

Guide to Veterans Legal Issues

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Three Rules for Legal Services Advocates

1. Always ask: Is the client a veteran or a family member of a veteran?
2. Consider how Post Traumatic Stress Disorder (PTSD), major depression, and Traumatic Brain Injury (TBI) may affect veterans or their families in your own housing, public benefit and family cases.
3. Refer clients to competent advocates to pursue VA benefits for veterans, their dependents and survivors

Nearly 24 million military veterans live in the United States.¹ They represent 13% of the adult population. The overwhelming majority of veterans are men; 1.7 million are women. Women today comprise 20% of active duty military members, a huge increase from the past. Sixteen percent of Gulf War veterans are women while only 5% served in the military in World War II and 3% in Viet Nam. The increasing number of women in the military, serving in both combat and non-combat roles, is an emerging issue.²

Elder veterans number 9.1 million or about 36%. Fifty three percent of veterans are 35 to 64 years old.

The majority of veterans today are white (80%), specifically white males. With increasing numbers of minorities, the military is beginning to reflect the diverse population of the United States in general — 2.3 million (10.1%) African Americans; 1.1 million (5.6%) Hispanics; 333,000 (1.4%) Asian/Pacific Islanders; 185,000 (.8%) American Indian/Alaskan Natives.³

The highest numbers of veterans live in the South, followed by the Midwest, the West, and the Northeast. The highest percentages of veterans are located in Alaska (17%) and Montana (16%). Six states have more than one million veterans: California (2.3 million); Florida (1.8 million); Texas (1.7 million); New York (1.2 million); Pennsylvania (1.1 million); and Ohio (1.1 million).

Demographics of California veterans expressed in charts and graphs are described on the CalVet web site.⁴ Also see *Veterans' Cultural Competency: Combat to Community; Demographics, Cultural Characteristics, Myths and Stereotypes about Veterans* (May 2011)⁵ described in Webinar Resources, below.

War Times

Veterans are categorized by the war times in which they served. “War Times” are the calendar periods with an official beginning and ending of that war time period. War times are important because many VA benefits are dependent upon a veteran having served in a war time.

Currently, we are in the “*Gulf War Period*”, which began on August 1, 1990 to the present (11/11). Other war time periods relevant today are:

World War II: September 15, 1940 – July 26, 1947.

Korean War: June 26, 1950 – February 1, 1955.

Vietnam War: August 4, 1964 – May 8, 1975.

¹ <http://www1.va.gov/vetdata/> The National Center for Veterans Analysis and Statistics (NCVAS) collects and analyzes key statistics on Veteran population and VA programs

² <http://www.zion-house-avon.org/links.htm>

³ *Id.*

⁴ <http://www.cdva.ca.gov/VetServices/Demographics.aspx>

⁵ http://a123.g.akamai.net/7/123/121311/abc123/yorkmedia.download.akamai.com/121311/WebContent/programs/advet11/pdf/chp_04.pdf

Thirty percent of all living veterans today, 8.2 million, served in the Viet Nam war. Twenty percent, 3.9 million, served in World War II. Three fourths of all veterans served in some period of wartime. And many veterans have served in more than one wartime period such as WWII and Korean War.

The Department of Veterans Affairs⁶

The Department of Veterans Affairs, a Cabinet level department, is the second largest federal department, consisting of three administrations:

- Veterans Health Administration (VHA) provides health care for some veterans
- Veterans Benefits Administration (VBA) administers programs that provide financial and other assistance to veterans, their dependents, and survivors including Veterans' compensation, Veterans' pension, survivors' benefits, rehabilitation and employment assistance, education assistance, home loan guaranties, and life insurance coverage⁷
- National Cemetery Administration.

Services and benefits are provided through a nationwide network of 153 hospitals, 956 outpatient clinics, 134 community living centers, 90 domiciliary residential rehabilitation treatment programs, 232 Vet centers, 57 Veterans benefits regional offices, and 131 national cemeteries.

State/Territory Veterans Affairs Offices

States also have various programs for veterans that vary by state.⁸ **California Department of Veteran Affairs (CalVet)**⁹ provides several programs including services for homeless people, women and parolees; tuition waivers for dependents and non-resident vets, veteran homes, and employment assistance. These services are described on CalVet's website and *California Veterans Resource Book*.¹⁰ Cal Vet District offices help veterans and their dependents to obtain federal disability and pension VA benefits through the process of application and representation of claims.¹¹

County Veterans Service Officers

In concert with the VA, CalVet, veteran service organizations, and veteran advocates, County Veterans Service Officers provide services and advocacy to veterans, their dependents and survivors. County Veterans Service Offices are often the initial contact for veterans.¹²

⁶ VA Organizational Briefing Book http://www.va.gov/landing_organizations.htm

⁷ The Veterans Administration describes its programs at <http://www.va.gov/opa/publications/factsheets.asp>

⁸ Links at <http://www.va.gov/statedva.htm>

⁹ <http://www.cdva.ca.gov/Default.aspx>

¹⁰ <http://www.cdva.ca.gov/VetServices/Demographics.aspx>

¹¹ <http://www.calvet.ca.gov/VetServices/Claims.aspx>

¹² California Association of County Veterans Service Officers lists <http://www.cacvso.org/page/2011-1-22-13-52-31/> See Resource Section below.

The Servicemember's Civil Relief Act

The Servicemember's Civil Relief Act (SCRA)¹³ provides a wide range of protections for individuals entering, called to active duty in the military, or deployed servicemembers. It postpones or suspends certain civil obligations to enable service members to devote full attention to duty and relieve stress on family members of those deployed servicemembers. A few examples include these obligations:

- Outstanding credit card debt
- Mortgage payments (including foreclosure)
- Pending trials
- Taxes
- Terminating leases.

