

PRESENTER: LIZ TARLOSKI

AGENDA

JUSTICE-INVOLVED VETERANS

A LOOK AT THE NUMBERS...

A LOOK AT THE NUMBERS...

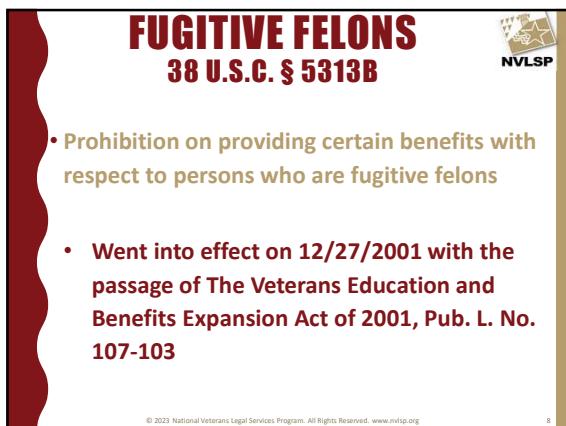


FUGITIVE FELONS

WANTED

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

NVLSP



FUGITIVE FELONS

38 U.S.C. § 5313B

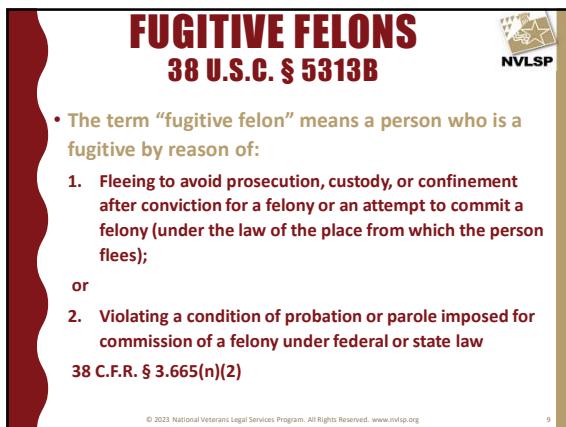
• Prohibition on providing certain benefits with respect to persons who are fugitive felons

- Went into effect on 12/27/2001 with the passage of The Veterans Education and Benefits Expansion Act of 2001, Pub. L. No. 107-103

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

NVLSP

8



FUGITIVE FELONS

38 U.S.C. § 5313B

• The term “fugitive felon” means a person who is a fugitive by reason of:

1. Fleeing to avoid prosecution, custody, or confinement after conviction for a felony or an attempt to commit a felony (under the law of the place from which the person flees);

or

2. Violating a condition of probation or parole imposed for commission of a felony under federal or state law

38 C.F.R. § 3.665(n)(2)

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

NVLSP

9

FUGITIVE FELON
BENEFITS

NVLSP

- VA compensation and pension are not payable on behalf of a veteran for any period during which he or she is a fugitive felon
 - 38 C.F.R. § 3.665 (e)(1), (n)
- Other VA Benefits are also terminated, including health care, education, VR&E, and life insurance
 - 38 U.S.C. § 5313B(c) 38 C.F.R. §§ 3.665(n), 3.666(e), 21.3135(j), 21.4135(n), and 21.7135(aa)

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

10

FUGITIVE FELON
CLAIMS

NVLSP

VA instructs its adjudicators to:

- Take no action on new claims or HLR requests
- Discontinue development on and cancel any pending claims or requests for HLRs
- Disallow any claims for increased benefits, but
- Continue processing any pending legacy appeals
 - Manual M21-1, XIV.8.2.e

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

11

FUGITIVE FELON
OFFENSE CODES

NVLSP

- Before June 2014 – VA assumed that anyone with an active felony arrest warrant was a fugitive, regardless of fleeing status
- In 2014, VBA determined that one of the following codes must be associated with the check of the National Crime Information Center (NCI) – Fed. Gov't database for crime-related info
 - VBA Letter 20-14-09

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

12

**FUGITIVE FELON
OFFENSE CODES**

NVLSP

- 4901 – Escape
- 4902 – Flight to Avoid Prosecution
- 4999 – Flight Escape
- 5011 – Parole Violation
- 5012 – Probation Violation
- 8101 - Juvenile Offender Abscond While on Probation
- 8102 – Juvenile Offender Abscond While on Parole

