hazards).

<sup>29</sup> *Supra* Note 23.

<sup>30</sup> *Id.*

achieves congressional intent, and meaningfully improves access to benefits for radiation-exposed veterans and their families.

### **C. Concerns and Recommendations**

#### **(1) Clarifying the Scope of the Prohibition**

As currently drafted, the bill prohibits VA from requiring evidence of a “certain dose of radiation” to establish radiation-exposed veteran status. Without additional clarification, however, VA could effectively impose alternative quantitative thresholds, such as modeled estimates, reconstructed ranges, or indirect exposure proxies, that recreate the same evidentiary barrier under a different guise.

To prevent this, the legislation should explicitly state that VA may not deny radiation-exposed veteran status based on the absence of quantitative exposure measurements, reconstructed dose estimates, or modeled exposure ranges.

#### **Proposed Language:**

For purposes of paragraph (5), the Secretary may not require quantitative dose measurements, dose estimates, reconstructed exposure levels, or modeled exposure ranges to establish that a veteran is a radiation-exposed veteran.

While VA may argue that implementing exposure presumptions falls within its rulemaking authority, both historical experience and statutory precedent demonstrate that leaving such matters solely to the agency has frequently produced inconsistent application, prolonged delays, and inequitable outcomes.<sup>31</sup> In radiation claims, VA’s reliance on dose-reconstruction requirements has led to arbitrary denials and protracted appeals, even in cases where statutory presumptions clearly apply.

Congress has long exercised its constitutional and statutory responsibility to establish substantive standards for veterans’ benefits, such as the Agent Orange Act of 1991 (Pub. L. 102-4) and the Honoring Our PACT Act of 2022 (Pub. L. 117-168), precisely to prevent agencies from undermining legislative intent through discretionary or inconsistent interpretations. Explicit statutory language is therefore essential here to prohibit VA from imposing alternative quantitative thresholds that would recreate the very evidentiary barriers this Act seeks to eliminate. Codifying these standards in law ensures uniform, fair, and timely adjudication for all radiation-exposed veterans.

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<sup>31</sup> *Supra* Note 23.

## (2) Require Conforming Updates to VA Regulations and Guidance

Absent a clear statutory mandate, VA could delay or inconsistently implement this change through regulations, the M21-1 Adjudication Procedures Manual, or examiner guidance, leading to uneven application across regional offices and claims processing. GAO previously found that unclear processing guidance for Agent Orange exposure claims led to inconsistent application until manual updates were issued, underscoring the need for explicit statutory direction and timely updates to regulations, adjudication manuals, and examiner guidance to ensure uniform and equitable implementation.<sup>32</sup>

To ensure uniform and timely implementation, Congress should require VA to update all relevant regulations, adjudication manuals, and examiner training materials within a defined timeframe.

### Proposed Language:

Not later than 180 days after the date of enactment of this Act, the Secretary shall revise applicable regulations, adjudication procedures, and examiner guidance to conform with paragraph (5), including removal of any requirement for dose-based evidence to establish radiation-exposed veteran status.

## (3) Ensure Retroactive Applicability for Pending Claims and Appeals

The bill does not explicitly address whether its provisions apply to pending claims, appeals, or cases remanded for further development. Without such clarification, similarly situated veterans could receive different outcomes based solely on the timing of their claims, creating arbitrary disparities in benefits. To ensure equitable treatment and consistent application across the VA system, the amendment should explicitly apply to all claims, appeals, and remands that have not been finally adjudicated as of the date of enactment.

### Proposed Language:

The amendment made by this section shall apply to any claim for benefits under title 38, United States Code, that is pending on or after the date of enactment of this Act, including claims on appeal or remand.

## (4) Require VA Outreach and Notice

Without proactive outreach, the benefits of this legislation would be limited to new or currently pending claims, leaving eligible veterans and surviving spouses unaware of their potential entitlement. The PACT Act recognized this same challenge and mandated targeted VA notification and education to ensure that affected individuals filed claims.<sup>33</sup> VA already established

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<sup>32</sup> [www.gao.gov/products/gao-22-105191](http://www.gao.gov/products/gao-22-105191).

<sup>33</sup> See S.3373 (117<sup>th</sup> Congress).

significant outreach infrastructure under the PACT Act, including databases, communications channels, and claim assistance programs,<sup>34</sup> which could be leveraged to inform radiation-exposed veterans and surviving spouses of their eligibility under this Act, ensuring timely and equitable access to benefits.