The SCRA covers all Active Duty Servicemembers, Reservists and the members of the National Guard *while on active duty*. The protection begins on the date of entering active duty and generally terminates within 30 to 90 days after the date of discharge from active duty.

The Servicemember's Civil Relief Act Guide (2006) describes and analyzes the SCRA.¹⁴

¹³ http://www.justice.gov/crt/spec_topics/military/scratext.pdf

¹⁴ <http://www.americanbar.org/content/dam/aba/migrated/legalservices/lamp/downloads/SCRAguide.authcheckdam.pdf>

1. INCOME

As a whole, a smaller percentage of veterans are poor (6.3%) as compared to the poor adult non-veteran population (11.9%). The median annual income for male veterans is \$33,973; for females \$26,470.

2. DISABILITY

Disability significantly increases the veteran poverty rate; the rate of increase is nearly twice that of the non-veteran disabled population.

The poverty rate of disabled veterans is 29.1%; the poverty rate of the non veteran disabled population is 16.9%. Even those veterans who receive Social Security Disability or Supplemental Security Income benefits have incomes under \$9,000 per year.

Due to their medical condition and difficult administrative procedures, many disabled veterans are unable to follow the path to obtain veterans benefits to which they are entitled. According to a 2005 VA Inspector General Report,¹⁵ veterans who managed to obtain some type of representation got \$6,225 more in income per year than those who had no representation. Caps on attorney fees, however, effectively bar significant private attorney involvement.

Delays in processing benefits, the lengthy review and glacial appeals process also add exponential delays to receiving needed cash benefits.

Disability Claims are Increasing

Disability claims from returning Afghanistan and Iraq war veterans and veterans of earlier war periods increased from 578,773 in FY 2000 to 806,382 in FY 2006, increasing nearly 38%. For FY 2007, disability claims receipts were up 4% through August compared to the same time in 2006. Additionally, a record high of 80,383 claims were filed for a single month in August 2007.¹⁶

Claims from the Iraq and Afghanistan war veterans involve different injuries from those of the past, most notably Post Traumatic Stress Disorder (PTSD), major depression, and Traumatic Brain Injury (TBI), the "signature wounds" of current conflicts due to their prevalence. These disabilities are more difficult to manage and take more time and resources to address.¹⁷

As veterans get older, the likelihood of disability increases. For example, 45% of World War II veterans, 24.8% of Viet Nam veterans and 16.3% of the Gulf and Iraq War veterans are disabled.

¹⁵ <http://www.va.gov/oig/52/reports/2005/VAOIG-05-00765-137.pdf>, p. iii.

¹⁶ Statement of Michael Walcoff Before The House Committee On Veterans' Affairs Subcommittee October 9, 2007 <http://www.va.gov/OCA/testimony/hvac/sdama/071009MW.asp>

¹⁷ *Invisible Wounds of War - Summary and Recommendations for Addressing Psychological and Cognitive Injuries* (Rand 2008) <http://www.rand.org/pubs/monographs/MG720z1.html>

The Need for Advocacy & Outreach

Approximately one half of the veterans who are disabled apply for VA benefits. A VA survey demonstrates that about only 50% of veterans know that they might be eligible for VA income benefits (service connected compensation or pension) or for other VA benefits, such as education and health care. Just getting the information to veterans would, in itself, increase their incomes and quality of life.

Laws

[[38 U.S.C. § 1101](#); C.F.R. [4.1 to 4.150](#); [38 U.S.C. § 1521](#); [38 C.F.R. § 3.23](#)]

The two main VA cash income programs are “service connected compensation” and “pension”.

Service connected disability¹⁸ is not based on need. It is paid because of injury or illness that began during a veteran’s military service. Monthly payment amounts are based on a percentage (of disability) formula. A 100% rating means that a condition constitutes a 100% disability, resulting in the highest monthly payment of compensation. A 10% rating is the lowest monthly payment. Compensation may be paid to surviving spouses and children and such benefits are not based on need. Compensation may also be paid to surviving parents, but the parents must be needy.

Pension Program¹⁹ pays monthly benefits to “war time” veterans who are disabled from working by medical condition or age. It is a need based benefit and requires that the veteran have limited or no assets and income. Pension may also be paid to a needy surviving spouse or child.

Veterans Claims Assistance Act of 2000²⁰ [38 U.S.C. § 5103](#); [§ 5013A](#)

The Act now requires the Veterans Administration upon receiving a substantially complete application, to notify claimants of any information and medical and lay evidence that is necessary to substantiate the claim and help claimants in obtaining that evidence.

Legal Services and Veterans Claims: 2011 and Beyond

Pursuing claims for VA financial benefits requires mastery of a complex area of the law. In *Legal Services for Struggling Veterans - Then and Now (2009)*,²¹ Steven K. Berenson, Director, Thomas Jefferson Veterans Legal Assistance Clinic in San Diego, explains why most legal services field programs have not developed expertise in these issues. Yet the return of Iraq and Afghanistan servicemembers promises that vets are sure to become a greater part of our client base for public benefits, housing and family law cases.. Although we may not have the resources to begin a benefit claims practice, we should be able to identify when clients — vets, their dependents or survivors — may have a claim for VA benefits and refer them.

