

— FWD ASSIST HQ —

FIELD GUIDE

Protecting Benefits Through Incarceration and Reentry

Protect your VA benefits through incarceration
and reentry.



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A FWD Assist HQ Field Guide

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This guide is education, not representation. It explains how part of the VA system works so you can handle your own business with confidence. It is not legal or claims advice, and reading it does not create any representative relationship between you and the author. The author is not affiliated with the Department of Veterans Affairs, and nothing here is endorsed by the VA.

This guide prints no live VA dollar figures and no rating percentages on purpose, because they change. Before you make a decision based on any number, check the current figure at va.gov. No book can promise you a rating; the evidence in your file decides the result. Help from an accredited Veterans Service Officer is always free.

Protecting Benefits Through Incarceration and Reentry

Protect your VA benefits through incarceration and reentry.

Companion to *Still a Veteran*.

BEFORE YOU READ ONE MORE LINE

If you're in a mental health crisis, stop and call the **Veterans Crisis Line**: dial 988, then press 1, or text 838255. It's free, confidential, and available 24 hours a day.

This is general education, not legal or claims advice, and not guidance for your specific claim. It cannot promise you a rating or an outcome, and no one can. For help with your own claim, see a free accredited representative (see [the back of this guide](#)). Nothing here creates a representative relationship.

Current as of October 2026. Rules, forms, and figures change. Check current details at va.gov.

THE BEST WAY TO USE THIS GUIDE

The strongest position is to be your own informed advocate and to work with a free accredited representative. An accredited Veterans Service Organization, such as the DAV, VFW, American Legion, or a county or state veterans office, helps at no charge. Accredited claims agents and attorneys can help too. They can't charge for work done before VA issues its initial decision on your claim, and after that they may charge a fee within the limits of 38 CFR 14.636. This guide is here so you understand your own situation and can work with them as a full partner instead of handing it over blind. If you'd rather handle this yourself, and you're comfortable doing that, the guide walks you through every step. Either way, you stay in control.

The Outcome and What You Need Before You Start

The outcome: You'll know which incarceration rule applies to you, report it to VA on time to avoid a debt, point your family toward apportionment, and get your benefits restored when you come home.

This guide prepares you for the task. It does not and cannot promise a rating, a percentage, or an outcome. The evidence in your file and the facts of your case decide the result.

WHAT YOU NEED BEFORE YOU START

- ☐ Your most recent VA award letter, so you know whether you receive compensation or pension.
- ☐ Your VA file number or Social Security number.
- ☐ Your conviction date, your confinement start date, and your custody classification in writing.
- ☐ Your expected release date, if you have one.
- ☐ One trusted person on the outside who can make calls and mail forms for you.
- ☐ Copies of your DD-214 and award letter left with that outside contact.

When to start: Now. If you're charged but not yet convicted, use this window to plan. If you're already incarcerated, start today, because the clocks in this guide run whether or not anyone is watching them.

Start Here: The Basics

Incarceration changes VA benefits but does not always end them. Compensation is generally reduced during confinement for a felony, dependents may receive an apportionment, and benefits can often be resumed after release, so acting on time protects what you're owed.

The Steps

STEP 1

Confirm which benefit you actually receive.

Pull your VA award letter and read the top. Compensation is paid for a service-connected disability and is not income-limited. Pension is a needs-based benefit for wartime veterans with limited income. The incarceration rules for the two are different, so don't guess.

If your award is tied to a disability rating, it is almost certainly compensation. **If** it was approved on your income, assets, and wartime service, it is pension. **If** you cannot tell, a free Veterans Service Officer can read the letter with you in minutes.

Done when you can say in one sentence which benefit you receive and under what authority.

STEP 2

Separate the arrest from the conviction.

An arrest, a charge, or a court date alone does not change your VA benefits. The rules turn on a conviction followed by incarceration, not on an accusation. Compensation reacts only to a felony; pension can be triggered by a felony or a misdemeanor.

If you've been arrested but not convicted, **then** your benefits continue at the normal rate. **If** you receive compensation and you're confined more than 60 days for a felony conviction, **then** it drops to a lower fixed rate set by regulation starting on day 61. **If** you receive pension and you're imprisoned more than 60 days after a felony or misdemeanor conviction, **then** it stops starting on day 61.

Where this is written down: 38 CFR § 3.665(a), (d); 38 CFR § 3.666.

Do not stop your own check out of fear after an arrest. Nothing has triggered yet, and stopping it early only hurts you.

Done when you know exactly which event triggers your benefit's rule and that day 61, not day one, is when it starts.

STEP 3

Get the three custody facts in writing and give copies to your outside contact.