To ensure the law reaches all who may be affected, Congress should require VA to notify veterans and surviving spouses whose prior claims were denied, providing clear guidance on how to seek benefits under the amended standard.

**Proposed Language:**

The Secretary shall conduct proactive outreach to veterans and surviving spouses whose claims were previously denied based on radiation dose evidence, informing them of potential eligibility under this Act.

\* \* \*

The PRESUME Act addresses a longstanding and fundamental inequity in the adjudication of radiation exposure claims. Veterans who served in inherently hazardous, classified, or poorly documented environments should not be denied benefits simply because precise exposure levels cannot be reconstructed decades later. By eliminating dose-based evidentiary requirements where presumptions apply, the bill restores the intent of Congress to ensure that service risk, rather than arbitrary technical thresholds, determines access to benefits.

To fully realize these goals, the legislation should include targeted clarifications: codifying the prohibition on quantitative dose thresholds, requiring VA to update regulations and guidance promptly, ensuring retroactive applicability to pending claims and appeals, and mandating proactive outreach to affected veterans and surviving spouses. These measures are consistent with statutory precedent, including the Agent Orange Act and the PACT Act, and reflect Congress' constitutional and legislative responsibility to set substantive standards for veterans' benefits rather than leaving critical details to agency discretion.

With these refinements, the PRESUME Act would provide equitable, consistent, and timely access to compensation, reduce unnecessary appeals and administrative delays, and reinforce veterans' confidence in the fairness of the VA claims process. In short, the legislation would ensure that radiation-exposed veterans and their families receive the benefits they earned through service, as Congress intended.

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<sup>34</sup> [www.va.gov/HEALTHPARTNERSHIPS/updates/impact/How to use the PACT Act Communication Toolkit to talk to Veterans their families caregiver.asp](http://www.va.gov/HEALTHPARTNERSHIPS/updates/impact/How_to_use_the_PACT_Act_Communication_Toolkit_to_talk_to_Veterans_their_families_caregiver.asp).

## **Susan E. Lukas 9/11 Servicemember Fairness Act (H.R. 5339)**

### *Support with Recommendations*

The *Susan E. Lukas 9/11 Servicemember Fairness Act* would establish a presumption of service connection for certain diseases associated with exposure to environmental hazards at the Pentagon Reservation during the period from September 11, 2001, through November 19, 2001. The bill recognizes the unique and urgent conditions faced by service members assigned to the Pentagon in the immediate aftermath of the September 11 attacks and seeks to address longstanding challenges in documenting exposures and establishing service connection for resulting illnesses. By creating a presumptive framework, the legislation reduces the evidentiary burden that has historically prevented many affected veterans from obtaining VA disability benefits.

Berry Law strongly supports the purpose and overall framework of H.R. 5339. Service members assigned to the Pentagon during the recovery and cleanup period were exposed to complex and potentially harmful airborne hazards under emergency conditions, often without adequate exposure monitoring or documentation. Establishing a presumption of service connection is both medically justified and consistent with Congress' approach to other toxic exposure scenarios, including post-9/11 deployments and the Agent Orange and burn pit programs.

#### **A. Rationale for Support**

Veterans who served at the Pentagon during the 9/11 response face significant barriers to establishing service connection for diseases that often manifest years after service. Environmental hazards encountered during recovery and cleanup at the Pentagon have been linked to long-term health effects, including respiratory conditions and cancer, and are recognized by the World Trade Center Health Program as conditions experienced by responders at that site.<sup>35</sup> The need for recent expansions of program eligibility to include previously excluded Pentagon responders underscores how limitations in exposure documentation and eligibility criteria have historically left many affected veterans without medical monitoring, treatment, or benefits, even as related conditions emerge decades after service.<sup>36</sup>

The bill's presumption of service connection appropriately recognizes that the absence of contemporaneous exposure records should not preclude benefits where service in a known hazardous environment is established. This approach aligns with congressional responses to other mass-exposure events.<sup>37</sup>

The broad scope of covered diseases, including respiratory conditions, cardiovascular diseases, cancers, skin disorders, and other illnesses linked by scientific or epidemiological evidence, reflects the diverse health effects documented among individuals exposed to airborne

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<sup>35</sup> [www.cdc.gov/wtc/pentagon.html](http://www.cdc.gov/wtc/pentagon.html).