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

13

**FUGITIVE FELON
MATCHING SYSTEM**

NVLSP

- Matching System agreements exist between OIG and law enforcement agencies
- OIG periodically sends lists of veterans receiving benefits who match with requirements of fugitive felon to VA and will thereafter provide support in determining legal status
- VA is then responsible for processing these lists
 - Manual M21-1, XIV.8.1.d

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

14

**FUGITIVE FELON
PROCESS**

NVLSP

- Notice of adverse action sent and 60 days to respond with evidence or request a hearing
- Date benefits will be suspended will be the later of:
 - the date of the warrant, or
 - 12/27/2001 (when 38 U.S.C. § 5313B went into effect)

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

15

FUGITIVE FELON

PROCESS

NVLSP

- The proposed adverse action letter must include the following info about the warrant:
 - name and telephone number of the warrant agency
 - warrant number
 - date of warrant, and
 - warrant offense description and/or code
- Manual M21-1, XIV 8.2.b

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

16

FUGITIVE FELON

NVLSP

- Evidence to submit showing veteran was not in fugitive felon status:
 - copy of a court order that clears or vacates the warrant w/in 30 days of issuance
 - evidence that a court specifically determined the warrant was void from its inception because of mistaken identity or a defect in the warrant

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

17

FUGITIVE FELON

NVLSP

- Evidence to submit showing veteran was not in fugitive felon status (cont'd):
 - states or uses the terminology "nunc pro tunc," which means the court order applies retroactively to correct an earlier court order, or
 - a police report or statement from the SSA or other gov't agency, a bank, or other reporting agency that supports a claim of identity theft
- Manual M21-1, XIV 8.2.b

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

18

FUGITIVE FELON
WHEN A WARRANT IS CLEARED

NVLSP

- “In most cases in which a warrant is dismissed, recalled, or quashed, a valid warrant was still pending through the date the warrant was cleared.”
- “VA benefits are subject to adjustment from the warrant date (or the effective date of 38 U.S.C. § 5313B) until the date the warrant was recalled, dismissed, or quashed.”

— Manual M21-1, XIV.8.2.H

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

19

HYPO #1

NVLSP

- A felony arrest warrant is issued for a veteran on 3/3/2021
- Court clears the warrant 3 weeks later on 3/24/2021
- On 4/25/2021, a computer match shows the issuance of a felony arrest warrant for this veteran with a “Flight Escape” code
- VA eventually sends the veteran a notice of adverse action which the veteran receives on 5/30/2021

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

20

SURVEY #1

NVLSP

- Why is the veteran not considered a fugitive felon for purposes of VA benefit suspension?

- The code associated with the warrant was ‘Flight Escape,’ which is not one of the required codes
- The warrant was cleared w/in 30 days of issuance
- Veteran received notice the warrant was issued more than 30 days after the warrant was issued
- VA sent the proposal of adverse action more than 30 days after notice of the warrant

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

21

SURVEY #1

ANSWER

FUGITIVE FELON OIG REPORT



VA OIG 21-002401-190, Aug. 3, 2022

- VBA did not process felony referrals from 2012 and 2013
- VBA did not process 46% of felony referrals sent by the OIG in 2019 and 2020
- Due process notices did not comply with VBA policies and procedures

INCARCERATION AND BENEFITS

FELONY DEFINITION

FELONIES/MISDEMEANORS

CONVICTION DEFINITION



• A “conviction” occurs when the accused is found—or pleads—guilty, regardless of the manner of sentencing
 — *Mulder v. McDonald*, 805 F.3d 1342 (Fed. Cir. 2015)

• Once a beneficiary is convicted, VA may apply the statute; VA is not required to wait until the claimant has exhausted all of his or her post-conviction appeals and received a “final” conviction
 — 38 U.S.C. § 5313(a)(1); 38 C.F.R. § 3.665(a)
 — *Wilson v. Gibson*, 753 F.3d 1363, 1367 (Fed. Cir. 2014)

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

28

CHARGES V. CONVICTION



• Unless they are a fugitive felon, a veteran must be CONVICTED of a crime before benefits are impacted

• A veteran could be arrested and held in a penal institution awaiting trial and still be receiving and entitled to full benefits

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

29

INCARCERATION DEFINITION



• The following do not constitute “incarceration”:

1. Confinement in a mental institution, even if the commitment was due to a judgment that the individual was not guilty of felony charges “by reason of insanity”
 • *Philbrook v. McDonough*, 15 F.4th 1117 (Fed. Cir. 2021); VA Gen. Coun. Prec. 3-90 (Mar. 20, 1990)
2. Participation in a work release program or residence in a halfway house pending completion of a full sentence
 • 38 U.S.C.S. § 5313(a)(2); 38 C.F.R. § 3.665(b)

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

30

INCARCERATION DEFINITION

THE GENERAL RULE

38 C.F.R. § 3.655(a)

38 C.F.R. § 3.665(c) APPLICABILITY

**38 C.F.R. § 3.665(d)
AMOUNT PAYABLE DURING
INCARCERATION**



- If Vet's combined SC disability rating is 20% or more, Vet will receive payment at the 10% disability rate
 - Ex: Single Vet is rated at 40% and receiving \$731.86 per month before incarceration. After 61st day of incarceration for conviction of a felony, Vet will receive \$165.92 (the 10% rate)
- If Vet's combined SC disability rating is 10%, Vet will receive payment at half of the 10% disability rate
 - Ex: Vet is rated at 10% and receiving \$165.92 per month before incarceration. After 61st day of incarceration for conviction of a felony, payment will be reduced to \$82.96.

DISABILITY COMPENSATION APPLICATIONS AND APPEALS



• The limitation in the payment does NOT lower the veteran's SC disability rating level

• Initial applications, increases, appeals, etc. can continually be pursued (with exceptions for TDIU)

BENEFITS GENERALLY RESTORATION OF BENEFITS

DISCONTINUED BENEFITS: PENSION

DISCONTINUED BENEFITS: PENSION

DISCONTINUED BENEFITS: PENSION

HYPO #2

NVLSP

- A single veteran is receiving \$550 in VA NSC pension, and has a SC rating of 30% (\$508.05/month)
- Because pension is the greater benefit, the veteran receives \$550 a month
- The veteran is subsequently incarcerated for conviction of a misdemeanor

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

40

SURVEY #2

NVLSP

- How much in VA benefits will the veteran receive on the 61st day of incarceration?
 - Nothing
 - Half the 10% SC rate
 - The 10% SC rate
 - The 30% SC rate

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

41

**SURVEY #2
ANSWER**

NVLSP

D

- The 30% SC rate
- On the 61st day of imprisonment, VA is required to change the benefit to SC compensation, as it is now the higher of the two benefits. Because the incarceration is for a misdemeanor, rather than a felony, the compensation benefits are not reduced further
- If incarceration had been for a felony, payment would be reduced to the 10% SC rate

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

42

SPECIAL ISSUE: TDIU



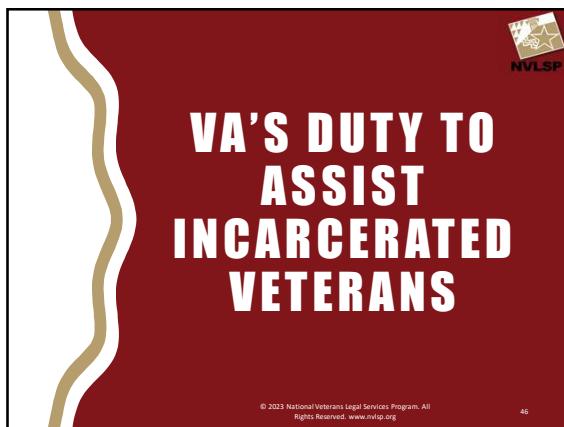
BENEFITS: VA HEALTH CARE

- Incarcerated veterans do not forfeit their eligibility for VA health care; BUT
- VA may not provide hospital and outpatient care to an incarcerated veteran who is an inmate in an institution of another gov't agency when that agency has a duty to give the care or services
- This does not apply to veterans who are released from a prison or jail into a temporary housing program (such as a community residential re-entry center or halfway house)
 - 38 C.F.R. § 17.38(c)(5)



