

Union Calendar No. 112

119TH CONGRESS
1ST SESSION

H. R. 1041

[Report No. 119-143]

To amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from transmitting certain information to the Department of Justice for use by the national instant criminal background check system.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2025

Mr. BOST (for himself, Mr. LUTTRELL, Mr. BERGMAN, Mrs. BIGGS of South Carolina, Mr. FINSTAD, Mr. LAHOOD, Mr. FULCHER, Mr. EDWARDS, Mr. WEBSTER of Florida, Mr. BACON, Mr. ZINKE, Mr. GRAVES, Mr. NEWHOUSE, Ms. MACE, Ms. TENNEY, Mr. ALFORD, Mr. VAN ORDEN, Mr. HUDSON, Mr. GUTHRIE, Mr. ROY, Mrs. CAMMACK, Mr. KELLY of Pennsylvania, Mr. MOOLENAAR, Mr. FEENSTRA, Mr. BILIRAKIS, Mr. HARRIS of Maryland, Mrs. MILLER-MEEKS, Mr. BABIN, Mr. BAIRD, Mr. MOORE of Alabama, Mr. OBERNOLTE, Mr. AMODEI of Nevada, Mr. CRENSHAW, Mr. COLLINS, Mr. HAMADEH of Arizona, Mr. GROTHMAN, Mr. JACKSON of Texas, Mr. STAUBER, Mr. SMITH of Nebraska, Mr. RULLI, and Mr. YAKYM) introduced the following bill; which was referred to the Committee on Veterans' Affairs

JUNE 5, 2025

Additional sponsors: Mr. BARRETT, Mr. LANGWORTHY, Mrs. HINSON, Mr. MESSMER, Mr. MURPHY, Mr. OWENS, Mr. STEUBE, Mrs. HOUCHIN, Mr. SELF, Mr. BARR, Ms. HAGEMAN, Mr. DOWNING, Mr. MEUSER, Mr. HIGGINS of Louisiana, Mr. ROGERS of Kentucky, Mr. COMER, Ms. STEFANIK, Mr. CRANK, Mr. GILL of Texas, Mr. HUIZENGA, Mr. MOORE of North Carolina, Mr. TAYLOR, Mrs. FISCHBACH, Mr. EZELL, Mr. HURD of Colorado, Mr. CLINE, Ms. DE LA CRUZ, Mr. McDOWELL, Mr. HARRIS of North Carolina, and Mr. RUTHERFORD

JUNE 5, 2025

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]
[For text of introduced bill, see copy of bill as introduced on February 6, 2025]

A BILL

To amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from transmitting certain information to the Department of Justice for use by the national instant criminal background check system.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Veterans 2nd Amend-*
5 *ment Protection Act”.*

6 **SEC. 2. PROHIBITION ON SECRETARY OF VETERANS AF-**
7 **FAIRS TRANSMITTAL OF CERTAIN INFORMA-**
8 **TION TO THE DEPARTMENT OF JUSTICE FOR**
9 **USE BY THE NATIONAL INSTANT CRIMINAL**
10 **BACKGROUND CHECK SYSTEM.**

11 *(a) IN GENERAL.—Chapter 55 of title 38, United*
12 *States Code, is amended by inserting after section 5501A*
13 *the following new section:*

14 **“§ 5501B. Prohibition on transmittal of certain infor-**
15 **mation to the Department of Justice for**
16 **use by the national instant criminal back-**
17 **ground check system**

18 *“The Secretary may not transmit to any entity in the*
19 *Department of Justice, for use by the national instant*
20 *criminal background check system established under section*
21 *103 of the Brady Handgun Violence Prevention Act (34*
22 *U.S.C. 40901; Public Law 103–159; 107 Stat. 1541), per-*
23 *sonally identifiable information of a beneficiary, solely on*
24 *the basis of a determination by the Secretary to pay benefits*
25 *to a fiduciary for the use and benefit of the beneficiary*

1 *under section 5502 of this title, without the order or finding*
 2 *of a judge, magistrate, or other judicial authority of com-*
 3 *petent jurisdiction that such beneficiary is a danger to*
 4 *themselves or others.”.*

5 (b) *CLERICAL AMENDMENT.—The table of sections at*
 6 *the beginning of chapter 55 of such title is amended by in-*
 7 *serting after the item relating to section 5501A the following*
 8 *new item:*

“5501B. Prohibition on transmittal of certain information to the Department of
Justice for use by the national instant criminal background
check system.”.