<sup>36</sup> [www.cdc.gov/niosh/newsroom/updates/upd-09-11-24.html](http://www.cdc.gov/niosh/newsroom/updates/upd-09-11-24.html).

<sup>37</sup> *Supra* Note 33.

toxins following the attacks. By reducing the evidentiary burden on veterans, the bill would streamline the claims process, promote consistency in adjudication, and improve access to earned benefits.

To ensure the bill fully achieves its intent, targeted refinements are recommended to enhance clarity, streamline implementation, and ensure equitable access to benefits for all eligible veterans. While the bill appropriately addresses core service-connection barriers, several refinements would strengthen implementation and ensure the presumption operates as Congress intends.

## **B. Concerns and Recommendations**

### **(1) Clarify Disease List and Regulatory Expansion Authority**

The bill identifies specific categories of covered diseases and authorizes VA to expand the list by regulation based on scientific or epidemiological evidence. This delegated flexibility is critical to ensuring that the presumption can evolve with advancing medical science and emerging health data. However, without clear timelines and procedural standards, discretionary rulemaking may lead to prolonged delays, inconsistent application across regional offices, and variable outcomes for similarly situated veterans, thereby limiting the practical impact of the presumption.

For instance, VA OIG reviews of PACT Act implementation identified processing errors and inconsistent effective-date determinations tied to unclear guidance for adjudicators, even after presumptive benefits were enacted by statute, resulting in \$1.4-million in unnecessary expenditures.<sup>38</sup> Similarly, GAO found that VA needed to update claims processing manuals to clarify how Agent Orange presumptive conditions should be handled, demonstrating how insufficient procedural standards can produce uneven adjudication outcomes.<sup>39</sup>

To ensure the presumption functions as intended, Congress should require VA to initiate the regulatory process within a defined timeframe and clarify that diseases added through rulemaking are deemed presumptively service connected as of the effective date of the regulation. Establishing these procedural guardrails will help prevent implementation lag, promote uniformity in adjudication, and ensure that veterans benefit promptly from scientific and epidemiological advances.

#### **Proposed Language:**

Not later than 180 days after enactment of this Act, the Secretary shall issue a proposed list of additional diseases associated with exposure to listed toxins at the Pentagon Reservation for which a presumption of service connection is warranted and shall provide an opportunity for public comment prior to

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<sup>38</sup> [www.veteranslegalcenter.org/va-oig-report-on-claims-processing-errors-for-presumptive-disabilities-under-the-pact-act](http://www.veteranslegalcenter.org/va-oig-report-on-claims-processing-errors-for-presumptive-disabilities-under-the-pact-act).

<sup>39</sup> *Supra* Note 32.

final issuance. Any disease added by regulation shall be presumed service connected for eligible veterans as of the effective date of such regulation and shall apply retroactively to all pending claims.

## (2) Retroactive Applicability and Pending Claims

As previously mentioned, disputes over effective dates are a frequent source of VA litigation, especially when presumptions are enacted after claims have already been denied under prior evidentiary standards. The bill does not explicitly address whether the presumption applies to claims that were previously denied or are currently pending, creating a risk of disparate outcomes for similarly situated veterans. Congress should clarify that the presumption applies retroactively to previously denied and pending claims, enabling affected veterans to reopen their cases and obtain benefits under the new standard.

### Proposed Language:

The presumption of service connection established by this section shall apply to all claims filed on or after September 11, 2001, including claims previously denied or pending as of the date of enactment of this Act based on a lack of proof of service connection.

## (3) Evidence Standards and VA Implementation

Presumptive service-connection statutes are designed to relieve veterans of the burden of proving both exposure and medical nexus once qualifying service is established. Under a true presumption, a veteran who meets statutory service criteria and has a current diagnosis of a covered condition does not have to prove that the condition was caused by exposure; the law *assumes* the connection. For example, under VA's toxic exposure frameworks, veterans who meet qualifying service criteria for Agent Orange or PACT Act burn pit exposures are presumed to have been exposed and do not need to present detailed causal evidence linking their disease to that exposure.<sup>40</sup>

However, in our experience, VA adjudicators have sometimes continued to request additional evidence, including medical opinions or other causation evidence, even for presumptive conditions, or have processed claims inconsistently because guidance was unclear or evolving. Without clear statutory guidance stating that service in a hazardous environment alone is sufficient to trigger the presumption, VA regional offices may continue to require extensive exposure or causation evidence that undermines the presumption's effectiveness and contributes to inconsistent adjudication.