BENEFITS
VR&E

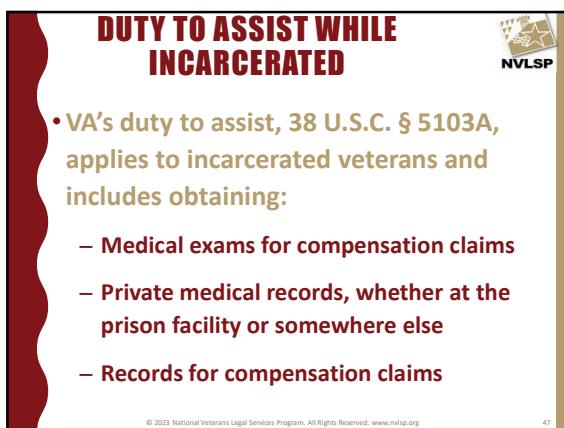
- Full benefits
 - If incarcerated for something other than a felony
 - If in a work-release program or half-way house (residential re-entry centers), regardless of whether the conviction was for a felony
- No subsistence benefits
 - If incarcerated for a felony, VA may pay all or part of tuition, fees, books, supplies, and equipment, UNLESS another Federal or local program pays these costs in full
- 38 C.F.R. § 21.276



VA'S DUTY TO ASSIST INCARCERATED VETERANS

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

46

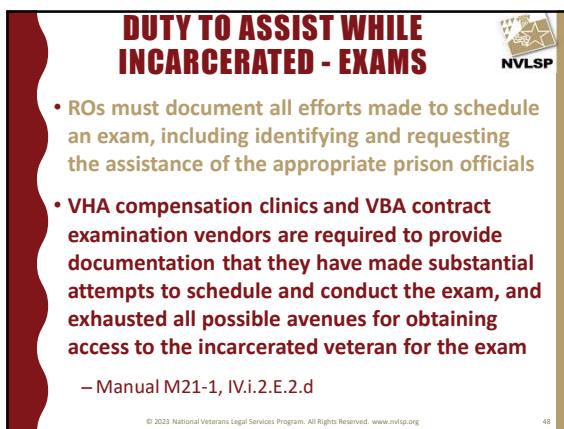


DUTY TO ASSIST WHILE INCARCERATED

- VA's duty to assist, 38 U.S.C. § 5103A, applies to incarcerated veterans and includes obtaining:
 - Medical exams for compensation claims
 - Private medical records, whether at the prison facility or somewhere else
 - Records for compensation claims

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

47



DUTY TO ASSIST WHILE INCARCERATED - EXAMS

- ROs must document all efforts made to schedule an exam, including identifying and requesting the assistance of the appropriate prison officials
- VHA compensation clinics and VBA contract examination vendors are required to provide documentation that they have made substantial attempts to schedule and conduct the exam, and exhausted all possible avenues for obtaining access to the incarcerated veteran for the exam
 - Manual M21-1, IV.i.2.E.2.d

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

48

DUTY TO ASSIST WHILE INCARCERATED - EXAMS

NVLSP

- If all efforts are exhausted, veteran's inability to attend = failure to report
 - Manual M21-1, IV.i.2.E.2.d

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

49

**DUTY TO ASSIST
WOOD V. DERWINSKI**

NVLSP

- CAVC found that there were insufficient facts to support a PTSD stressor and that, "while not a model to follow," the duty to assist had been met in assisting the Vet in gathering evidence to corroborate the stressor
- The Court added that in deciding claims for incarcerated veterans, VA adjudicators should:
 - "tailor their assistance to the peculiar circumstances of confinement," because "[s]uch individuals are entitled to the same care and consideration given to their fellow veterans"

• 1 Vet. App. 190, 193 (1991)

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

50

**DUTY TO ASSIST
BOLTON V. BROWN**

NVLSP

- RO denied claim for increased PTSD rating
- BVA remanded for an exam
- VA clinic's chief medical officer wrote that the clinic was unable to find a contract psychiatrist to perform the exam at the prison and prison didn't have a physician who could perform the exam
- RO and BVA again denied claim, with RO noting that exam could not be performed because of Vet's incarceration
- CAVC vacated the BVA decision because BVA "ceased in its quest" to afford the Vet a new exam

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

51

**DUTY TO ASSIST
BOLTON V. BROWN**

NVLSP

- “Under the unique circumstances presented by this case, where the Secretary has determined that the veteran is not available to participate in a VA examination under regular conditions, and in keeping with the ‘caution’ of *Wood*, ... a remand is required to provide the Secretary with another opportunity to fulfill his statutory duty to assist this appellant in developing the facts of his claim.”

