

112TH CONGRESS
1ST SESSION

S. 1080

To provide veterans with individualized notice about available benefits, to streamline application processes for the benefits, to provide for automatic enrollment of veterans returning from combat zones into the Department of Veterans Affairs medical system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2011

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To provide veterans with individualized notice about available benefits, to streamline application processes for the benefits, to provide for automatic enrollment of veterans returning from combat zones into the Department of Veterans Affairs medical 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Providing Real Out-
5 reach for Veterans Act of 2011” or the “PRO-VETS Act
6 of 2011”.

1 **SEC. 2. SHARING INFORMATION TO IMPROVE VETERANS'**
2 **ACCESS TO BENEFITS.**

3 (a) **AGREEMENT ON DATA TRANSFER.—**

4 (1) **IN GENERAL.—**The Secretary of Veterans
5 Affairs shall enter an agreement with the Secretary
6 of Defense providing for the transfer of data to the
7 Secretary of Veterans Affairs in accordance with this
8 section for the purpose of providing members of the
9 Armed Forces and veterans with individualized in-
10 formation about veterans benefits each member and
11 veteran may be eligible for.

12 (2) **CONTENTS OF AGREEMENT.—**

13 (A) **SPECIFIC CRITERIA FOR IDENTIFICA-**
14 **TION OF DATA.—**The agreement shall specify
15 criteria to identify data of the Department of
16 Defense, including personnel data and data con-
17 tained in an electronic medical record system,
18 that the Secretary of Defense and the Secretary
19 of Veterans Affairs agree could be used by the
20 Secretary of Veterans Affairs—

21 (i) to determine the eligibility of a
22 member of the Armed Forces or veteran
23 for veterans benefits; and

24 (ii) as an indicator of a likelihood that
25 a member of the Armed Forces or veteran
26 is eligible for veterans benefits.

1 (B) ELECTRONIC DATA TRANSFER METH-
2 OD.—The agreement shall contain a description
3 of an efficient electronic method to be used for
4 the transfer of data identified in accordance
5 with the criteria specified under subparagraph
6 (A) under the agreement.

7 (C) TRANSFER OF DATA.—Under the
8 agreement, the Secretary of Defense shall
9 transfer data identified in accordance with the
10 criteria under subparagraph (A) to the Sec-
11 retary of Veterans Affairs as follows:

12 (i) In the case of a member of the
13 Armed Forces who is scheduled for dis-
14 charge or separation from service, at the
15 time the Secretary of Defense first learns
16 of the scheduled discharge or separation,
17 but not later than one month after the
18 date of discharge or separation.

19 (ii) In the case of a member of the
20 Armed Forces or veteran not covered
21 under clause (i), at such time as is speci-
22 fied under the agreement, but subject to
23 subsection (e).

24 (b) IDENTIFICATION OF BENEFITS AVAILABLE.—

1 (1) GENERATION OF INITIAL LIST.—Not later
2 than seven days after the date the Secretary of Vet-
3 erans Affairs receives data concerning a member of
4 the Armed Forces or veteran under the agreement
5 under subsection (a), the Secretary shall compile a
6 list with respect to the member or veteran of all vet-
7 erans benefits for which the member or veteran may
8 be eligible based on the data. The list shall be di-
9 vided into—

10 (A) benefits for which the member or vet-
11 eran has a high probability of being eligible;
12 and

13 (B) all other benefits for which the mem-
14 ber or veteran may be eligible.

15 (2) UPDATED BENEFITS LIST.—The Secretary
16 shall update the list under paragraph (1) with re-
17 spect to a member of the Armed Forces or veteran
18 on an annual basis using any information that the
19 Department of Veterans Affairs may possess about
20 the member or veteran.

21 (c) NOTIFICATION OF AVAILABLE BENEFITS.—

22 (1) INITIAL NOTIFICATION.—Upon compiling
23 the list of benefits under subsection (b)(1)(A) with
24 respect to a member of the Armed Forces or vet-
25 eran, the Secretary of Veterans Affairs shall send a

1 notice of the benefits to the member or veteran or
2 the legal representative of the member or veteran.
3 The notice shall also contain an explanation of each
4 such benefit and a summary of any application re-
5 quirements and procedures that the member or vet-
6 eran must comply with to be eligible to receive the
7 benefit.