Some wise advice from Mary Ellen McCarthy, a former legal services advocate, now Counsel to the Senate Committee on Veterans Affairs: “Often I hear that legal aid advocates ‘don’t see many veteran’s issues.’ I believe that this occurs because advocates often fail to ask if the client is a veteran or a family member of a veteran.”²²

¹⁸ <http://www.vba.va.gov/bln/21/compensation/index.htm>

¹⁹ <http://www.vba.va.gov/bln/21/pension/>

²⁰ <http://www.nvlsp.org/Information/ArticleLibrary/VABenefits/VETBEN-CLAIMSHELP.htm>

²¹ http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1616885

²² *What Difference Does It Make if the Client Is a Veteran? None if You Don't Ask About Veteran Status*
<http://www.illinoisprobono.org/calendarUploads/CR%20article%20by%20McCarthy-Status.pdf>

The Resources section below describes referral sources including legal aid organizations, pro bono programs and veteran service organizations who are doing VA Claims work. See also **Appendix: Referral Guide for VA Benefits.**

3. EDUCATION

Needs

Compared to the U.S. general population, a higher percentage of veterans are high school graduates than non veterans. However, a smaller percentage of veterans are college graduates than non veterans. Few veterans use their education benefits. Vietnam veterans are the highest users while Gulf War veterans are the lowest. Student loans are the most common source of education assistance for students; VA educational assistance is the least.

For veterans who do try to take advantage of education benefits, combat experience complicates the transition from soldier to student. Generally, student vets fall into these two groups:

- Reservists and National Guardsmen, usually in their 30s or older, back from combat duty they never really bargained for and now finally able to pursue the college education they always wanted;
- Soldiers in their 20s, who went into active duty shortly after high school, deployed overseas and came back aged beyond their years.

Some veterans have trouble collecting the government money that is supposed to pay for college, or they discover that the benefits aren't nearly enough to cover tuition and other bills. While classmates may complain about homework and hangovers, many vets struggle with post-traumatic stress disorder, the effects of traumatic brain injury, lost limbs and a range of chronic medical problems. Medications such as anti-depressants sleep aids and painkillers interfere with a student's ability to focus.

Student veterans often don't want to admit they have a disability and won't seek help, even though they would qualify for an accommodation under the Americans with Disabilities Act.

There is no single place student vets can go, present their military record and get useful information telling them what help they're entitled to.²³

Laws

The GI Bill — the generic term comprising various education assistance programs administered by the Department of Veterans Affairs — provides benefits to veterans, service members, and some dependents of disabled or deceased veterans.²⁴

The Post-9/11 Veterans Educational Assistance Act of 2008 or “New GI Bill” [PL 100-28]

The Act's main provisions²⁵ include funding 100% of a public four-year undergraduate education to a veteran who has served three years on active duty since September 11, 2001. The Act also allows the

²³ Combat Vets Face Hurdles as Students *The News and Observer* | April 29, 2008
<http://www.military.com/features/0,15240,166742,00.html?ESRC=airforce.nl>

²⁴ http://www.gibill.va.gov/resources/education_resources/ describes federal education benefits

²⁵ http://www.gibill.va.gov/benefits/post_911_gibill/index.html

veteran to transfer benefits to a spouse or children after serving (or agreeing to serve) ten years. Most full Post-9/11 benefits took effect August 2009.

Eligibility for the several programs depends on when the veteran served in the military. Generally, education benefits must be used during active duty or within 10 years of the end of service.²⁶

Some states such as California provide for tuition waiver for veterans' dependents and non-resident vets.²⁷

4. EMPLOYMENT

Needs

Veterans who left military service in the past decade have an unemployment rate of 11.7%, well above the overall 2011 jobless rate of 9.1%. This statistic is projected to worsen once 10,000 servicemen return from Afghanistan and 46,000 come home from Iraq by 2011's end.²⁸

While service members are often promised saleable skills and job opportunities they wouldn't have access to otherwise, the reality is that veterans often feel discriminated against and overlooked in the workplace.

Sixty-percent of hiring organizations polled in a June 2010 Society for Human Resource Management survey said that translating military skills to a civilian job experience could pose a challenge in hiring veterans and 46% said the same about hiring those who suffer from post-traumatic stress disorder and other mental health issues.²⁹

National Guard and Reserve Members

The Uniformed Services Employment and Reemployment Rights Act (USERRA) requires employers to continue to employ Guard and Reserve members when they return from duty. The federal agencies — Labor, Defense, Justice and Office of the Special Counsel — responsible for administering USERRA rights are performing inadequately. Service members are returning home only to realize that their deployment has put their jobs at risk. For example, among post-9/11 returning Reservists and National Guard:³⁰

- Nearly 11,000 were denied prompt reemployment.
- More than 22,000 lost seniority and thus pay and other benefits.
- More than 15,000 didn't receive the training they needed to return to their former jobs.
- Nearly 11,000 didn't get their health insurance back.

²⁶ For detailed information on eligibility and benefits, go to www.gibill.va.gov/

²⁷ <http://www.cdva.ca.gov/VetServices/Education.aspx>

²⁸ <http://www.bls.gov/news.release/empsit.t05.htm>

²⁹

<http://www.shrm.org/Research/SurveyFindings/Articles/Pages/EmployingMilitaryPersonnelRecruitingVeterans.aspx>

³⁰ Senator Kennedy Holds Hearing On Veterans' Employment Issues - November 7, 2007

http://kenedy.senate.gov/newsroom/press_release.cfm?id=2d9f4728-1d7e-4fef-82eb-21b95ddde834

- In 2006, 77% of reservists and National Guardsmen with reemployment problems reported not seeking assistance of any kind, indicating failure to educate and reach out to returning servicemembers to inform them of their rights.
- Almost half of reservists (44%) and National Guardsmen who filed a USERRA complaint with the Department of Labor reported being dissatisfied with DOL's handling of their case – up from 27% dissatisfaction in 2004 – and more than a third reported that DOL's response was not prompt.
- 23% of reservists and National Guardsmen surveyed in 2006 who could not find a job post-deployment said that they were unemployed because their previous employer did not promptly rehire them as required by law.
- Almost a third of reservists (28%) surveyed in 2006 reported not receiving information on USERRA/reemployment rights during their activation or deactivation.
- The percentage of reservists and National Guardsmen who experienced difficulty getting reemployment assistance from government agencies rose from 2004 (27%) to 2006 (29%).

