

# **Incarcerated Veterans and VA Benefits**

## **Briefing Document – HB 1077 (Rep. Ashley Hudson)**

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### **1. Executive Summary**

This document outlines a significant issue impacting veterans who receive VA disability compensation and are subsequently incarcerated. The core problem stems from veterans' failure to notify the VA of their incarceration and release, leading to substantial overpayment debts and prolonged delays in restoring full benefits post-release. This briefing proposes a legislative solution to address this issue by mandating communication between correctional facilities and the Arkansas Department of Veterans Affairs (ADVA), ensuring ADVA's timely notification to the VA upon an Arkansas Veteran's incarceration so their benefits can be properly adjusted, and upon the timely and proper restoration of benefits.

### **2. Problem Statement**

- **Mandatory Notification:** Veterans receiving VA disability compensation are legally obligated to notify the VA when they are incarcerated.
- **Compensation Adjustment:** Upon notification, the VA adjusts monthly compensation, potentially reducing it by up to 90%.
- **Restoration of Benefits:** When a veteran is released, their pre-incarceration compensation should be restored to 100% if the VA is notified of their release.
- **Failure to Notify:** Many veterans, and sometimes their legal representation, fail to inform the VA of their incarceration and subsequent release.
- **Consequences of Non-Notification:** Immediate Reduction: When the VA eventually learns of the incarceration, they reduce the veteran's compensation based upon the date of their incarceration versus when notified.
- **Overpayment Debt:** The VA establishes a debt for any overpayment the veteran has received while the veteran was incarcerated.
- **Delayed Restoration:** Due to the accrued debt, even after release and notification, the VA withholds the veteran's full compensation to be applied to the "overpayment debt," delaying full restoration for potentially years or even decades.
- **Exacerbated Financial Hardship:** This situation significantly worsens the financial challenges faced by ex-felon veterans and their families, post-release. The document states that this is an "avoidable situation [that] exacerbates the significant financial challenges ex-felon veterans and their dependents face after their release."

### **3. Key Themes & Ideas**

- **Notification is Key:** The central issue is a breakdown in communication. Veterans are not consistently notifying the VA about their changes in incarceration status.
- **Systemic Issue:** The failure to notify the VA is not isolated. It appears to be a widespread problem, described as "many (if not most) cases."
- **Financial Impact:** The delayed restoration of benefits creates a significant and prolonged financial burden for veterans and their dependents upon release, compounding their existing challenges as they reintegrate into society.
- **Avoidable Crisis:** This is described as an "avoidable situation" indicating that with proper communication channels, this issue can be mitigated significantly.

- **Need for Intervention:** The current system is not adequately assuring veterans are complying with requisite VA reporting requirements to protect veterans from knowingly or unknowingly creating a financial hardship for themselves and their families that can and should be avoided. The proposed solutions highlight a clear and straightforward means to address the problem proactively with existing staff at little to no cost the correctional facilities and the State.

#### 4. Proposed Solutions

The proposed solution seeks to address this communication breakdown through enacting legislative mandates for the correctional institutions and the Arkansas Department of Veterans Affairs (ADVA) as follows:

- **County Sheriffs and the Arkansas Department of Corrections (ADC):**
  - **Intake Process:** Identify whether a person is a veteran during the intake process. If identified, contact the Arkansas Department of Veterans Affairs (ADVA) Veteran Service Officer (VSO) and provide the necessary information to coordinate compensation benefits.
  - **Release Process:** Identify whether a person is a veteran during the release process. If identified, contact the ADVA Veteran Service Officer (VSO) and provide the necessary information to coordinate compensation benefits.
- **Arkansas Department of Veterans Affairs (ADVA):**
  - **Upon notification from County Sheriffs or ADC:** Contact the US Department of Veterans Affairs Regional Office to inform them of the changes in the veteran's status (incarceration or release).
  - **Assist Veterans with Intake:** Aid the veteran and their dependents in proactively filing with the VA the necessary documentation to ensure compliance with VA policies at the veteran's intake processing.
  - **Assist Veterans in Advance of Release to Help Secure Benefits Restoration:** Help veterans in securing the restoration of full benefits or pursuing additional benefits they may have earned and deserve after being released.

#### 5. Conclusion

The proposed solution represents a vital step in ensuring that incarcerated and released veterans are complying with US Department of VA notification policies/requirements. By establishing clear lines of communication and proactive support, this legislation can help veterans avoid substantial overpayment debts and ensure timely access to the benefits they have earned and rightfully deserve. The proposed system promotes a more effective approach that prioritizes timely notification, leading to a smoother and more equitable system for veterans navigating the complexities of incarceration and reintegration into civilian life. This change will reduce financial hardships and support veterans as they transition.