



For God and Country

bulletin

National Veterans Affairs and Rehabilitation Commission

1608 K Street, N.W. • Washington, D.C. 20006

K. Robert Lewis, Chairman - Connecticut

Peter S. Gaytan, Director - Maryland

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**STATEMENT OF
STEVE SMITHSON, DEPUTY DIRECTOR,
VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE**

**SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
H.R. 585, H.R. 704, and H.R. 156**

JUNE 19, 2007

Mr. Chairman and Members of the Subcommittee:

Thank you for this opportunity to present The American Legion's views on the three bills being considered by the Subcommittee today. The American Legion commends the Subcommittee for holding a hearing to discuss these important bills.

H.R. 585

H.R. 585 seeks to amend title 38, United States Code, to expand the number of veterans qualifying for retroactive benefits from traumatic injury protection coverage under Servicemembers' Group Life Insurance. This bill will enlarge the group of those who, while on active duty status from October 7, 2001 through November 30, 2005, suffered a traumatic injury and associated covered loss, and under certain conditions of service qualified for retroactive benefits payments under the Traumatic Injury Servicemembers Group Life Insurance (TSGLI) program (as initially established by Public Law 109-13 in 2005) by eliminating the requirement that only those traumatic injuries and losses occurring from service directly in Operations Enduring Freedom or Iraqi Freedom would qualify for such retroactive benefits. H.R. 585 would

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open this group to include all servicemembers on active duty status during the retroactive period, regardless of where the traumatic injury occurred. The Department of Veterans Affairs (VA) has issued a Final Rule to its Code of Federal Regulations, as published in the Federal Register of March 8, 2007, that for purposes of TSGLI payments, servicemembers did not have to actually be insured under the Servicemembers Group Life Insurance (SGLI) program in order to be eligible for this benefit. Therefore, were H.R. 585 to be enacted into law as currently presented, all such servicemembers, insured under SGLI or not, who suffered a qualifying loss during the stated retroactive period, would be eligible for payment of TSGLI benefits.

The American Legion fully supports the intent of H.R. 585. It has always been the position of The American Legion that veterans' benefits entitlements should apply equally to all those in service on active duty. Military servicemembers serve under the command of their respective service departments and it is not their prerogative to determine the location of such service and the duties assigned. Such service and duties may very well be located well outside a combat theatre of operations, but it is military service to the nation nonetheless, and the nature of such military service often exposes members to hazard of life and limb. The American Legion does not support the creation of different classes of veterans for purposes of different levels or types of veterans' benefits. We believe therefore that H.R. 585 should proceed successfully and be enacted into law.

H.R. 704

This bill would reduce from age 57 to age 55 the age after which the remarriage of the surviving spouse of a deceased veteran shall not result in termination of dependency and indemnity compensation (DIC) otherwise payable to that surviving spouse. The American Legion fully supports removing the bar on the payment of DIC benefits to surviving spouses who remarry after age 55.

Public Law 108-83 provided that DIC benefits would not be terminated if the surviving spouse remarried at age 57. It is the position of The American Legion that the use of age 57 was not based on any objective data, but was simply a "budget savings" tool rather than opting for age 55. The American Legion has continued to support legislation to remove the remarriage penalty for those surviving spouses age 55 or older who would otherwise have been entitled to DIC. This would better align DIC benefits with benefits provided to surviving spouses of military retirees under the Department of Defense's Survivor Benefit Plan (SBP), which uses age 55, and to surviving spouses under Social Security, which uses age 60.

The American Legion also supports a provision that would allow surviving spouses who remarried at age 55 or older prior to the enactment of the law, and whose benefits had been terminated, the opportunity to apply for reinstatement of benefits. We understand that it is the intent to provide the aforementioned individuals the opportunity to apply for reinstatement under (d) of this bill and we ask that the appropriate technical correction be made in order for this to happen. The American Legion also urges the inclusion of a provision that directs VA to conduct specific outreach to inform those affected by this change in law, and whose DIC benefits were terminated prior to the enactment of the law, of the opportunity to apply for reinstatement of benefits. We also recommend providing at least a two-year period after the enactment of the law

in which those individuals who remarried at age 55 or older prior to the enactment of the law, and whose DIC benefits were previously terminated, may apply for reinstatement. Limiting the reinstatement period to only one year is overly restrictive and would prevent otherwise eligible individuals from re-establishing entitlement to DIC because of missing an arbitrarily imposed deadline.

H.R. 156

This bill seeks to provide for the payment of DIC to the survivors of former prisoners of war (POWs) who died on or before September 30, 1999, under the same eligibility conditions as apply to payment of DIC to the survivors of former POWs who die after that date.

Under current law, survivors of former POWs who died after September 30, 1999, and were continually rated totally disabled due to service-connected disabilities for a period of not less than one year immediately preceding death, are eligible to receive DIC benefits. Survivors of former POWs who were continually rated totally disabled due to service-connected disabilities for a period of not less than one year immediately preceding death are not eligible to receive DIC benefits if the former POW died on or before September 30, 1999. The American Legion fully supports this proposed legislation as it would, if enacted, eliminate the arbitrary delimiting date currently in place and establish eligibility to DIC benefits for survivors of former POWs who were totally service-connected disabled for at least a year prior to death no matter the date of the individual's death.

Conclusion

Thank you again, Mr. Chairman, for allowing The American Legion to present comments on these important measures. As always, The American Legion welcomes the opportunity to work closely with you and your colleagues on enactment of legislation in the best interest of America's veterans and their families.