Laws

The Uniformed Services Employment and Reemployment Rights Act (USERRA) [38 U.S.C. § 4301 et seq.](#), provides job protection and rights of reinstatement to employees who participate in the National Guard and Reserve. The Act seeks to ensure that service members are entitled to return to their civilian employment and reinstated with the seniority, status, and pay rate they would have obtained had they remained employed by their civilian employer. The law also protects individuals from discrimination in hiring, promotion, and retention on the basis of present and future membership in the armed services. Department of Labor has comprehensive resources including two on-line trainings.³¹

Veterans' Benefits Improvement Act of 2008 strengthens the Uniformed Services Employment and Reemployment Rights Act (USERRA) by imposing deadlines by which federal agencies must assist service members. The legislation implements GAO recommendations to reduce inefficiencies and improve data collection by the government on USERRA issues.³²

The **National Committee for Employer Support of the Guard and Reserve (ESGR)**, an agency within the Office of the Assistant Secretary of Defense for Reserve Affairs, operates programs directed toward U.S. employers, employees, and communities to ensure understanding of the role of Reserve component members.

The ESGR **Ombudsman Program**³³ provides “third party assistance” and informal mediation services to employers and members of the National Guard and Reserve. It works in conjunction with the Veterans' Employment and Training Service (VETS), U.S. Department of Labor. Volunteer members are trained to help resolve employment conflicts that can result from military membership, training, or other service requirements protected under USERRA.

³¹ Sign up for UASASERA 101 at <http://www.dol.gov/vets/programs/userra/main.htm>;
<http://www.dol.gov/compliance/laws/comp-userra.htm>

³² http://www.roa.org/site/PageServer?pagename=law_review_0810_update

³³ <http://www.esgr.org/site/USERRA.aspx>

U.S. Military Reservists – Job and Benefit Protections by the Employment Law Center (San Francisco) is a useful question and answer publication.³⁴

The Department of Labor's The Veterans' Employment and Training Service (VETS) provides grants to states and local non-profits to prepare veterans "to obtain meaningful careers, maximize employment opportunities and protect employment rights."³⁵

5. HEALTH CARE

Needs

A recent study by the Harvard/Cambridge Hospital Study Group found 1,700,000 veterans who have served have no health coverage. "America's Neglected Veterans"³⁶ found that white veterans are most likely to have Medicare or other health care coverage while Hispanic veterans are least likely to have such coverage. American Indian and Alaska Natives, the study found, were most likely to be not receiving any medical care at all.

The study concluded that the Veterans Administration cannot handle the task of caring for all veterans and all their medical needs. The study recognized the need for universal health care.

Mental Health Issues

Claims from the Iraq and Afghanistan war veterans involve different injuries from those of the past, most notably Post Traumatic Stress Disorder (PTSD), major depression, and Traumatic Brain Injury (TBI), the "signature wounds" of current conflicts due to their prevalence. These disabilities are more difficult to manage and take more time and resources to address.³⁷

Fewer than half of the vets who need mental health assistance actually receive it. And the number of vets who receive mental health referrals may be artificially low because vets tend to under report need for mental health services.

Another problem for those who receive referrals for follow up care is delay in the delivery. A 2011 survey of VA social workers, nurses and doctors found that more than 70% of respondents think the VA lacks the staff and space to meet the needs of growing numbers of veterans seeking mental health care. The survey was requested by the Senate Committee on Veterans Affairs after a 2011 hearing at which veterans diagnosed with post-traumatic stress disorder and other mental health issues describe long waits for treatment that could raise the risk of suicide. On average, 18 veterans commit suicide every day, according to the VA.³⁸

Military Sexual Trauma (MST) is sexual assault or harassment that occurs within a military setting. Servicemembers experiencing MST also may face these complications: they live and work with the

³⁴ <http://www.las-elc.org/factsheets/reservists.html>

³⁵ <http://www.dol.gov/vets/index.htm>

³⁶ <http://www.citizen.org/publications/release.cfm?ID=7339>

³⁷ *Invisible Wounds of War - Summary and Recommendations for Addressing Psychological and Cognitive Injuries* (Rand 2008) <http://www.rand.org/pubs/monographs/MG720z1.html>

³⁸ <http://veterans.senate.gov/hearings.cfm>

perpetrator during and after the trauma, they report to their perpetrator, they fear their fellow soldiers may distrust them and accuse them of breaking unit cohesion, and they fear negative consequences to their careers.

Almost 20% of women screened at the VA have experienced MST as opposed to 1.1% of male counterparts. Sixty per cent of those with MST also suffer from PTSD.

Laws³⁹

Veterans are not automatically entitled to VA health care, contrary to common belief and promises made to many service members during service. VA health care is principally for treating veterans with service-connected conditions, certain combat veterans, and low income veterans.

The Veterans Healthcare Eligibility Reform Act of 1996 [P.L. 104-262] [38 U.S.C. § 1710](#) established national standards of access to health care services for veterans and required that most veterans be enrolled to receive care. When enrolled, each veteran is assigned to one of eight “priority groups”.⁴⁰

Veterans automatically enrolled are:

1. veterans who are 50% or more service connected disabled and 100% disabled pension recipients;
2. veterans who’ve been discharged in the past 12 months with a disability claim not yet rated;
3. veterans seeking care for a service connected disability.