8 (2) SUBSEQUENT NOTIFICATIONS.—

9 (A) SECOND NOTICE.—If a member of the
10 Armed Forces or veteran provided a notice
11 under paragraph (1) does not apply for any
12 benefit listed in the notice by the end of the 60-
13 day period beginning on the date that the Sec-
14 retary sent the notice, the Secretary shall send
15 a second notice to the member or veteran or the
16 legal representative of the member or veteran.
17 The notice shall contain the same information
18 as the notice sent to the member, veteran, or
19 legal representative under paragraph (1).

20 (B) SUBSEQUENT ANNUAL NOTICES.—If a
21 member of the Armed Forces or veteran pro-
22 vided a notice under subparagraph (A) does not
23 apply for any benefit listed in the notice by the
24 end of the year beginning on the date that the
25 Secretary sent the notice, the Secretary shall

1 send a subsequent notice to the member or vet-
2 eran or the legal representative of the member
3 or veteran. The notice shall contain information
4 on the veterans benefits for which the member
5 or veteran has a high probability of being eligi-
6 ble based on the updated list under subsection
7 (b)(2) with respect to the member or veteran.

8 (3) NOTICES BASED ON CHANGED CIR-
9 CUMSTANCES.—

10 (A) IN GENERAL.—The Secretary shall
11 send a notice to the member or veteran or the
12 legal representative of the member or veteran if,
13 based on data available to the Secretary, the
14 Secretary identifies a member of the Armed
15 Forces or veteran as having a high probability
16 of being eligible for a veterans benefit and—

17 (i) the member or veteran has not ap-
18 plied for the benefit;

19 (ii) the Secretary has not sent the
20 member or veteran a notice under this sub-
21 section with respect to the benefit; and

22 (iii) the Secretary has not informed
23 the member or veteran of the benefit under
24 subsection (d)(2) or any other provision of
25 law.

1 (B) CONTENTS.—The notice under sub-
2 paragraph (A) shall contain information on the
3 benefit for which the veteran has a high prob-
4 ability of being eligible, an explanation of such
5 benefit, and a summary of any application re-
6 quirements and procedures that the member or
7 veteran must comply with to be eligible to re-
8 ceive the benefit.

9 (4) OPTION TO DECLINE FURTHER NOTICES.—

10 (A) IN GENERAL.—The Secretary shall
11 provide each member of the Armed Forces and
12 veteran that is sent a notice under this sub-
13 section with the option to decline further no-
14 tices under this subsection.

15 (B) NOTICE OF OPTION.—Each notice
16 under this subsection shall include information
17 concerning the option to decline further notices
18 under this subsection.

19 (C) PROHIBITION OF FURTHER NO-
20 TICES.—If a member of the Armed Forces or
21 veteran declines further notices under this para-
22 graph, the Secretary may not send any notices
23 under this section to the member or veteran
24 after the date the member or veteran declines
25 further notices.

1 (5) METHOD OF DELIVERY OF NOTICES.—

2 (A) IN GENERAL.—Subject to subpara-
3 graph (B), all notices under this subsection
4 shall be sent—

5 (i) by mail; and

6 (ii) electronically, if the Secretary has
7 electronic contact information for the
8 member, veteran, or legal representative of
9 the member or veteran.

10 (B) OPTION ON METHOD OF DELIVERY OF
11 NOTICES.—The Secretary shall provide each
12 member and veteran with the opportunity to be
13 sent notices under this subsection solely—

14 (i) by mail; or

15 (ii) through electronic methods, such
16 as e-mail.

