

119TH CONGRESS
2^D SESSION

H. R. 1041

AN ACT

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.

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

1 **SECTION 1. SHORT TITLE.**

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

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

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

12 **“§ 5501B. Prohibition on transmittal of certain infor-**
13 **mation to the Department of Justice for**
14 **use by the national instant criminal back-**
15 **ground check system**

16 “The Secretary may not transmit to any entity in the
17 Department of Justice, for use by the national instant
18 criminal background check system established under sec-
19 tion 103 of the Brady Handgun Violence Prevention Act
20 (34 U.S.C. 40901; Public Law 103–159; 107 Stat. 1541),
21 personally identifiable information of a beneficiary, solely
22 on the basis of a determination by the Secretary to pay
23 benefits to a fiduciary for the use and benefit of the bene-
24 ficiary under section 5502 of this title, without the order
25 or finding of a judge, magistrate, or other judicial author-

1 ity of competent jurisdiction that such beneficiary is a
2 danger to themselves or others.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of chapter 55 of such title is amended
5 by inserting after the item relating to section 5501A the
6 following new item:

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

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

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

16 **“§ 5501C. Notification of lack of basis for transmittal**
17 **of certain information to the Department**
18 **of Justice for use by the national instant**
19 **criminal background check system**

20 “The Secretary shall, within 30 days of the enact-
21 ment of the Veterans 2nd Amendment Protection Act, and
22 in accordance with section 103(e)(1)(D) of the Brady
23 Handgun Violence Prevention Act (34 U.S.C.
24 40901(e)(1)(D); Public Law 103–159; 107 Stat. 1541),

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

12 (b) CLERICAL AMENDMENT.—The table of sections
 13 at the beginning of such chapter (as amended by section
 14 2) is further amended by inserting after the item relating
 15 to 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.”.

16 **SEC. 4. DETERMINATION BY THE SECRETARY OF VET-**
 17 **ERANS AFFAIRS THAT A PERSON IS MEN-**
 18 **TALLY INCOMPETENT IS INSUFFICIENT TO**
 19 **TREAT SUCH PERSON AS A MENTAL DEFEC-**
 20 **TIVE.**

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

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

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

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

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

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

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

Passed the House of Representatives May 21, 2026.

Attest:

Clerk.

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