Under [38 U.S.C. § 1722](#), three categories of veterans are eligible for cost-free VA hospital and outpatient care because they are “unable to defray the expenses of necessary care.” Their net worth must be less than \$80,000 and they must:

- be eligible for Medicaid,
- be receiving VA pension, and
- have “attributable income” under set limits.

The Caregivers and Veterans Omnibus Health Services Act of 2010⁴¹ (PL 111-163) [[38 U.S.C. § 1720G](#); [38 CFR Part 71](#)] authorizes a wide range of new services to support certain caregivers of eligible Post 9/11 Veterans.⁴²

States may have medical care programs for veterans residing in them. CalVet Homes provide long-term care to resident veterans. Veterans who are age 55 and above and discharged from active military service under honorable conditions, are eligible to apply for admission. The age requirement is waived for disabled or homeless veterans needing long-term care.⁴³

³⁹ <http://www.va.gov/healtheligibility/> describes federal health benefits for veterans and dependents. See also VA Health Care Eligibility & Enrollment Glossary <http://www.va.gov/healtheligibility/Library/Glossary/>

⁴⁰ The eight groups are listed at <http://www.va.gov/healtheligibility/Library/pubs/HealthCareOverview/#PriorityGroups>

⁴¹ http://veterans.senate.gov/upload/Caregivers_part%201.pdf

⁴² <http://www.caregiver.va.gov/>

⁴³ <http://www.calvet.ca.gov/VetHomes/Default.aspx>

6. HOUSING

Needs

The overwhelming majority of VA housing assistance focuses on home ownership. This approach has excluded from housing assistance women, non-whites, people who can't satisfy regulations of private lenders, and all those veterans who cannot afford or who do not want (for whatever reason) home ownership.

For an excellent detailed analysis of VA housing policies, see “*National Ingratitude: The Egregious Deficiencies of the U.S. Housing Programs for Veterans and the “Public Scandal of Veterans’ Homelessness”*” by Florence Wagman Roisman, housing guru extraordinaire.⁴⁴

Homelessness⁴⁵

More than half a million veterans experience homelessness each year. They are significantly over-represented in the homeless population: nine per cent of the adult population, but 27% of the homeless population. One in every four homeless males is a veteran. Women veterans are three times more likely to be homeless than non veteran women. Only about 32 % of homeless veterans have VA benefits. California has the nation’s largest population of homeless veterans – more than 19,000 at any point in time as of 2009.⁴⁶

The overwhelming majority of homeless veterans are disabled. Their disabilities, according to the VA, include arthritis, mental illness, high blood pressure, rheumatism/joint problems and PTSD. Nearly half (47%) of homeless veterans are Vietnam War veterans.

More than half a million veterans experience homelessness each year, a striking signal that more half a million subsidized rental units are needed to house homeless vets.⁴⁷

Unpaid child support payments prevent many veterans from getting housing and achieving self-sufficiency.

Laws

Two programs provide domicile and medical care:

- Health Care for Homeless Veterans (HCHV) [[38 U.S.C. § 2031](#); [38 CFR Part 63](#)] is provided in community based locations and is time limited – on average six months.
- Domiciliary Care for Homeless Veterans (DCHV) serves veterans who are mentally ill. It is based at VA medical centers and is time limited.⁴⁸

⁴⁴ <http://indylaw.indiana.edu/instructors/roisman/veterans.pdf>

⁴⁵ National Coalition of Homeless Veterans gives detailed data at <http://www.nchv.org/media.cfm#1> as does the veteran’s group, Stand Down at <http://www.standown.org/homeless.html>

⁴⁶ <http://boxer.senate.gov/en/press/releases/071411b.cfm>

⁴⁷ See note 44, pp. 171-174.

⁴⁸ <http://www.va.gov/homeless/dchv.asp>

Together these two programs, serve only 13,000 to 15,000 homeless veterans per year. When veterans are discharged from HCHV and DCHV, many of them are discharged without housing.

In 1992, VA and HUD created the HUD-VA Supported Housing (HUD-VASH) program for homeless veterans who have severe psychiatric or substance abuse disorders. Homelessness Prevention and Rapid Re-Housing (HPRP) and Continuum of Care (CoC) Homeless Assistance Programs also were added later.⁴⁹

HUD-VASH provides vouchers to help homeless veterans get into private rental housing. Veterans who participate in the program also benefit from VA supportive services, including job training, education and counseling.⁵⁰ From 2008-2011, California has received 4,555 housing vouchers through HUD-VASH. In July 2011, a new round of grants were awarded, listed here⁵¹

HUD has put together a one-stop spot on housing for veterans. It lists HUD homeless veteran programs and initiatives, as well as resources, publications, and relevant links to agencies and organizations. It also provides local contact information for each program.⁵²

The Commission on Homelessness and Poverty educates the bar and the public about homelessness and poverty and the ways in which the legal community may assist. The Commission and VA have partnered on three initiatives aimed at addressing homelessness among veterans:

- (1) fostering replication of Veterans Treatment Courts;
- (2) supporting the Veterans Justice Outreach Initiative; and
- (3) removing barriers to housing and self-sufficiency by addressing child support arrears.⁵³

Addressing Child Support Arrears - Compromise of Arrears Program (COAP)⁵⁴

Parents may be able to compromise debt that accrued because their child received public assistance when they failed to pay court ordered child support. California Family Code § 17560(f)(1)(B) increases the potential compromise for parents who have been, or are currently, reservists or members of the National Guard that have been activated to military service. ***Compromise of Arrears Program Policy & Procedures*** by California Department of Child Support Services (Ninth Edition September 2011)⁵⁵ describes the rules and procedures.