– 8 Vet. App. 185, 192-197 (1995)

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

52

**DUTY TO ASSIST
MERCURIO V. NICHOLSON**

NVLSP

- Following a BVA remand:
 - RO contacted prison about exam and was told Vet would not be able to leave, but did not receive a response when asked if an examiner could come to the prison
 - VA requested records twice (sent to prison's PO Box), but received no response
 - BVA denied Vet's claims

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

53

**DUTY TO ASSIST
MERCURIO V. NICHOLSON**

NVLSP

- Records: CAVC found VA failed to comply with 38 U.S.C. § 5103A(b)(2):
 - Notice must (1) identify the records VA was unable to obtain; (2) explain the efforts VA made to obtain those documents; and (3) describe any further action the VA will take with respect to the claim
- Exam: CAVC found VA failed to follow up on exam and should determine what state official had authority to respond to its request and obtain a definitive answer from that official
 - 21 Vet. App. 401 (2006) (single judge, non-precedential)

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

54

**DUTY TO ASSIST
MERCURIO V. NICHOLSON**



"*Mercorio* reflects that the Court will expect VA to fully comply with the VCAA's duty to assist in obtaining relevant medical records from the facility where an incarcerated veteran is held, and to work with state or prison officials both in obtaining such records and in providing medical examinations when warranted."

— Jonathan Hager, *VA's Duty to Assist Incarcerated Veterans*, 1 VETERANS L. REV. 231 (2009)

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

55

**DUTY TO ASSIST WHILE
INCARCERATED**



• **Summary**

- VA will assist veterans with obtaining an exam while incarcerated either by sending someone to a facility or bringing them to the exam
- VA should fulfill their duties under the VCAA in requesting records
- If VA fails to adequately attempt to assist incarcerated veteran, seek review/appeal

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

56

APPORTIONMENT



© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

57

APPORTIONMENT



- Entirely separate legal benefit from the Vet's claim and is NOT automatic
 - VA will alert the veteran that benefits may be apportioned and how dependents can apply
 - VA will alert dependents if aware of their existence and can get their addresses
 - VA will accept apportionment claim from either veteran or family member
 - Manual M21-1, VI.iii.1.B.1.b, 2.b

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

58

APPORTIONMENT ELIGIBLE BENEFITS



- VA benefits that CAN be apportioned
 - Compensation
 - DIC
 - Pension
 - VR&E subsistence, if not incarcerated for a felony
- VA benefits that CANNOT be apportioned
 - Education Subsistence Benefits, unless Chapter 30 rate (Montgomery GI Bill Active Duty)
 - Beneficiary or dependent is a fugitive felon

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

59

COMPENSATION APPORTIONMENT ELIGIBILITY



- Eligibility:
 - Relationship: Spouse, children, or dependent parents
 - Amount Paid: All or part of the compensation not paid to the incarcerated veteran
 - Individual Need: Consideration shall be given to
 - Dependent's income and living expenses
 - Amount of compensation available for apportionment
 - Needs and living expenses of other dependents
 - Special needs of any dependent
 - 38 C.F.R. § 3.665; Manual M21-1, VI.iii.1.B.2.h

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

60

PENSION APPORTIONMENT ELIGIBILITY

APPORTIONMENT APPLICATION

APPORTIONMENT APPLICATION

APPORTIONMENT APPLICATION

APPORTIONMENT NOTIFICATION

APPORTIONMENT PAYMENT



• Apportionment stops when incarceration ends and apportionee is notified of the right to reapply if not living with veteran

• **No apportionment payable if VA receives notice of incarceration AFTER incarceration has ended, but can be granted only to reduce veteran's overpayment**

- Manual M21-1, VI.iii.1.B.1.f., 2.e

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

67

BARS TO APPORTIONMENT



• Bars to apportionment include:

- Total benefit is so small it does not allow payment of a reasonable amount to any apportionee
- Spouse has been found guilty of conjugal infidelity by a court
- Spouse has lived with someone else and held themselves out to be their spouse
- Child of vet was legally adopted by another person
- Apportionment will not be authorized to an estranged spouse unless and until a claim for children is filed on their behalf
- 38 C.F.R. § 3.458

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

68

CONTESTING APPORTIONMENT



• VA will notify both parties of a decision

• VA can take action before the 60-day appeal period expires

- Manual M21-1, VI.iii.3.C.2.a

• Either party may appeal the decision, which will be treated as a contested claim

- Both parties have 60 days to appeal to BVA
 - This is the only review option for contested claims
- Decision notices don't include favorable findings or elements required to grant the claim that were not met

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

69

HYPO #3

NVLSP

- A veteran with a 100% SC disability rating is incarcerated for a felony
- It has been 6 months since the incarceration began following conviction of a felony
- The veteran has a dependent spouse

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

70

SURVEY #3

NVLSP

• Which of the following is true?