To prevent this outcome, the bill should explicitly provide that proof of service at the Pentagon during the covered period is sufficient to establish service connection for the listed diseases, absent clear and convincing evidence to the contrary.

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<sup>40</sup> [www.va.gov/disability/eligibility/hazardous-materials-exposure/agent-orange](http://www.va.gov/disability/eligibility/hazardous-materials-exposure/agent-orange).

Proposed Language:

For purposes of this section, evidence of service at the Pentagon Reservation during the covered period shall be sufficient to establish service connection for diseases listed under subsection (b), unless clear and convincing evidence demonstrates that the disease is unrelated to such service.

#### (4) Reporting and Oversight

Ongoing oversight is essential to ensure that the presumption operates as intended and effectively reaches all eligible veterans. As currently drafted, the bill does not require VA to report on implementation metrics, claims outcomes, or updates to regulations, limiting Congress's ability to assess whether the presumption is being applied consistently and whether affected veterans are actually receiving benefits.

To promote accountability and transparency, the legislation should mandate annual reporting to Congress that includes: the number of claims granted under the presumption, trends in the health conditions of affected veterans, and updates on regulatory actions or guidance issued to implement the presumption. Such reporting would provide lawmakers with the data needed to identify implementation gaps, address inequities, and ensure that the statutory intent of the presumption is fully realized.

Proposed Language:

The Secretary shall submit an annual report to Congress detailing the number of claims granted under the presumption established by this section, the diseases for which service connection was awarded, and any regulatory updates issued pursuant to this section.

\* \* \*

The *Susan E. Lukas 9/11 Servicemember Fairness Act* fills a longstanding gap in VA benefits law by providing a clear, evidence-based presumption of service connection for diseases associated with toxic exposures at the Pentagon following September 11, 2001. By reducing the burdens of proving exposure and causation, the bill aligns with Congress' approach to other mass-exposure events, including World Trade Center responders, Agent Orange, and PACT Act programs, ensuring that veterans are not unfairly denied benefits due to the absence of contemporaneous documentation or incomplete exposure monitoring.

With targeted refinements, clarifying retroactive applicability, establishing procedural timelines for regulatory expansions, codifying evidence standards, and mandating reporting and oversight, the legislation would ensure consistent, equitable, and timely adjudication across the VA system. These measures would maximize the practical benefits of the presumption, prevent administrative delays, and provide Congress with the data necessary to monitor implementation and protect veterans' rights.

## **Discussion Draft: Veterans Burial Allowance and Reimbursement Act of 2026**

### *Support with Recommendations*

The *Veterans Burial Allowance and Reimbursement Act of 2026* would amend title 38, United States Code, to standardize burial and funeral expense payments, as well as plot allowances, for deceased veterans under VA-administered law. The bill consolidates eligibility criteria under section 2303, repeals section 2307, and makes conforming amendments to related provisions, establishing a single, uniform statutory framework for burial and plot allowances. Importantly, the legislation explicitly includes veterans whose death resulted from a service-connected disability within the standardized structure.

Berry Law supports the purpose and overall approach of this legislation. Burial benefits represent a final and solemn acknowledgment of the Nation's obligation to veterans and their families, and the statutory framework governing these benefits should be clear, consistent, and administered without unnecessary complexity. We recommend targeted clarifications to ensure that consolidation does not inadvertently reduce benefits, create implementation ambiguities, or trigger disputes during the transition to the new framework.

#### **A. Rationale for Support**

Current law governing burial and plot allowances is fragmented across multiple statutory provisions, creating confusion for surviving family members and contributing to inconsistent application by VA.<sup>41</sup> Consolidating burial and funeral expense and plot allowances into a single, clearly structured provision enhances transparency and predictability at a time when families are coping with loss and navigating complex administrative processes.

The bill's explicit inclusion of veterans who die from service-connected disabilities is particularly significant. While service-connected deaths are long recognized across other VA benefits programs, including disability compensation and DIC, statutory provisions governing burial benefits and plot allowances have not always reflected this principle with sufficient clarity. By expressly incorporating service-connected deaths into section 2303, the legislation reinforces that these veterans and their families are entitled to full recognition and support.