⁴⁹ <http://hudhre.info/VeteransAssistance/>

⁵⁰ <http://www.va.gov/HOMELESS/HUD-VASH.asp>;
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/vash

⁵¹ <http://boxer.senate.gov/en/press/releases/071411b.cfm>; <http://www.va.gov/HOMELESS/HUD-VASH.asp>

⁵² <http://hudhre.info/VeteransAssistance/>

⁵³ http://www.americanbar.org/groups/public_services/homelessness_poverty/pages/HomelessVetsJustice.html

⁵⁴ <http://www.childsup.ca.gov/Payments/CompromiseofArrearsProgram/tabid/131/Default.aspx>

⁵⁵ <http://www.childsup.ca.gov/portals/0/resources/docs/manuals/COAP%20Policy%20and%20Procedure%20Manual.pdf>

Orange County Department of Child Support Services (Lawyer's Corner – Legal Issues)⁵⁶ has the most complete discussion of the Compromise of Arrears (COAP/CAO-FR). Tulare Department of Child Support Services lists information for Military Personnel and Veterans.⁵⁷

RESOURCES

Manuals

The National Veterans Legal Services Program (NVLSP) represents veterans and trains other lawyers and service representatives, lay advocates, who are trained and pass an examination, may represent veterans before Veterans Affairs and the Court of Veterans Appeals. NVLSP was the first federally funded legal services project devoted solely to serving vet legal needs. <http://www.nvlsp.org/>

NVLSP's *Veterans Benefits Manual*, updated annually, is the most thorough publication on VA disability benefits. The “bible” for advocates representing on veterans claims, it is a must have resource.

The Veterans Consortium Pro Bono Program

NVLSP is a key partner in the Veterans Consortium Pro Bono Program, which recruits and trains attorneys in veterans' law and helps unrepresented veterans who have filed appeals at the U.S. Court of Appeals for Veterans Claims. The Program will review any appeal to Court of Appeals for Veterans Claims and provide a pro bono lawyer if the case meets listed criteria. <http://www.vetsprobono.net/>

The American Servicemembers and Veterans Survival Guide is an online consumer guide for vets and current service members. It describes benefits and services and how various agencies work in practice. This resource is a good first place for advocates new to the area and a great source for clients. <http://www.nvlsp.org/images/Survival%20Guide-102309.pdf>

What Difference Does It Make if the Client Is a Veteran? None if You Don't Ask About Veteran Status by Mary Ellen McCarthy

“Often I hear that legal aid advocates ‘don’t see many veteran’s issues.’ I believe that this occurs because advocates often fail to ask if the client is a veteran or a family member of a veteran. “

~ Mary Ellen McCarthy

This great article helps advocates who don't know much about VA benefits to identify what a veteran, veteran dependent or survivor of a veteran may be entitled to. It contains a quick screening guide to help advocates ask the right questions and refer clients to resources.

From [September-October 2009 Clearinghouse Review](#); free access from Illinois Pro Bono here: <http://www.illinoisprobono.org/calendarUploads/CR%20article%20by%20McCarthy-Status.pdf>

Training Manual - The National Association of County Veterans Service Officers.

NACVSO was recognized officially by the U.S. Department of Veterans Affairs “for the purpose of preparation, presentation, and prosecution of claims under laws administered by the Department of Veterans Affairs” <http://www.nacvso.org/>

Training Manual <http://www.nacvso.org/modules.php?name=Content&pa=showpage&pid=12>

⁵⁶ <http://egov.ocgov.com/ocgov/Child%20Support%20Services/Lawyer%20Corner/Legal%20Issues>

⁵⁷ http://co.tulare.ca.us/government/child/military_information.asp#Veterans

Advocacy Organizations

Swords to Plowshares

An advocacy organization in San Francisco that is unique in its comprehensive range of services for needy vets, including counseling and case management, housing, and employment and training. It also provides legal representation to veterans seeking VA benefits. <http://www.swords-to-plowshares.org/>

Veterans Service Organizations (VSOs)

Most of these organizations provide representation for veterans without regard to the veteran's membership in the organization.

American Legion

Maintains a list of American Legion Department Service Officers who are available to assist veterans and their dependents and survivors apply for any federal or state benefit to which they may be entitled. <http://www.legion.org/departments/officers>

Disabled American Veterans (DAV)

Links to local web sites to find representatives who can help veterans access their benefits and current service members transition to civilian life.

<http://www.dav.org/veterans/Default.aspx>

Paralyzed Veterans of America (PVA)

The PVA works through a national network of National Service Offices to provide services to paralyzed veterans, their families, and disabled veterans. These services range from bedside visits to guidance in the VA claims process to legal representation for appealing denied claims.

http://www.pva.org/site/c.ajIRK9NJLcJ2E/b.6306243/k.9E32/Veterans_Benefits.htm

Veterans of Foreign Wars (VFW)

VFW created National Veterans Service, a nation-wide network of skilled VFW Veterans Service Officers to help vets “wade through all the bureaucratic red tape.” Search by state here.

