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**STATEMENT OF
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COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
UNITED STATES HOUSE OF REPRESENTATIVES
SEPTEMBER 22, 2021**

Chairman Pappas, Ranking Member Mann and Members of the Subcommittee:

Thank you for inviting DAV (Disabled American Veterans) to testify at this legislative hearing of the Subcommittee on Oversight and Investigations. DAV is a congressionally-chartered veterans service organization comprised of more than one million members, all of whom are wartime disabled veterans. Each year our members gather in national convention to adopt resolutions that comprise our legislative program, specifying the programs and policies we will support or oppose. Based on these resolutions, my full written statement lays out positions for all the bills on today's agenda, however I will focus my oral remarks on just a few.

H.R. 1596, Commission to Study Inequity for LGBTQ Servicemembers and Veterans Act

Historically, we can point to a number of unfair Department of Defense (DOD) policies that have impacted many LGBTQ service members and veterans. This legacy has resulted in enactment of laws that are also unfair and exclude certain veterans from eligibility for benefits and health care they have earned and deserve—for example, eligibility for assisted reproductive technology services to meet the needs of veterans severely disabled in military service whose injuries prohibit their ability to procreate, only allow legally married heterogeneous couples to receive the benefit through the military or the Department of Veterans Affairs (VA) health care system.

H.R. 1596 would establish a Commission to identify the history of military policy on homosexuality from 1778 onward and explore its impact on active duty members and veterans from the LGBTQ community. In exploring the effect of these policies on members of the LGBTQ community who serve or served in the military, the Commission would be required to hold public hearings and gather testimony from veterans and service members. This testimony would examine the lasting effects of such policies on veterans and service members' health, psychological well-being, financial and employment-related status. It would also explore any disparate effects of these policies on minority and women veterans.

The Commission would be further charged with recommending appropriate ways to educate the American public about institutionalized and government-sanctioned discrimination and appropriate recourse, including an official apology from the U.S. government; a streamlined process to upgrade discharges and amendment of service records; increase awareness of the contributions of LGBTQ service members in military service; revise diversity and inclusion policies and define how resources should be committed to diversity training; and determine additional resources needed to meet the health care needs for veterans and service members from the LGBTQ community.

DAV recognizes there are many LGBTQ veterans who have been unable to access their earned benefits or health care due to an other-than-honorable (OTH) discharge, or because of an unwillingness to seek VA services for fear of discrimination or harassment.

DAV supports this bill in accordance with DAV's Statement of Policy, which calls for "...enhanced outreach to ensure that all disabled veterans receive all benefits they have earned and that the American people understand and respect the needs these veterans encounter as a result of their disabilities."

We urge the Commission to focus on recommendations for corrective actions that DOD and VA can take now to ensure that we assist today's veterans with the impact of discriminatory policies.

H.R. 2385, Justice for Women Veterans Act

H.R. 2385, the Justice for Women Veterans Act, would require a Government Accountability Office (GAO) study on involuntary separations and discharges of women serving in the armed forces between 1951 and 1976.

Though women became able to serve as full and permanent members of the military in 1948 under the Women's Armed Services Integration Act, Executive Order 10240, signed in 1951, authorized the military to automatically and involuntarily separate or discharge a woman who became pregnant, gave birth to a child, or became a parent through the process of adoption or marriage. In 1976, the Court of Appeals for the Second Circuit found that the executive order and subsequent regulations were unconstitutional and therefore rescinded.

This discriminatory practice not only cut short many a career and potential progress for women in the military, in many cases it may have cut them off from veterans' benefits they had earned through their service. For decades, the nation has inadequately recognized the service of women in our military, and as a result many do not even consider themselves veterans. While the individuals impacted by this policy are into their 60s and beyond, an upgraded discharge could be a powerful way to acknowledge their service and contributions at the leading edge of women in the military.

There is anecdotal evidence that some women discharged under this policy encountered financial hardships, mental health issues, substance use disorders and homelessness. Additionally, Executive Order 10240 made no notable exceptions for women whose pregnancies resulted from sexual assault. Though most data on military sexual trauma (MST) focuses on younger populations, a 2019 study indicated that positive MST screens are common among women veterans over age 55, and it is recognized that MST is associated with higher prevalence of numerous medical and mental health conditions among older women¹. It is important to consider that some women may have been discharged under the policy after such trauma occurred, and then were subsequently left without the physical or mental health care they needed.

The GAO study this bill requires would help identify trends among those women who were involuntarily separated under these circumstances, and determine how those separations may have impacted the ability of those individuals to access VA health care services and benefits.

