

**NATIONAL EXECUTIVE COMMITTEE  
OF  
THE AMERICAN LEGION  
INDIANAPOLIS, INDIANA  
MAY 10 - 11, 2017**

**Resolution No. 27: Amend Title 38, United States Code, to Clarify the Treatment of a  
Veteran as Adjudicated Mentally Incompetent for Certain Purposes**

**Origin: Veterans Affairs & Rehabilitation Commission**

**Submitted By: Veterans Affairs & Rehabilitation Commission**

WHEREAS, There has been much debate, speculation, and rumors concerning restriction of gun ownership of persons with mental disabilities sparked by recent tragic shootings; and

WHEREAS, Concerns have been raised regarding veterans, determined by the Department of Veterans Affairs (VA) not to be competent to handle their own funds or otherwise diagnosed with a mental disorder, will be barred from owning or purchasing firearms; and

WHEREAS, There has long been concern and speculation that VA will be required to provide information about such veterans to the Department of Justice and other law enforcement agencies, which could result in these veterans being denied the right to purchase or own firearms; and

WHEREAS, VA, on September 29, 2009, issued Fast Letter 09-38 notifying VA field examiners, fiduciary activity managers, and other employees of new reporting requirements pertaining to VA beneficiaries believed to be in violation of the federal Gun Control Act of 1968, as amended; and

WHEREAS, There appears to be legal ambiguity in this area as well as the role of VA in such matters pertaining to veterans deemed to be incompetent for VA purposes or otherwise diagnosed with a mental disorder; and

WHEREAS, Disclosure of a veteran's medical information is a direct violation of Federal privacy laws (HIPAA); and

WHEREAS, Gun ownership is a specific right protected under the Second Amendment of the U.S. Constitution; now, therefore, be it

**RESOLVED, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on May 10-11, 2017, That The American Legion shall support legislation to amend Title 38, United States Code, to clarify the treatment of a veteran as adjudicated by the Department of Veterans Affairs as mentally incompetent for certain purposes; and, be it further**

**RESOLVED, That such legislation mandate that, in any case arising out of the administration by the secretary of Veterans Affairs of laws and benefits under Title 38, United States Code, a person who is mentally incapacitated, deemed mentally incompetent, or experiencing an extended loss of consciousness, shall not be considered adjudicated as a mental defective under subsection (d) (4) or (g)(4) of section 922 of Title 18, United States Code without the order or finding of a judge, magistrate, or other judicial authority of competent jurisdiction that such person is a danger to himself/herself or others; and, be it finally**

**RESOLVED, That the Department of Veterans Affairs is barred from transmitting in any form, findings about a veteran's mental status or ability to handle his or her own funds, to other agencies without the order or finding of a judge, magistrate, or other judicial authority of competent jurisdiction.**