<http://www.vfw.org/Assistance/National-Veterans-Service/>

Vietnam Veterans of America (VVA)

Dedicated to Vietnam-era veterans and their families, among its services, VVA advertises a hot line **1-800-273-8255**, available 24/7— for veterans in emotional crisis and need help immediately. All calls are confidential. <http://www.vva.org/>

Government Agencies

Federal – Department of Veteran Affairs

The VA has a comprehensive web site including regulations and manuals. For example—

- *Federal Benefits for Veterans, Dependents and Survivors* (2011 Edition) gives a succinct overview of all veteran’s benefits. http://www.va.gov/opa/publications/benefits_book.asp
- *The A-Z Health Index* provides multiple ways to access the topics and features on Veterans Health websites. <http://www.va.gov/health/topics/>
- *Veterans Crisis Line* - confidential toll-free hotline, online chat, or text. Veterans and their loved ones may call **1-800-273-8255** and **Press 1**, [chat online](#), or send a text message to **838255** to receive confidential support 24 hours a day, 7 days a week, 365 days a year <http://veteranscrisisline.net/>

State

Find a list of all **State/Territory Veterans Affairs Offices** at <http://www.va.gov/statedva.htm>

California Department of Veteran Affairs

CalVet provides special programs, benefits and services for California veterans and their families summarized in the *California Veterans Resource Book* <http://www.cdva.ca.gov/VetServices/Demographics.aspx>
Cal Vet District offices assist veterans and their dependents in obtaining VA benefits through the process of application and representation of claims. <http://www.calvet.ca.gov/VetServices/Claims.aspx>

County - Veterans Service Officers

In each California County, a County Veterans Service Officer provides services and advocacy to veterans, their dependents and survivors. Find the California Association of County Veterans Service Officers (CACVSO) list here. <http://www.cacvso.org/page/2011-1-22-13-52-31/>

Articles

The Movement Toward Veterans Courts by Steven Berenson From 2010 May-June Clearinghouse Review

Military veterans return home from overseas conflicts with “invisible wounds” of combat—posttraumatic stress disorder, major depression, and traumatic brain injury. These wounds can lead to a veteran’s ultimate involvement in the legal system. Jurisdictions have launched veterans court initiatives to tackle the unique problems that bring about such involvement and resolve the problems in a manner such that healing is fostered and recidivism prevented. Advocates should be aware of the value of these courts and of some considerations in creating such initiatives.

Legal Services for Struggling Veterans - Then and Now (2009) by Steven K. Berenson

Written for a symposium to celebrate the 100th anniversary of Southeastern Minnesota Regional Legal Services (SMRLS), this article discusses how struggling veterans have not generally been considered an appropriate demographic group to provide free civil legal assistance. It also lays out the challenges in representing veterans, particularly those returning from the Iraq and Afghanistan conflicts and recent initiatives to increase the free civil legal assistance.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1616885

Legal Needs of Veterans, Servicemembers and their Families

September-October 2009 Clearinghouse Review <http://www.povertylaw.org/clearinghouse-review/issues/2009/2009-sept-oct>

- Let Us Meet the Needs of Military Veterans, Servicemembers, and Their Families
- Special Considerations When Representing Military Veteran Clients
- Issues Raised by Military Service in the Context of Family Law Cases
- Establishing a Successful Veterans Benefits Project: Two Perspectives
- Five Tips that Pro Bono Attorneys Need to Know When a Servicemember Is a Party to a Family Law Case
- Appointment Practice Under the Servicemembers Civil Relief Act: The Duties of Court-Appointed Counsel
- Using the Transitional Jobs Strategy to Help Chronically Unemployed Veterans
- What the Fowlkes? How Fleeing-Felon Rules Apply to Veterans
- A Guide to Military Child Care

- Helping Veterans Overcome Homelessness <http://www.publiccounsel.org/tools/publications/files/CLEARING-HOUSE-RVW.pdf>
- An Introduction to Legal Services and Protections for Military Personnel and Their Family Members
- What Difference Does It Make if the Client Is a Veteran? None if You Don't Ask About Veteran Status
- A Case for Federal Oversight of Military Sexual Harassment
- Employment Law and How the Uniformed Services Employment and Reemployment Rights Act Protects Servicemembers
- Advocating Benefits for Veterans
- Immigration Issues Faced by U.S. Servicemembers: Challenges and Solutions

Homeless Veterans Justice Initiative

The Commission on Homelessness and Poverty educates the bar and the public about homelessness and poverty and the ways in which the legal community may assist. The Commission and VA have partnered on three initiatives aimed at addressing homelessness among veterans: (1) fostering replication of Veterans Treatment Courts; (2) supporting the Veterans Justice Outreach Initiative; and (3) removing barriers to housing and self-sufficiency by addressing child support arrears.

http://www.americanbar.org/groups/public_services/homelessness_poverty/pages/HomelessVetsJustice.html

Veterans Projects/Services in a Legal Services Program

Disability Rights California - Protection & Advocacy For Individuals With Traumatic Brain Injury (PATBI) Program <http://www.disabilityrightsca.org/pubs/543401.pdf>

Employment Law Center

<http://www.las-elc.org/factsheets/reservists.html>

Inner City Law Center - Homeless Veterans – Los Angeles

<http://www.innercitylaw.org/Homeless-Veterans.htm>

Legal Aid Foundation of Los Angeles – Bill Smith Homeless Veterans Project

<http://www.lafla.org/service.php?sect=govern&sub=veterans>

Public Counsel - Center for Veterans Advancement – Public Counsel (Los Angeles)

http://www.publiccounsel.org/practice_areas/center_for_veterans_advancement

Stateside Legal – Pine Tree Legal Assistance – National (website)

<http://statesidelegal.org/>

The Thomas Jefferson Veterans Legal Assistance Clinic (San Diego)

http://students.tjssl.edu/academic_veterans

The National Veterans Legal Services Program (NVLSPP)

<http://www.nvlsp.org/>

Pro Bono Resources – National Directory

http://www.americanbar.org/content/dam/aba/uncategorized/final_updated_veterans_directory.authcheckdam.pdf