Repealing section 2307 and making conforming amendments to related provisions further promotes administrative efficiency. A unified statutory framework reduces training and procedural burdens for VA staff, streamlines claims processing, and minimizes the risk of errors or disputes

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<sup>41</sup> 38 U.S.C. § 2303 provides burial and plot allowances for veterans who die from non-service-connected causes, while § 2307 authorizes higher allowances for deaths that are service-connected. Additional provisions in chapter 23, including § 2308, make conforming and cross-reference adjustments to these benefits. VA regulations implement these allowances under 38 C.F.R. §§ 3.1704–07, reflecting the fragmented statutory framework. This fragmentation can create confusion for surviving family members and may lead to inconsistent application by the VA.

that can delay payments to survivors. Together, these reforms ensure that burial benefits are administered consistently, efficiently, and with the dignity that all veterans and their families deserve.

While Berry Law supports the bill's objectives, several targeted refinements would help ensure the legislation is implemented as Congress intends and does not inadvertently disadvantage certain categories of eligible veterans or survivors.

## **B. Concerns and Recommendations**

### **(1) Preservation of Eligibility for Non-Service-Connected Deaths**

Although the bill appropriately adds explicit language covering service-connected deaths, burial and plot allowances have historically also applied to veterans who die from non-service-connected causes but otherwise meet eligibility requirements.<sup>42</sup> The restructuring and repeal of section 2307 could create ambiguity as to whether all veterans previously eligible for burial or plot allowances continue to qualify under the revised section 2303.

Absent clear statutory direction, there is a risk that some survivors could experience reduced benefits or denials based on changes in statutory organization rather than substantive eligibility. Congress should clarify that the consolidated framework preserves all existing categories of eligibility and does not reduce benefits for veterans whose deaths are not service connected.

Proposed Language:

*PRESERVATION OF EXISTING ELIGIBILITY.* Nothing in the amendments made by this Act shall be construed to eliminate or reduce eligibility for burial or plot allowances for any veteran who was eligible for such benefits under section 2303 or 2307 of title 38, United States Code, as in effect on the day before the date of enactment of this Act.

### **(2) Effective Date and Transitional Application**

Clear effective-date provisions are essential for burial and plot allowances, which are typically claimed shortly after a veteran's death and processed under significant time pressure. The bill, as drafted, does not specify an effective date or establish transitional rules. Without such clarity, surviving spouses, dependents, and VA adjudicators may face uncertainty regarding which statutory framework governs claims filed near the time of enactment, particularly for claims previously submitted or pending under the repealed section 2307.

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<sup>42</sup> See 38 U.S.C. § 2303(a) (establishing burial allowance eligibility for veterans who die from service-connected or non-service-connected causes) and 38 C.F.R. § 3.1700–12 (detailing VA burial benefits and plot allowance eligibility). See also [www.va.gov/burials-memorials/veterans-burial-allowance](http://www.va.gov/burials-memorials/veterans-burial-allowance).

To prevent delays, administrative confusion, or inconsistent outcomes, Congress should include an explicit effective date and provide guidance on how claims pending or previously adjudicated under the prior statutory framework will be treated.

Proposed Language:

*EFFECTIVE DATE AND TRANSITION.* The amendments made by this Act shall apply to all claims for burial or plot allowances filed on or after the date of enactment of this Act. Any claim pending or not finally adjudicated as of the date of enactment shall be adjudicated under section 2303 of title 38, United States Code, as amended by this Act.

### (3) Implementation Guidance and VA Regulations

The bill restructures long-standing statutory provisions governing burial and plot allowances, making timely, clear, and comprehensive implementation guidance essential to ensure consistent application across VA regional offices, national cemeteries, and affiliated benefits processing centers. Without an explicit requirement for VA to update its regulations, adjudication manuals, internal guidance, and training materials, staff may continue to rely on outdated procedures from prior statutory frameworks. This could result in inconsistent determinations, administrative errors, delays in payment to surviving spouses and dependents, or disputes regarding eligibility under the new consolidated structure.

Moreover, the transition period following statutory changes is often when the greatest uncertainty arises for both VA personnel and families filing claims, increasing the risk of inequitable outcomes. Reports from the VA Office of Inspector General and oversight reviews document that rapidly evolving guidance and processing challenges tied to major statutory changes have created confusion for VA staff and contributed to inconsistent outcomes, particularly early in implementation. In the rollout of PACT Act benefits, the OIG found that guidance changed repeatedly after initial implementation and that regional office staff reported challenges adapting to frequent updates, which sometimes resulted in errors, inconsistent processing, and added uncertainty for claimants.<sup>43</sup>

Congress should therefore mandate that VA issue updated regulations, implement clear procedural guidance, and provide training for staff within a defined timeframe, ensuring that the standardized statutory framework is applied uniformly, benefits are delivered promptly, and survivors are not disadvantaged during the transition.