- The spouse can apply for apportionment of the entire amount, but the Vet must submit the application
- The Vet can receive payment at the 10% rate and the spouse can be apportioned the rest
- The spouse can apply for apportionment of the entire amount and must submit the application
- The Vet is still entitled to the entire amount of compensation because it's only been 6 months since the incarceration began

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

71

**SURVEY #3
ANSWER**

NVLSP

B

- The veteran can receive payment at the 10% rate and the spouse can be apportioned the rest
- Either the spouse or Vet may apply
- Veterans with a 20% SC disability rating or higher can receive payment at the 10% rate after the 61st day of incarceration for a felony

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

72

APPORTIONMENT PROPOSED RULE

UPON RELEASE....



UPON RELEASE.... RESTARTING BENEFITS

- No specific form needs to be filed with VA
 - Mail, email, phone call, or claim submission to VA will trigger re-start of benefits
- If re-starting pension, no need to file new report re income and net worth
- If w/in 30 days of release and confirmed by an official source such as a parole board, VA will adjust to reflect the future re-start date
- VA will ask for confirmation of release from an official source in most circumstances
 - Manual M21-1, VI.iii.1.A.5

UPON RELEASE.... OFFICIAL SOURCES

POTENTIAL OVERPAYMENT

HEALTH CARE FOR REENTRY VETERANS PROGRAM

NVLSP

- VA program designed to prevent homelessness
- **Includes outreach and pre-release assessment services for veterans in prison**
- Referrals and linkages to medical, mental health, and social services, including employment services and short-term case management assistance on release
- **Each VISN and state has a specialist point of contact on the VA website**
 - www.va.gov/homeless/reentry.asp

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

79

SURVEY #4

NVLSP

A veteran has just been released from a 5-year prison sentence. What is the **BEST** step to make sure VA benefits are properly restored?

- Call VA to inform them of the release
- Send a Statement in Support of Claim form to VA about the release along with a letter from a prison official
- Do nothing. VA's system will automatically check prison records and restore benefits

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

80

SURVEY #4 ANSWER

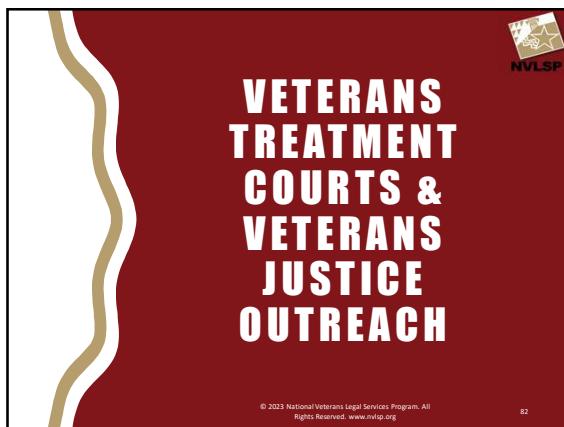
NVLSP

B

- Send a Statement in Support of Claim form to VA about the release along with a letter from a prison official
- VA will usually request supporting evidence from an official regarding the release

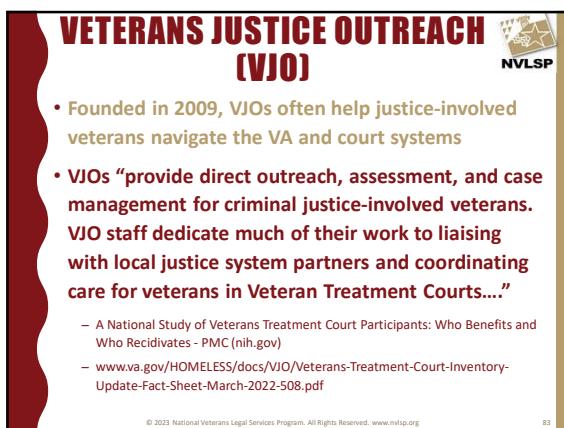
© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