For too long, both the VA and the DOD have struggled to fully create a culture that recognizes and honors women's service and sacrifices, with this policy standing as an extreme example of that failure. We are pleased to support H.R. 2385, in accordance with DAV Resolution No. 015, which calls for proactive research and appropriate studies to address barriers to care to ensure women veterans are provided the same degree of access to services as eligible male veterans.

H.R. 2806, Honoring All Veterans Act

H.R. 2806, the Honoring All Veterans Act, would amend Section 301 of title 38, United States Code, by adding a new subsection (d), which would become the official mission statement for the Department of Veterans Affairs (VA). It would read as follows: "To fulfill President Lincoln's promise to care for those "who shall have borne the battle" and for their families, caregivers and survivors."

The bill requires the VA Secretary to publish notice of the proposed change in the federal register, update the department's website and develop and issue guidance on an explanation of the mission statement, instructions and a timeline for updating all previous mission statement references, as well as a method to monitor and evaluate how all VA offices comply with the guidance of updating all non-electronic mission statement references. The bill requires a report be submitted to Congress on the progress in implementing the change across VA.

For some women veterans the original language from the Lincoln quote has been perceived as a barrier to accessing the care they deserve. The proposed gender-neutral language in the bill conveys a mission statement of inclusiveness and most importantly, recognition of all those who have served. DAV does not have a resolution that proposes a change in VA's mission statement; however, we have no opposition to the bill.

¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6957619/>

H.R. 3930, Voices for Veterans Act

H.R. 3930, the Voices for Veterans Act, would expand the membership of the VA Advisory Committee on Minority Veterans to include veterans who are lesbian, gay, bisexual, transgender, gender diverse, gender non-conforming, intersex, or queer.

DAV recognizes the importance of ensuring there is a diverse range of representation and perspectives from the veterans' community on this federal advisory committee. As an organization committed to ensuring the protection of benefits for veterans with service-related conditions, DAV represents veterans from all service eras as well as varied racial, ethnic and sexual minorities and wants to assure that every veteran has equitable access to the benefits they have earned.

The Advisory Committee on Minority Veterans considers an array of important issues related to equity that veterans in the LGBTQ community share. However, there is limited information about this veteran population and their service-connected disabilities. This bill provides an opportunity to increase understanding about their awareness and utilization of services, their unique needs and preferences, gaps in services, barriers to care and their satisfaction with the services they receive. DAV supports this bill in accordance with DAV's Statement of Policy, which calls for "...enhanced outreach to ensure that all disabled veterans receive all benefits they have earned and that the American people understand and respect the needs these veterans encounter as a result of their disabilities."

H.R. 4845, legislation to establish an LGBTQ Advisory Committee

H.R. 4845 proposes to establish a new Advisory Committee on Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) veterans to advise the VA Secretary on benefits and health care matters relevant to this community.

The Committee would be required to meet at least twice a year and consist of LGBTQ representatives, experts in the field of LGBTQ veterans and their specific health care needs, at least one service-connected lesbian, gay or bisexual veteran and at least one service-connected transgender veteran and veterans who identify as LGBTQ, who were recently separated from service and those that were involuntarily separated. The committee would also include representatives, as ex officio members, from the Departments of Labor, Defense and the VA Under Secretary's offices for Health and Benefits.

The bill requires the Secretary to consult regularly with the Committee and issue a report with respect to the needs of LGBTQ veterans on disability compensation, health care, rehabilitation and outreach to include the Center for Women Veterans and Center for Minority Veterans.

Research indicates this sub-population of veterans experiences a number of barriers to health care and benefits including discrimination and harassment. There are a number of issues that are unique to this population, complex in scope and that need to be fully explored and properly addressed to ensure access to quality health care and services. For these reasons, DAV supports this bill in accordance with our Statement of Policy to ensure high quality medical care and enhanced outreach and access to benefits for all disabled veterans.

Draft Bill, Every Veteran Counts Act

This discussion draft, the Every Veterans Counts Act of 2021, would require VA to conduct and publish a survey of veterans every 10 years that contains information about veterans' demographic characteristics, including gender identity and sexual orientation, employment, housing and access to broadband. It would look at indicators of utilization of VA services such as enrollment in the VA health care system and service-connected disability rating. The legislation would also require VA to survey veterans about various exposures during service including exposure to environmental hazards, exposure to dead, dying or wounded people, and military sexual trauma. The survey is to include veterans from all service eras and would require VA to consult with Congress, VSOs, its advisory committees and others to review the survey to ensure that it is well designed, the methodology for administering the survey is sound and that it will collect relevant information for its purposes. VA would conduct the first survey one year after enactment of the bill and at least every 10 years thereafter.