Proposed Language:

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<sup>43</sup> [www.vaog.gov/sites/default/files/reports/2024-11/vaog-24-00118-01.pdf](http://www.vaog.gov/sites/default/files/reports/2024-11/vaog-24-00118-01.pdf).

Not later than 180 days after the date of enactment of this Act, the Secretary shall update applicable regulations, adjudication guidance, and training materials to reflect the amendments made by this Act.

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*The Veterans Burial Allowance and Reimbursement Act of 2026* represents a significant and necessary modernization of VA burial and plot allowance law. By consolidating eligibility criteria, explicitly including veterans whose deaths are service-connected, and repealing outdated provisions, the legislation establishes a single, coherent statutory framework that enhances transparency, consistency, and administrative efficiency. These reforms will reduce confusion for surviving spouses and dependents, streamline VA claims processing, and minimize the risk of delays, errors, or disputes, ensuring that veterans and their families receive the benefits to which they are entitled with the dignity they deserve.

To fully realize these objectives, it is critical that Congress clarify the preservation of eligibility for veterans who die from non-service-connected causes, establish explicit effective-date and transitional rules for pending claims, and mandate timely VA updates to regulations, guidance, and staff training. These refinements will prevent ambiguity, promote uniform application across VA regional offices and national cemeteries, and safeguard equitable outcomes for all eligible survivors.

#### **Transfer of Land to the Department of Veterans Affairs for Cemetery Use (H.R. 2164)**

*No Position / No Substantive Recommendations*

This bill authorizes the transfer of designated federal land to the VA for use as a national cemetery. The legislation is intended to expand or support cemetery capacity, ensuring that veterans and their eligible family members have access to burial and memorial services. As a site-specific land transfer, the bill does not alter veterans' benefits, eligibility criteria, claims adjudication, or appeals processes under title 38, United States Code. Accordingly, Berry Law offers no substantive policy recommendations.

#### **Discussion Draft: National Cemetery Administration Annual Report Act of 2025**

*No Position / No Substantive Recommendations*

The *National Cemetery Administration Annual Report Act of 2025* would require the VA to submit an annual report to Congress concerning the operations, capacity, and performance of the National Cemetery Administration. The proposal does not affect veterans' benefits, eligibility, claims adjudication, or legal rights under title 38, United States Code, and therefore falls outside the scope of the firm's core practice and testimony focus. Accordingly, Berry Law offers no substantive policy recommendations.

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On behalf of Berry Law and the veterans we represent, I would like to express our sincere appreciation to the Committee for its careful consideration of these legislative proposals, each of which addresses important aspects of veterans' benefits, service-related health conditions, and administrative processes. Collectively, the bills reviewed aim to improve fairness, transparency, efficiency, and access to benefits across a wide range of areas, from disability compensation and toxic exposure presumptions to burial allowances, appeals reporting, and the integrity of VA claims administration.

We strongly support the intent of these measures to remove arbitrary barriers, clarify eligibility criteria, enhance oversight, and standardize processes in ways that directly benefit veterans and their families. At the same time, we encourage the Committee to consider targeted refinements to ensure consistent implementation, retroactive applicability where appropriate, clear guidance for VA adjudicators, and safeguards that protect veterans from unintended consequences. Specific attention to timelines, reporting standards, and stakeholder involvement will help translate legislative intent into meaningful outcomes for those who have served.

By adopting these refinements, the Committee can ensure that these initiatives not only promote fairness and efficiency in the VA system but also strengthen the evidentiary and administrative foundations of veterans' claims. Ultimately, these steps will help guarantee that veterans receive timely, accurate, and equitable access to the benefits and services they have earned through their service.

We welcome the opportunity to provide further clarification or technical assistance to the Committee on these and other legislative matters affecting veterans' health care, research, and disability compensation. Please contact my colleague, Andy Blevins, Senior Counsel, at [andy.blevins@berrylaw.com](mailto:andy.blevins@berrylaw.com), if we may be of service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Montana B. Crow".

Montana B. Crow