81



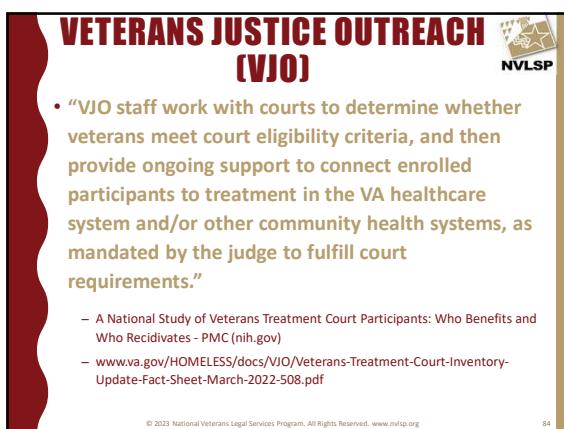
© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlsp.org

82



© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlsp.org

83



© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlsp.org

84

VETERANS TREATMENT COURTS (VTC)

- Specialty courts, modeled after drug courts, that are targeted towards veterans facing criminal charges and utilize community partners, treatment providers, court staff, and VA
- If successful in the program, participants may have charges dropped, reduced, or avoid incarceration
- Eligibility varies between courts and programs
 - Ex: some will prohibit participation based on discharge status or commission of a felony, or require a SC mental health condition

VETERANS TREATMENT COURTS (VTC)



NVLSP

VETERANS TREATMENT COURTS (VTC)

VETERANS TREATMENT COURTS (VTC)



- In 2008, the Buffalo VTC adopted with slight modifications the essential tenets of the 1997 DOJ publication “Defining Drug Courts: The Key Components”
- **TEN KEY COMPONENTS:**
 1. VTCs integrate alcohol, drug treatment, and mental health services with justice system case processing
 2. Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights
 3. Eligible participants are identified early and promptly placed in the VTC program

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

88

VETERANS TREATMENT COURTS (VTC)



- **TEN KEY COMPONENTS (cont'd):**
 4. VTCs provide access to a continuum of alcohol, drug, mental health and other related treatment and rehabilitation services
 5. Abstinence is monitored by frequent alcohol and other drug testing
 6. A coordinated strategy governs VTC responses to participants' compliance
 7. Ongoing judicial interaction with each Veteran is essential

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

89

VETERANS TREATMENT COURTS (VTC)



- **TEN KEY COMPONENTS (cont'd):**
 8. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness
 9. Continuing interdisciplinary education promotes effective VTC planning, implementation, and operations
 10. Forging partnerships among VTC, VA, public agencies, and community-based organizations generates local support and enhances VTC effectiveness

– Veterans Treatment Courts: A Second Chance for Vets who have lost their way. National Institute for Corrections (May 2016)

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

90

VTc EFFECTIVENESS



• Using data on 7,931 Vets in VJO programs across 115 VA sites who entered a VTC from 2011 to 2015, a study examined the housing, employment, income, and criminal justice outcomes of VTC participants

- VTC participants spent an avg of nearly a year in the program and 14% experienced a new incarceration (compared to 23–46% 1-year recidivism rate of U.S. prisoners)
- From program admission to exit, 10% more participants were in their own housing, 12% more were receiving VA benefits, but only 1% more were employed

• Tsai J, Finlay A, Flattery B, Kasprow WI, Clark S. A National Study of Veterans Treatment Court Participants: Who Benefits and Who Recidivates. *Adm Policy Mental Health*. 2018 Mar

ADVOCACY TIPS

ADVOCACY TIPS



- Follow jail/prison rules for written communication
- Connect Vet with VJO as soon as possible post-arrest and when they are getting ready to be released
- You are in the best position as an advocate to ensure VA does not improperly stop (or continue) benefits and to make sure the Vet is getting paid the correct amount
- Assisting an apportionment claimant may be a conflict of interest for an attorney/VSO who is representing the Vet
- Ensure VA is fulfilling its duty to assist in terms of records requests and exams

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

94

NVLSP VA BENEFIT IDENTIFIER APP



- Questionnaire/App: Helps Vets and advocates figure out what VA service-connected disability benefits or non-service-connected pension benefits they might be entitled to
- 3 WAYS to Access:
 - [NVLSP Website](#)
 - Download on the  App Store
 - ANDROID APP ON  Google play

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

95

NVLSP TRAINING OPPORTUNITIES



- NVLSP offers private in-person and webinar training tailored to the needs of your organization
- If you are interested in finding out more information, please contact our Director of Training and Publications, Rick Spataro, at richard@nvlp.org

© 2023 National Veterans Legal Services Program. All Rights Reserved. www.nvlp.org

96