DAV appreciates the need for this information in developing sound policy and understanding key gaps in access to VA benefits for certain populations. We suggest VA also collect information on veterans' awareness of benefits, programs and services as this may be a key obstacle in veterans' utilization of VA programs—especially in earlier service eras. We'd also recommend VA collect information about household composition—particularly veterans' responsibilities for dependent children in addition to their access to transportation and child care, if needed. Veterans often cite child care and transportation as barriers to use of VA services.

In past years, the Advisory Committee on Minority Veterans has expressed concerns that the Secretary does not adequately respond to its recommendations, particularly a long-standing recommendation to collect and publish data on veterans in racial and ethnic minorities and their applications and awards for and utilization of VA benefits and services. VA has just begun to collect data on transgender veterans and has no systematic means of collecting data on sexual orientation. The discussion draft would address some of these information gaps.

We believe the benefit of understanding the diverse number of veterans it serves is critical to VA for appropriate planning of health care services, specialized programs and resources. DAV Resolution No. 023 urges VA to continue identifying and addressing social and behavioral determinants that may affect health outcomes in

addition to barriers to health care for all service-connected veterans by minority and ethnic groups. For these reasons, we are pleased to support this draft bill.

Draft Bill, SERVE Act

The SERVE Act discussion draft would extend to former members of the armed forces, discharged on the basis of sexual orientation or gender identity, certain benefits furnished by the Secretary of Veterans Affairs. Specifically, it would allow service members that were given an entry-level separation (ELS), a discharge of under honorable conditions or a discharge under conditions other than honorable (OTH) solely due to their sexual orientation or gender identity, the ability to receive VA benefits. These benefits would include: access to medical care and hospital services; Vet Center readjustment counseling and related mental health services; interment in national cemeteries; Post-9/11 educational assistance and housing loans. It would also allow all individuals affected by the legislation to use Vet Centers regardless of their deployments to theaters of combat.

It has been estimated that since World War II and up until the repeal in 2011, more than 100,000 service members were discharged due to their sexual orientation or gender identity.² Those that received a less than honorable discharge may not have had access to VA benefits such as the GI Bill education benefits, health care benefits and burial in a national cemetery. Since “Don’t Ask, Don’t Tell” was repealed in 2011, fewer than 8% of those expelled from the military applied to the Department of Defense to upgrade their discharges to honorable.³

DAV supports all veterans receiving the benefits and services they have earned through military service. We also understand that many veterans may have been adversely affected by policies prior to the repeal of the “Don’t Ask, Don’t Tell” policy in 2011; however, DAV does not have a resolution that addresses this specific proposal and takes no position on this bill at this time.

Draft Bill, VA IDEA Data Improvement Act

This draft bill would require the VA to develop and implement a plan to improve access to certain demographic information to ensure that delivery of benefits and services to veterans is inclusive, equitable and accessible and that VA’s workforce development efforts are also inclusive.

² Matthew M. Burke, Bill Would Upgrade Records of Those Discharged Under DADT, STARS & STRIPES, June 21, 2013, <https://www.stripes.com/news/us/billwould-upgrade-records-of-those-discharged-under-dadt-1.226901>. As cited in www.efaidnbmnnnibpcajpcglclefindmkaj/viewer.html?pdfurl=https%3A%2F%2Fwww.americanbar.org%2Fcontent%2Fdam%2Faba%2Fadministrative%2Fsexual_orientation%2Fgltq-vet-webinar2021.pdf

³ <https://www.militarytimes.com/veterans/2016/06/24/few-vets-expelled-under-don-t-ask-remedy/>

VA would be required to submit a report to Congress within 180 days of enactment on the progress of the plan, to include any legislative recommendations to eliminate barriers that prevent VA from obtaining, accessing or sharing certain information about veterans.

DAV appreciates the goal of ensuring equitable access to earned benefits and services for veterans in addition to assessing its goals for diversifying its workforce. We also note that VA must remain vigilant in maintaining safeguards necessary to ensure veterans' and VA staff members' sensitive information is protected from inappropriate and unauthorized uses. We have no resolution on this specific proposal and take no position on this draft bill at this time.

Again, thank you for inviting DAV to testify at this legislative hearing. I am happy to address any questions you or any member of the Subcommittee may have for DAV.