17 (d) APPLICATION PROCESS.—

18 (1) STREAMLINED APPLICATION PROCESS.—

19 (A) IN GENERAL.—The Secretary of Vet-
20 erans Affairs shall use the data received under
21 subsection (a) and any additional relevant data
22 that the Department of Veterans Affairs has in
23 its possession to reduce the amount of informa-
24 tion that a member of the Armed Forces or vet-
25 eran must provide when the member or veteran

1 applies to the Department for veterans benefits.
2 The use of such data may include prepopulating
3 a paper or Internet Web site-based application
4 form to be used by the member or veteran with
5 the data.

6 (B) CONFIRMATION.—The Secretary may
7 require that a member of the Armed Forces or
8 veteran confirm or verify any data that the De-
9 partment of Veterans Affairs uses under sub-
10 paragraph (A) to determine the eligibility of the
11 member or veteran for veterans benefits.

12 (2) EVALUATION OF ELIGIBILITY.—

13 (A) REVIEW OF LIST.—When evaluating a
14 member of the Armed Forces or veteran for eli-
15 gibility for veterans benefits, the Secretary shall
16 review the list of benefits for the member or
17 veteran compiled under subsection (b).

18 (B) DISCLOSURE OF INFORMATION.—If
19 the Secretary determines that the member or
20 veteran has a high probability of being eligible
21 for a benefit so listed for which the member or
22 veteran did not apply, the Secretary shall in-
23 form the member or veteran of the benefit and
24 of the opportunity to apply for the benefit.

1 (C) RECORD OF DISCLOSURE.—If the Sec-
2 retary informs a member or veteran of a benefit
3 under subparagraph (B), the Secretary shall
4 keep a record, for a period of not less than five
5 years, that contains, at a minimum,—

6 (i) the date on which the Secretary in-
7 formed the member or veteran of such ben-
8 efit;

9 (ii) the name of the member or vet-
10 eran; and

11 (iii) a general description of the infor-
12 mation provided to the member or veteran
13 by the Secretary.

14 (3) NOTICE OF DENIAL.—Not later than 30
15 days after the date a member of the Armed Forces
16 or veteran is determined not eligible for a veterans
17 benefit for which the member or veteran has applied,
18 the Secretary shall provide notice to the member or
19 veteran of the determination. The notice shall in-
20 clude an explanation of the reason for the deter-
21 mination.

22 (e) TRANSITION PERIOD.—Not later than five years
23 after the date of the enactment of this Act, for all veterans
24 discharged from the Armed Forces prior to the date of
25 the enactment of this Act, the Secretary of Defense shall

1 transfer to the Department of Veterans Affairs all data
2 that exists in electronic systems of the Department of De-
3 fense on the date of the transfer and that meet the criteria
4 specified in subsection (a)(2)(A).

5 (f) RELATION TO OTHER LAW.—The Secretary of
6 Veterans Affairs shall implement this section in a manner
7 that does not conflict with the processes, procedures, and
8 standards for the transition of recovering members of the
9 Armed Forces from care and treatment through the De-
10 partment of Defense to care, treatment, and rehabilitation
11 through the Department of Veterans Affairs under section
12 1614 of the Wounded Warrior Act (title XVI of Public
13 Law 110–181; 10 U.S.C. 1071 note).

14 (g) PRIVACY.—

15 (1) IN GENERAL.—The Secretary of Defense
16 shall provide a member of the Armed Forces or a
17 veteran the opportunity to decline authorization for
18 the transfer under subsection (a) of some or all of
19 the data associated with the member or veteran.

20 (2) CONSENT PRESUMED.—If a member of the
21 Armed Forces or veteran does not decline an author-
22 ization under paragraph (1), the member or veteran
23 shall be treated as having authorized the transfer of
24 data under subsection (a) until any date on which

1 the member or veteran declines the authorization of
2 the transfer.

3 (3) PROHIBITION OF DATA TRANSFER.—Data
4 associated with a member of the Armed Forces or
5 a veteran may not be transferred under subsection
6 (a) after any date on which the member or veteran
7 declines the authorization of such transfer under
8 paragraph (1).