Ask your attorney to put three facts in one short letter: the offense level (felony or misdemeanor), your confinement start date, and your custody classification. Those three facts decide whether the rule applies, when it starts, and whether an exception keeps you at full pay.

Done when the three facts are on paper and a copy sits with someone on the outside who can act on them.

STEP 4

Check whether an exception keeps you at full pay.

The compensation reduction applies while you're incarcerated in a federal, state, or local penal institution. The regulation counts participation in a work release or halfway house program, parole, and completion of sentence as release from incarceration. Other settings, such as home confinement or community control, depend on your legal custody status, not on what the building is called.

If you're confined in a jail or prison, **then** the rule applies on day 61. **If** you're in a work release or halfway house program or on parole, **then** the regulation treats you as released. **If** your status is anything else, **then** have a representative compare your written classification to the rule.

Where this is written down: 38 CFR § 3.665(a), (b).

Do not let a fellow resident or a guessing staff member decide this. Get your classification in writing and have a VJO specialist or a Veterans Service Officer match it against the exception before you accept any reduction.

Done when your written classification has been checked against the rule by someone who knows it.

STEP 5

Report the incarceration to the VA in writing, with dates.

Send a written notice stating your name, your VA file number or Social Security number, your confinement start date, the facility, and whether the conviction was a felony or misdemeanor. Say you're reporting so your account is corrected and to prevent an overpayment, and ask that your dependents be told of their apportionment rights. Keep a dated copy and proof you sent it.

Do not stay silent to keep the full check a few extra months. Every full payment after day 61 becomes an overpayment VA later collects out of your future checks. Reporting early is the best defense against that debt.

Done when the notice is submitted, you can prove it reached the VA, and you have kept a dated copy.

STEP 6

Connect with Veterans Justice Outreach and a free accredited representative.

Veterans Justice Outreach (VJO) serves veterans in courts and jails; Health Care for Reentry Veterans (HCRV) serves veterans in prison nearing release. Both are free and can connect you with VA services from inside. To reach them, call the nearest VA medical center and ask for the Veterans Justice Programs, or have jail, court, or family make the call. Pair them with a free accredited Veterans Service Officer, who represents your claim.

Do not pay anyone to prepare or file your initial VA claim. Accredited Veterans Service Organizations help at no charge, and accredited claims agents and attorneys may charge a fee only after VA issues its initial decision, within the limits of 38 CFR 14.636. Report a fee to the VA OIG at 1-800-488-8244.

Done when a named VJO or HCRV specialist has your name, location, and outside contact, and an accredited representative is lined up for the claim.

STEP 7

Have your dependents apply for apportionment early.

Compensation withheld from you during incarceration can be paid to your spouse, your children in equal shares, or your dependent parents. With pension, your spouse or children may get payments if their own income is low enough. VA tells your dependents about this when it knows where they are, but it isn't automatic. A dependent must apply, with proof of relationship, your file number, and current addresses. A Veterans Service Officer or VJO specialist can coordinate between you inside and the family outside.

If you have a spouse, children, or dependent parents, one of them applies on the family's behalf. **If** the children's other parent is not with you, a custodial parent or guardian can still apply for the children, who are the ones entitled to the share.

Do not wait for VA to start it. If the dependent's claim or intent to file reaches VA within one year after VA's notice to you, the apportionment can start on the date your payments were reduced. After that year, it starts only from the date of the new claim.

Where this is written down: 38 CFR § 3.665(e), (f); 38 CFR § 3.666(a); 38 CFR § 3.451(a).

Done when the dependent has filed a complete apportionment claim with all relationship documents and current addresses.

STEP 8

If a debt letter already arrived, respond before the deadline.

If full payments kept coming and VA has assessed an overpayment, don't ignore the letter. You have two main options: a dispute, which says VA got the debt or the amount wrong, and a waiver, which asks VA to forgive it because collecting would be unfair. A written dispute or waiver request within 30 days of the debt notice holds off collection from your benefit payments until VA decides. A waiver request is considered only if it's made within one year of the debt notice.

If you believe the debt or the amount is wrong, **then** dispute it in writing. **If** the debt may be valid but repaying it would be unfair or cause hardship, **then** ask a representative about a waiver. You can do both at the same time.

Where this is written down: 38 CFR § 1.911(c); 38 CFR § 1.912a(c); 38 CFR § 1.963(b).

Done when the 30-day and one-year dates are on your calendar and the letter is in front of a Veterans Service Officer.

STEP 9

Write down the reinstatement clocks and hand them to someone outside.

Two dates run the whole timeline: your confinement start date, which sets the day-61 effective date, and your expected release date, which starts the one-year reinstatement window. For compensation with no apportionment in place, VA resumes your award from your release date if it gets notice of your release within one year after release; otherwise it resumes from the date VA gets the notice. If your family had an apportionment, VA ends it and adjusts your restored payments so the same money isn't paid twice.