Law Schools with Veterans' Law Clinics

Widener University School of Law: Veterans Law Clinic

Website: www.law.widener.edu/vetclinic

Email: jgholbrook@widener.edu

Phone: (302) 477-2070

University of Detroit Mercy School of Law: Project SALUTE

Website: http://www.law.udmercy.edu/project_salute/

Email: veteranslawclinic@udmercy.edu

Phone: (888) 836-5294

The John Marshall Law School: Veterans Legal Support Center

Website: <http://www.jmls.edu/veterans/>

Email: VLSC@jmls.edu

Phone: (312) 360-2656

Stetson University College of Law: Veterans Appellate Rights Clinic

Email: vaclinic@law.stetson.edu

Phone: (727) 562-7897

William and Mary Law School: Lewis B. Puller, Jr. Veterans Benefits Clinic

Website: <http://law.wm.edu/academics/programs/jd/electives/clinics/veterans/>

Email: veterans@wm.edu

Phone: (757) 221-7443

Yale Law School: Veterans Legal Services Clinic

Website: <http://www.law.yale.edu/academics/veteranslegalservicesclinic.htm>

Phone: (203) 432-4800

North Carolina Central University School of Law: Veterans Law Program

Website: <http://web.nccu>

Veterans' Advocacy Toolkit (2011) describes how to set up a law school advocacy clinic
http://www.americanbar.org/content/dam/aba/administrative/law_students/vetshandbk.authcheckdam.pdf

Webinars (on demand and free)

• **American Bar Association**

A Primer on Veterans Administration Law, Practice and Procedure (DVD)

<http://apps.americanbar.org/abastore/index.cfm?section=main&fm=Product.AddToCart&pid=CECA09PVA>
[D](#)

(order from ABA store)

Basics of VA Benefits (April 13, 2011)

Presentation Recording <http://www.nclc.org/conferences-training/national-elder-rights-training-project.html>

Veterans Benefits: A Closer Look at the Veterans Administration Schedule for Rating Disabilities (Video Download)

<http://apps.americanbar.org/abastore/index.cfm?section=main&fm=Product.AddToCart&pid=CET11VBAV>
[ID](#)

Veterans Benefits: Understanding Discharge Review (MP3 Audio Download)

<http://apps.americanbar.org/abastore/index.cfm?section=main&fm=Product.AddToCart&pid=CET10UDRA>
[UD](#)

• **Practicing Law Institute**

**Advocating for Veterans - the Basics on Benefits, Discharge Upgrades and Cultural Competency
(6.11 Hours)**

http://www.pli.edu/Content/OnDemand/Advocating_for_Veterans_the_Basics_on_Benefits/_N-4nZ1z134xr?fromsearch=false&ID=133746

- **Program Overview*** [00:12:57]
Theresa Mesa, Jon B. Streeter, Michael Blecker
- **Introduction to Benefits for Veterans with Disabilities** [00:58:46]
Teresa Panepinto, David Ackerly, Katherine Dwight
- **Developing and Winning the Claim** [01:00:59]
David Ackerly, Teresa Panepinto, Katherine Dwight
- **Special Issues** [00:59:25]
David Ackerly, Teresa Panepinto, Katherine Dwight
- **Veterans' Cultural Competency: Combat to Community; Demographics, Cultural Characteristics, Myths and Stereotypes about Veterans** [01:00:28]
Amy N. Fairweather, Starlyn Lara
- **Military Discharge Upgrade and Review** [00:59:22]
Katherine Dwight, Teresa Panepinto
- **Specific Issues in Discharge Review** [00:59:51]
Katherine Dwight, Teresa Panepinto

Appendix

Referral Checklist for VA Cash Benefits

I. Veteran Benefit Eligibility

For veterans, a dependent spouse, child, adult dependent child, or dependent parent of a veteran:

- Vet receives any cash benefits or health care from the VA
 - Contact VA to inquire if additional benefits are available
- Vet has a disability that was incurred or aggravated by active military service
 - Refer vet to apply for service-connected compensation and VA health care. Also screen for veteran pension eligibility.

II. Pension Eligibility

- Refer a veteran who meets all these criteria:
 - Is 65 or older or permanently and totally disabled
 - Discharged under conditions other than dishonorable
 - Served during a period of war, such as World War II, Korea, Vietnam, or after August 2, 1990
 - Resources: less than \$80,000 (exempt resources include home, personal belongings, vehicle for transportation)
 - Income: less than current income amount for pension - out-of-pocket medical expenses

III. Surviving Spouse Eligibility (Death Pension)

- Refer a survivor who appears to meet all these criteria to VA to apply for a death pension.
 - Is the surviving spouse of a vet
 - Married to vet at the veteran's death
 - Not remarried since the veteran's death
 - Vet Eligibility
 - Vet discharged under conditions other than dishonorable
 - Vet served during a period of war, such as World War II, Korea, Vietnam, or after August 2, 1990
 - Resources
 - Less than \$80,000 (exempt resources include home, personal belongings, vehicle for transportation)
 - Income: less than current death pension income for family size

IV. Dependency and Indemnity Compensation Eligibility (DIC)

- Veteran died of a service-connected disability or a disability that VA recognizes as presumptively service connected due to service during the Vietnam or Gulf war or due to prisoner-of-war status
- Survivor has not remarried
- Refer the survivor to VA to apply for Dependency and Indemnity Compensation (DIC).
 - Survivor remarried after 12/31/03 and was at least 57
 - Refer the survivor to VA to apply for Dependency and Indemnity Compensation (DIC). (DIC benefits are not available while the survivor is married).

Hat Tip to Mary Ellen McCarthy *What Difference Does It Make if the Client Is a Veteran? None if You Don't Ask About Veteran Status* <http://www.illinoisprobono.org/calendarUploads/CR%20article%20by%20McCarthy-Status.pdf>