

# Know Your Rights: Veterans During Incarceration

## Connecticut Veterans Legal Center

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**You are not alone:** Veterans are twice as likely as non-Veterans to experience incarceration and as many as a third of Veterans are incarcerated at some time in their lives.

As a Veteran, you are entitled to certain rights and benefits even while incarcerated. This document aims to inform you of the various benefits you may be eligible for, including compensation, medical care, and educational assistance, as well as the effects that incarceration may have on your service-connected disability compensation.

Every legal case and every Veteran is unique. Some items in this document may not apply to you. If you have questions or face challenges, we strongly encourage you to contact an attorney.

This document does not provide legal advice or guidance regarding criminal cases, including appeals or parole. We strongly encourage you to contact an attorney for advice, consultation, and/or representation in any criminal matters.

### **Incarceration-Related Benefits**

While incarcerated, you may still be eligible for certain VA benefits, including but not limited to:

- **Healthcare:** As a Veteran, you are entitled to VA healthcare. If you are incarcerated in a federal or state prison, the VA *may* continue to provide health care through the VA or other healthcare providers associated with the prison system. You may also apply for VA healthcare while incarcerated.
- **Educational Assistance:** In general, you may access educational benefits even though you are incarcerated. VA's current policy is:
  - Beneficiaries of Veterans incarcerated for other than a felony **can receive full monthly benefits, if otherwise entitled.**
  - Veterans convicted of felonies who are residing in halfway houses (also known as "residential reentry centers") or participating in work-release programs **can receive full monthly benefits.**
  - Claimants incarcerated for a felony conviction can be paid only the costs of tuition, fees, and necessary books, equipment, and supplies. *VA cannot make payments for tuition, fees, books, equipment, or supplies if another Federal State or local program pays these costs in full.*
  - If another government program pays only a part of the cost of tuition, fees, books, equipment, or supplies, VA can authorize the incarcerated claimant payment for the remaining part of the costs.

- **Pension:** Veterans in receipt of [VA pension](#) will have payments terminated effective the **61st day** after imprisonment in a Federal, State, or local penal institution for conviction of a felony or misdemeanor. Payments may be resumed upon release from prison if the Veteran meets VA eligibility requirements.
- **Service-Connected Compensation:** You may receive service-connected disability compensation while incarcerated, but it is reduced under certain conditions. *See below section “Service-Connected Disability Compensation During Incarceration.”*
  - You may also apply for service-connected compensation while incarcerated.
- **Apportionment:** “Apportionment” is the legal term for when some or all benefits are transferred or given to someone other than the Veteran themselves.
  - All or part of the compensation not paid to an incarcerated Veteran may be apportioned to the Veteran's spouse, child or children, and dependent parents on the basis of individual need.
  - An award of apportionment is **NOT** automatically granted. It must be requested by the dependent.
  - Apportionment can be complicated. Your dependent should seek the assistance of a Veterans Service Organization (VSO), such as DAV or VFW, for free assistance in filing.

### **Service-Connected Disability Compensation During Incarceration**

While you are incarcerated, the Department of Veterans Affairs (VA) may reduce your monthly service-connected disability compensation if you are **convicted of a felony**. The reduction is as follows:

- **First 60 days of incarceration:** Your full disability compensation is payable. / You should receive your full service-connected disability compensation.
- **After 60 days:** Your service-connected compensation will be reduced. The *maximum* payment a Veteran incarcerated for a felony conviction can receive is \$175.51 per month (2025 rate). This is in accordance with the law which limits payments to Veterans incarcerated for a felony conviction.
  - If you are service-connected for 10% total, your payment will be reduced to \$87.76 (2025 rate).

It is important to note that your service-connected compensation can be reinstated once you are released from incarceration or if the nature of your conviction changes (such as a successful appeal or reduction to a misdemeanor).

**You must keep VA apprised of your incarceration status** to avoid a potential overpayment (which would create a debt you would owe back to the VA) or unnecessary reduction (wrongfully withheld benefits that you otherwise should be receiving).

### **How to File a Claim for Benefits**

We encourage you to apply for service-connection while you are incarcerated. We have included links to the requisite forms to do so with this document. You can also find most forms online by searching the full name of the form. Please make sure the web address lists “VA.gov” or another trusted source.