If you receive compensation, **then** notice within one year of release restores your award to the release date. **If** you receive pension, **then** the same one-year rule applies: notice within one year of release restores pension to the release date, so notify VA right away and confirm you still meet the pension rules.

Where this is written down: 38 CFR § 3.665(i); 38 CFR § 3.666(c).

Done when both dates and both clocks are written on paper and held by someone who can act while you cannot.

STEP 10

Notify VA of your release, ideally before you walk out.

Send a written release notice with your name, file number, release date, current mailing address, and proof of release. Arrange it through HCRV before release so the restoration is moving on day one instead of starting from a cold call weeks later.

Do not wait to notify VA. For compensation or pension, notice more than a year after release costs you the months in between.

Done when the VA has your release notice and documentation in writing and you have kept a copy.

STEP 11

Coordinate the apportionment handoff and rebuild at reentry.

As your own award restores, tell your representative that a family apportionment exists so the VA can adjust it, avoiding both a payment gap and a new overpayment. Then use your first ninety days home: reactivate any stalled claim or appeal, document conditions that worsened inside, and use HCRV and VJO to lock in health care, treatment, housing, and employment help. If bad paper was ever the barrier, the military correction boards weigh your conduct since discharge when they decide an upgrade.

Do not pay a predator at the gate. Anyone who charges to prepare or file your initial claim, or who guarantees an outcome, is someone to walk away from. Use a free accredited representative and report the fee to 1-800-488-8244.

Done when your own award is restored, the apportionment has been transitioned cleanly, and your stalled claims and care are back in motion.

Recap Checklist

- ☐ I confirmed whether I receive compensation or pension.
- ☐ I know an arrest is not the trigger; conviction plus confinement over 60 days is, starting day 61.
- ☐ I have my offense level, confinement start date, and custody classification in writing, with a copy outside.
- ☐ I checked whether work release, a halfway house, or parole counts as release in my case.
- ☐ I reported the incarceration to the VA in writing and kept dated proof.
- ☐ I connected with a VJO or HCRV specialist and a free accredited representative.
- ☐ My dependents applied for apportionment early and completely.
- ☐ If a debt letter arrived, I calendared the 30-day and one-year dates and got help with a dispute or waiver.
- ☐ I wrote down the day-61 date and the one-year reinstatement clock and gave them to someone outside.
- ☐ I notified the VA of my release, ideally before walking out, with documentation.
- ☐ I coordinated the apportionment handoff and rebuilt stalled claims and care in my first ninety days home.

Reminder: rules and rates change. Check any current figure at va.gov. Help from an accredited Veterans Service Organization is free. Accredited claims agents and attorneys can't charge for work done before VA issues its initial decision on your claim. After that, they may charge a fee within the limits of 38 CFR 14.636. This guide prepared you for the task. The evidence in your file decides the result.

Get Free, Accredited Help

For anything about your own claim, talk to an accredited representative. Help from an accredited Veterans Service Organization is free. Accredited claims agents and attorneys can't charge for work done before VA issues its initial decision on your claim. After that, they may charge a fee within the limits of 38 CFR 14.636. Free help is available through Veterans Service Organizations such as the DAV, VFW, and American Legion, and through county and state veterans offices.

To find one near you, visit va.gov/get-help-from-accredited-representative. Representation begins only when you sign VA Form 21-22 (for a Veterans Service Organization) or 21-22a (for an individual agent or attorney). With one rare exception for a single unpaid case, only accredited people can represent you before the VA, and only an accredited agent or attorney can charge you a fee. Nothing in this guide creates that relationship.

A warning about claim sharks. Anyone who offers to file your initial claim for a fee, or who guarantees you a rating or a percentage, is selling something you shouldn't buy. Accredited Veterans Service Organizations help at no charge, and accredited claims agents and attorneys may charge only after VA issues its initial decision, within the limits of 38 CFR 14.636. Report predatory companies to the VA Office of Inspector General at 1-800-488-8244.

Keep Going: The Full Guide

This field guide is the short, do-this-now companion to the book *Still a Veteran*. See every FWD Assist HQ title that is out now at fwdassisthq.com/books.

Current as of October 2026. Rules, forms, and figures change. Check current details at va.gov.

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J. Erickson is a service-disabled Air Force veteran. He served as a military firefighter and as a veteran service officer, where he spent years walking veterans through the same claims process he writes about now. He holds an MBA and writes plain-language guides for veterans who want to understand the system without a translator.

He writes the For the Rest of Us series at fwdassisthq.com. This guide is published by FWD Assist HQ as a veteran education resource. It is not affiliated with or endorsed by the Department of Veterans Affairs.