9 (4) CONSTRUCTION.—

10 (A) HEALTH INSURANCE PORTABILITY
11 AND ACCOUNTABILITY ACT.—Nothing in this
12 section shall be construed as waiving regula-
13 tions promulgated under section 264(c) of the
14 Health Insurance Portability and Accountability
15 Act of 1996 (Public Law 104–191).

16 (B) PRIVACY ACT.—Transfers of data to
17 the Secretary of Veterans Affairs under the
18 agreement under subsection (a) shall be treated
19 as a routine use of a record for purposes of sec-
20 tion 552a of title 5, United States Code.

1 **SEC. 3. AUTOMATIC ENROLLMENT OF VETERANS RETURN-**
2 **ING FROM COMBAT ZONES INTO DEPART-**
3 **MENT OF VETERANS AFFAIRS MEDICAL SYS-**
4 **TEM.**

5 (a) IN GENERAL.—Except as provided in subsection
6 (b), not later than 45 days after the date on which a vet-
7 eran described in section 1710(e)(1)(D) of title 38, United
8 States Code, is discharged or separated from service in
9 the active military, naval, or air service, the Secretary of
10 Veterans Affairs shall, in cooperation with the Secretary
11 of Defense—

12 (1) enroll such veteran in the system of annual
13 enrollment established and operated by the Secretary
14 of Veterans Affairs under section 1705 of such title;
15 and

16 (2) provide such veteran with—

17 (A) a veterans identification card that—

18 (i) demonstrates that such veteran is
19 enrolled in such system; and

20 (ii) allows such veteran to access hos-
21 pital care and medical services at Depart-
22 ment of Veterans Affairs medical facilities
23 for which the veteran is eligible at medical
24 facilities of the Department; and

25 (B) a list of Department of Veterans Af-
26 fairs medical facilities (including hospitals, out-

1 patient centers, and mental health clinics) that
2 are—

3 (i) located within 100 miles of the
4 home of such veteran; or

5 (ii) the closest to the veteran's home,
6 if no such facilities are located within 100
7 miles of the home of such veteran.

8 (b) OPT-OUT PROVISIONS.—

9 (1) PRIOR TO ENROLLMENT.—

10 (A) OPTION NOT TO ENROLL.—During the
11 discharge or separation process for a person
12 from active military, naval, or air service, and
13 prior to enrolling the person pursuant to sub-
14 section (a)(1), the Secretary of Veterans Affairs
15 shall, in coordination with the Secretary of De-
16 fense, provide the person with the option to de-
17 cline such enrollment.

18 (B) NOTICE TO SECRETARY; PROHIBITION
19 ON ENROLLMENT.—If a person provides notice
20 to the Secretary of Veterans Affairs that the
21 person is declining enrollment under subpara-
22 graph (A), the Secretary may not enroll the
23 person pursuant to subsection (a)(1).

24 (2) SUBSEQUENT TO ENROLLMENT.—

1 (A) NOTICE TO SECRETARY.—Not later
2 than 180 days after the date on which a vet-
3 eran is enrolled under section 1705 of title 38,
4 United States Code, pursuant to subsection
5 (a)(1), a veteran so enrolled may disenroll from
6 the patient enrollment system under such sec-
7 tion by providing notice to the Secretary of Vet-
8 erans Affairs.

9 (B) DISENROLLMENT.—Not later than 60
10 days after receiving notice from a veteran under
11 subparagraph (A), the Secretary of Veterans
12 Affairs shall disenroll such veteran from such
13 patient enrollment system.

14 (c) EFFECTIVE DATE.—This section shall take effect
15 on the date that is 90 days after the date of the enactment
16 of this Act.

17 **SEC. 4. DEFINITIONS.**

18 In this Act:

19 (1) VETERAN.—The term “veteran” has the
20 meaning given such term in section 101 of title 38,
21 United States Code.

22 (2) ARMED FORCES.—The term “Armed
23 Forces” has the meaning given the term “armed
24 forces” in section 101 of title 10, United States
25 Code.

1 (3) VETERANS BENEFITS.—The term “veterans
2 benefits” means benefits under laws administered by
3 the Secretary of Veterans Affairs.

○