If you have not already applied for VA benefits or need to submit a claim for new or adjusted benefits, here are the steps you can take:

1. **Obtain VA Form 21-526EZ:** link: <https://www.vba.va.gov/pubs/forms/vba-21-526ez-are.pdf>
2. **Complete the Form:** Fill out the form to submit a claim for service-connected compensation, pension, or any other VA benefits for which you may be eligible.
  - Each section of the form must be filled out, including details concerning your service.
  - You may define your disability as you see fit on the form.
    - For mental health conditions, you may write “psychiatric condition” or “mental health.”
    - For physical conditions, you may write “back pain” or “knee pain” or “broken wrist” depending on your injury.
3. **Include any evidence:** If applicable, provide supporting documents, such as medical records or any relevant court documents, to back up your claim.
  - You may also write a statement describing your service and attach it to the application. This statement should mention specific moments in the military that caused your injury. For example, if you are applying for a back injury in basic training, you should explain how you got that back injury. If you went to medical for it, you should write when/where you went to medical for it.
  - For claims that involve PTSD, you must fill out [VA Form 21-0781](#) in addition to VA Form 21-625EZ. This form details the events of the stressor that have caused your PTSD. Please be as accurate as possible, especially with **when and where** the stressor may have occurred.
4. **Send the Form and all supportive evidence to VA:** You can send your completed application form to the VA’s Claims Intake Center:

Department of Veterans Affairs  
Claims Intake Center  
P.O. Box 4444  
Janesville, WI 53547

Remember that VA **must** provide you with a compensation and pension (sometimes called a “comp and pen”) examination **while you are incarcerated**. VA will work with your facility in order to determine the best way to provide this examination to assist you with your claim. If VA refuses to perform the examination, that is an appealable issue and you may wish to contact an attorney. Please maintain contact with VA via letter while they work to schedule an examination to help complete your claim.

If you are service-connected while incarcerated, your payment will increase upon your release from prison. You should notify the VA in writing of your release date so they are aware of when to increase your benefits.

## **How Discharge Status Affects Your Eligibility**

While incarceration does not necessarily affect your eligibility for VA benefits, your discharge status might.

If you have an **Honorable** or a **General - Under Honorable Conditions** discharge, you are presumptively eligible for VA. Additionally, Veterans with an **Uncharacterized** discharge for Entry Level Separation are also eligible for many VA benefits.

If you have an **Other Than Honorable, Bad Conduct, or Dishonorable Discharge**, you still have the right to apply for VA benefits, but VA will conduct a “recharacterization of discharge” (COD) to decide if the circumstances of your discharge make you eligible or ineligible for VA benefits. Filing for any benefit (compensation, pension, healthcare, etc.) will trigger the COD process at VA.

If you received your discharge from a general court martial, you will need to show evidence of a mental health condition that impacted your behavior at the time.

You have the right to a hearing in a COD process. You must request a hearing in writing from VA. VA can and will schedule a hearing while you are incarcerated. You also have the right to submit evidence that pertains to your case. You should provide a statement explaining what **compelling circumstances** existed that explain your discharge and **why your service was otherwise meritorious**. This can include statements about trauma you experienced while serving; a mental health condition that began in the service; or other examples of extenuating circumstances that explain why you received the discharge that you did.

## **Important Information**

- If you disagree with the VA’s decision regarding your claim, you have the right to appeal. You can file an appeal through the VA’s Board of Veterans’ Appeals (BVA) or request a higher-level review. **You have one calendar year to appeal from the date of the notice of your decision.**
- You may also be eligible for legal assistance or a Veterans Service Officer (VSO) to help you navigate your claims **at no cost to you.**
  - Many organizations, such as the Veterans of Foreign Wars (VFW), Disabled American Veterans (DAV), or American Legion, may provide free support to incarcerated Veterans.
- Although incarcerated Veterans are within our eligibility criteria, at this time Connecticut Veterans Legal Center is not able to accept new clients who are incarcerated.

We strongly encourage you to reach out for any further clarification or assistance in understanding the process and ensuring you receive the benefits you are entitled to.

VA has an accreditation process for attorneys and VSOs which is searchable by state here: <https://www.va.gov/ogc/apps/accreditation/>. You also can and should ask any attorney prior to intake if they are “VA accredited” before you proceed with hiring them or using their services. **We do NOT recommend** working with or receiving legal advice (sometimes called “consultation” or “coaching”) from non-accredited attorneys or companies. These companies can sometimes charge exorbitant fees and/or provide subpar service.

*This memorandum provides general information only. It does not constitute legal advice, nor does it substitute for the advice of an expert representative or attorney who knows the particulars of your case. Any use you make of the information in this memorandum is at your own risk. We have made every effort to provide reliable, up-to-date information, but we do not guarantee its accuracy.*