9 **SEC. 3. NOTIFICATION OF LACK OF BASIS FOR THE SEC-**
 10 **RETARY OF VETERANS AFFAIRS TO HAVE**
 11 **TRANSMITTED CERTAIN INFORMATION TO**
 12 **THE DEPARTMENT OF JUSTICE FOR USE BY**
 13 **THE NATIONAL INSTANT CRIMINAL BACK-**
 14 **GROUND CHECK SYSTEM.**

15 (a) *IN GENERAL.—Such chapter (as amended by sec-*
 16 *tion 2) is further amended by inserting after section 5501B*
 17 *the following new section:*

18 **“§ 5501C. Notification of lack of basis for transmittal**
 19 **of certain information to the Department**
 20 **of Justice for use by the national instant**
 21 **criminal background check system**

22 *“The Secretary shall, within 30 days of the enactment*
 23 *of the Veterans 2nd Amendment Protection Act, and in ac-*
 24 *cordance with section 103(e)(1)(D) of the Brady Handgun*

1 *Violence Prevention Act (34 U.S.C. 40901(e)(1)(D); Public*
 2 *Law 103–159; 107 Stat. 1541), notify the Attorney General*
 3 *that the basis for the transmittal, on or after November 30,*
 4 *1993, by the Secretary, of personally identifiable informa-*
 5 *tion of a beneficiary, solely on the basis of a determination*
 6 *by the Secretary to pay benefits to a fiduciary for the use*
 7 *and benefit of the beneficiary under section 5502 of this*
 8 *title, to any entity in the Department of Justice, for use*
 9 *by the national instant criminal background check system*
 10 *established under section 103 of the Brady Handgun Vio-*
 11 *lence Prevention Act (34 U.S.C. 40901; Public Law 103–*
 12 *159; 107 Stat. 1541), does not apply, or no longer applies.”.*

13 **(b) CLERICAL AMENDMENT.**—*The table of sections at*
 14 *the beginning of such chapter (as amended by section 2)*
 15 *is further amended by inserting after the item relating to*
 16 *section 5501B the following new item:*

*“5501C. Notification of lack of basis for transmittal of certain information to the
 Department of Justice for use by the national instant criminal
 background check system.”.*

17 **SEC. 4. DETERMINATION BY THE SECRETARY OF VETERANS**
 18 **AFFAIRS THAT A PERSON IS MENTALLY IN-**
 19 **COMPETENT IS INSUFFICIENT TO TREAT**
 20 **SUCH PERSON AS A MENTAL DEFECTIVE.**

21 **(a) IN GENERAL.**—*Such chapter (as amended by sec-*
 22 *tions 2 and 3) is further amended by inserting after section*
 23 *5501C the following new section:*

1 ***“§ 5501D. Determination of mental incompetence is in-***
2 ***sufficient basis to treat a person as a***
3 ***mental defective***

4 *“The Secretary shall not treat a person as having been*
5 *adjudicated as a mental defective solely on the basis that*
6 *the Secretary has determined that such person—*

7 *“(1) is mentally incompetent under section 3.353*
8 *of title 38, Code of Federal Regulations (or successor*
9 *regulation); or*

10 *“(2) requires a fiduciary under section 5502 of*
11 *this title.”.*

12 *(b) CLERICAL AMENDMENT.—The table of sections at*
13 *the beginning of such chapter (as amended by sections 2*
14 *and 3) is further amended by inserting after the item relat-*
15 *ing to section 5501C the following new item:*

“5501D. Determination of mental incompetence is insufficient basis to treat a per-
son as a mental defective”.

Amend the title so as to read: “A bill to amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from transmitting certain information to the Department of Justice for use by the national instant criminal background check system, and for other purposes.”.

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