

Executive Summary

State legislation that authorizes, caps or regulates fees for assisting veterans with VA benefits claims is unconstitutional and unnecessary.

Congress has already established a comprehensive federal system governing who may represent veterans, when fees may be charged, how representatives are regulated and how misconduct is addressed.

State-level fee schemes conflict with this system, confuse veterans and expose states to costly litigation.

Why This Matters

Veterans depend on a clear, uniform system when seeking benefits.

When states create parallel rules, veterans receive conflicting information, unaccredited operators gain legitimacy, federal protections are weakened and litigation becomes inevitable.

It also creates a system that incentivizes fraud.

The result is greater risk for veterans and taxpayers.

The “Veterans Are Adults” Argument

Some argue veterans should be free to contract with fee-based consultants. Veterans are capable decision-makers who have assumed significant responsibility in service to this country.

However, this issue is not about autonomy.

It is whether states may authorize fee-based conduct in a system Congress structured to be free and federally regulated. Adults may make poor decisions, but states cannot authorize business models that conflict with federal law. Congress has occupied the field of VA claims representation. Allowing parallel state fee regimes is a conflict with federal structure.

This is not paternalism. It is adherence to federal law and preservation of a uniform national system.

Frequently Asked Questions

Doesn't this bill protect veterans from high fees?

No. Federal law already regulates fees and provides enforcement.

Why can't states set their own limits?

Congress has occupied this field. States lack authority.

Aren't some representatives allowed to charge?

Yes, under strict federal rules and VA supervision.

What about bad actors?

The VA has disciplinary authority. Complaints should be referred to VA.

Aren't veterans adults who can decide for themselves?

Yes. Veterans are capable and informed adults. But this debate is not about individual autonomy. Congress has already established a federally regulated accreditation and fee system governing VA claims representation. States cannot authorize what federal law restricts. Protecting the integrity of that system is a matter of constitutional structure — not paternalism.

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Legislative Briefing Packet

State Bills Regulating VA Claims Fees and “Claim Sharks”

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Existing Federal Framework

Congress has fully regulated VA claims representation.

Federal Statutes (38 U.S. Code)

- **38 U.S.C. § 5901 – Definitions**
Defines who may act as a representative.
- **38 U.S.C. § 5902 – Veterans Service Organizations**
Authorizes VA-recognized VSOs to provide free assistance.
- **38 U.S.C. § 5904 – Agents and Attorneys**
Regulates when fees may be charged, fee limitations, oversight, discipline and accreditation requirements. Only federally accredited representatives may charge fees under specific conditions.

Federal Regulations (38 C.F.R.)

- **38 C.F.R. § 14.626 – Accreditation Standards**
Character, fitness and training requirements.
- **38 C.F.R. § 14.629 – Accreditation Requirements**
Mandatory education and compliance.
- **38 C.F.R. § 14.631 – Representation**
Controls appointment of representatives.
- **38 C.F.R. § 14.636 – Fees**
Governs when fees are permitted, reasonableness standards and VA review authority.

Constitutional Limitations on State Action

- **Supremacy Clause (U.S. Constitution, Article VI)**
Federal law overrides conflicting state law.
- **Federal Preemption**
Congress has occupied the field of VA claims regulation.

- **Conflict Preemption**
State laws that interfere with federal objectives are invalid.
- Courts have consistently recognized these principles in litigation involving VA claims regulation.

Problems With PLUS Act–Style Bills

These bills typically legitimize unaccredited operators, create parallel regulatory systems, conflict with VA oversight, confuse veterans, invite constitutional challenges, increase compliance burdens and waste public resources.

They do not improve veteran protection.

Existing Veteran Protections Already in Place

Veterans already receive free, accredited VSO assistance, regulated agents and attorneys, mandatory training standards, federal discipline authority, fee oversight by VA, and complaint and appeal processes.

No additional state framework is needed.

Impact on Veterans

When states regulate this area, veterans struggle to identify legitimate help, predatory operators gain credibility, claims are delayed or mishandled, benefits are reduced, appeals increase and trust in institutions erodes.

Uniform federal regulation prevents these harms.

Litigation Risk to States

Passing these bills exposes states to federal lawsuits, injunctions, attorney’s fees, compliance costs and reputational harm.

Recent court decisions demonstrate these risks clearly.

VFW Position

The VFW supports free accredited assistance, federal oversight, uniform national standards and veteran-centered protections.

The VFW opposes state fee regimes, unaccredited operators, parallel systems and exploitation of veterans.

Recommended Legislative Approach

Rather than regulating fees, states should promote awareness of accredited VSOs, partner with VA and VSOs, fund outreach and education, refer complaints to VA and strengthen veteran services infrastructure.

These measures improve protection without legal risk.

Sample Talking Points for Lawmakers

“Congress has already regulated VA claims representation under 38 U.S.C. §§ 5901–5904 and 38 C.F.R. §§ 14.626–14.636. Federal courts have made clear that states cannot override this system. Veterans already receive free, accredited help. This bill is unnecessary and unconstitutional.”

“Our focus should be on strengthening accredited assistance, not creating confusing parallel systems.”

Bottom Line

PLUS Act–style bills conflict with federal law, weaken veteran protections, invite litigation and provide no added benefit.

The best way to protect veterans is to strengthen the accredited federal system that already exists.