

117TH CONGRESS
1ST SESSION

S. 2786

To require the Secretary of Veterans Affairs to address the inappropriate or unlawful denial by the Department of Veterans Affairs of benefits and services for former members of the Armed Forces who were discharged or released from the active military, naval, or air service under conditions characterized as neither dishonorable nor honorable, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2021

Mr. BLUMENTHAL (for himself and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To require the Secretary of Veterans Affairs to address the inappropriate or unlawful denial by the Department of Veterans Affairs of benefits and services for former members of the Armed Forces who were discharged or released from the active military, naval, or air service under conditions characterized as neither dishonorable nor honorable, 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 “Unlawful Turn-Aways
3 Act of 2021”.

4 **SEC. 2. ADDRESSING DEPARTMENT OF VETERANS AFFAIRS**
5 **TURN-AWAY PROBLEM.**

6 (a) IMPROVING TRAINING, GUIDANCE, AND OVER-
7 SIGHT OF DEPARTMENT OF VETERANS AFFAIRS
8 STAFF.—

9 (1) TRAINING.—

10 (A) FOR ALL EMPLOYEES.—The Secretary
11 of Veterans Affairs shall require all employees
12 of the Department of Veterans Affairs to par-
13 ticipate in uniform, national training on char-
14 acter of discharge eligibility standards for bene-
15 fits and services provided under laws adminis-
16 tered by the Secretary.

17 (B) FOR FRONT-LINE STAFF.—The Sec-
18 retary shall require all employees of the Depart-
19 ment who the Secretary considers front-line
20 staff, including employees of the Department
21 that the Secretary considers Department facil-
22 ity enrollment and eligibility staff, to partici-
23 pate, as soon as practicable after the date of
24 the enactment of this Act and periodically
25 thereafter, in training described in subpara-
26 graph (A).

1 (2) REQUIREMENT THAT ANY CONTACT WITH
2 DEPARTMENT OF VETERANS AFFAIRS SEEKING
3 HEALTH CARE FROM DEPARTMENT BE RECORDED IN
4 ELECTRONIC HEALTH MANAGEMENT SYSTEM.—The
5 Secretary shall ensure that any contact made by an
6 individual seeking health care from the Department
7 is recorded in the electronic health management sys-
8 tem of the Department.

9 (3) DESIGNATION OF POSITIONS.—

10 (A) IN GENERAL.—The Secretary shall
11 designate a national-level position and establish
12 senior positions within each regional office of
13 the Department to focus on issues affecting in-
14 dividuals who served in the active military,
15 naval, or air service and who were discharged or
16 released therefrom under conditions character-
17 ized as neither honorable nor dishonorable.

18 (B) CONGRESSIONAL UPDATES.—The offi-
19 cial designated to a national-level position
20 under subparagraph (A) shall provide Congress
21 with updates, on a regular basis, on progress
22 made by the Department in providing benefits
23 and services to individuals described in sub-
24 paragraph (A).

25 (b) REMEDY PAST UNLAWFUL TURN-AWAYS.—

1 (1) ASSESSMENT, IDENTIFICATION, REC-
2 COMMENDATIONS, AND REPORT.—Not later than one
3 year after the date of the enactment of this Act, the
4 Inspector General of the Department of Veterans af-
5 fairs shall—

6 (A) conduct an assessment of the practices
7 of the Department involving denying benefits
8 and services to individuals seeking such benefits
9 and services from the Department based on a
10 discharge or release from service in the active
11 military, naval, or air service under conditions
12 that were characterized as neither honorable
13 nor dishonorable;

14 (B) identify whether any denials described
15 in subparagraph (A) were unlawful and the
16 scope of such unlawful denials by the Depart-
17 ment;

18 (C) develop recommendations for legislative
19 or administrative action to limit the occurrence
20 of unlawful denials described in subparagraph
21 (B); and

22 (D) submit to Congress a report on the
23 findings of the Inspector General under sub-
24 paragraphs (A) through (C).

25 (2) NOTICE.—

1 (A) IN GENERAL.—The Secretary shall—

2 (i) notify all individuals who were dis-
3 charged or released from service in the ac-
4 tive military, naval, or air service under
5 conditions that were characterized as nei-
6 ther honorable nor dishonorable about
7 their right to apply for health care and
8 benefits from the Department; and

9 (ii) encourage individuals described in
10 clause (i) to apply for health care and ben-
11 efits described in such clause, even if they
12 have previously been denied or turned
13 away from the Department.

14 (B) MANNER.—The Secretary shall carry
15 out subparagraph (A) by sending individuals
16 described in such subparagraph a letter to last
17 known address on file with Social Security Ad-
18 ministration.

19 (3) OUTREACH.—

20 (A) PROGRAM REQUIRED.—The Secretary
21 shall carry out a program of public outreach,
22 including via the internet and through mailed
23 notices, to covered individuals described in sub-
24 paragraph (B) who may have been unlawfully
25 denied a benefit or service from the Department

1 based on the characterization of their discharge
2 or release from service in the active military,
3 naval, or air service.

4 (B) COVERED INDIVIDUALS.—For pur-
5 poses of this paragraph, a covered individual is
6 an individual who was discharged or released
7 from service in the active military, naval, or air
8 service under conditions that were characterized
9 as neither honorable nor dishonorable.

10 (C) CONTENTS.—Outreach carried out
11 pursuant to the program required by subpara-
12 graph (A) shall include distribution of informa-
13 tion about what benefits and services covered
14 individuals may be eligible for under laws ad-
15 ministered by the Secretary of Veterans Affairs.

16 (D) MANNER.—Outreach under the pro-
17 gram required by subparagraph (A) shall in-
18 clude the following methods of contact:

19 (i) Traditional and social media.

20 (ii) Websites and blogs of the Depart-
21 ment.

22 (iii) Informational brochures and fact
23 sheets.

24 (iv) Community events.

1 (c) SIMPLIFYING ELIGIBILITY STANDARDS AND
2 PROCESSES.—

3 (1) MODIFICATION OF DEFINITION OF VET-
4 ERAN.—Section 101(2) of title 38, United States
5 Code, is amended by striking “under conditions
6 other than dishonorable” and inserting “, other than
7 a person whose rights are barred by section 5303(a)
8 of this title”.

9 (2) VETERANS JUSTICE OUTREACH PROGRAM
10 SERVICES.—

11 (A) IN GENERAL.—The Secretary of Vet-
12 erans Affairs shall ensure that services provided
13 by the Veterans Justice Outreach Program are
14 available to all individuals who served in the ac-
15 tive military, naval, or air service, regardless of
16 the nature of their discharge or release from
17 such service.

18 (B) VETERANS JUSTICE OUTREACH PRO-
19 GRAM DEFINED.—In this paragraph:

20 (i) JUSTICE-INVOLVED VETERAN.—

21 The term “justice-involved veteran” means
22 a veteran with active, ongoing, or recent
23 contact with some component of a local
24 criminal justice system.

1 (ii) LOCAL CRIMINAL JUSTICE SYS-
 2 TEM.—The term “local criminal justice
 3 system” means law enforcement, jails,
 4 prisons, and Federal, State, and local
 5 courts.

6 (iii) VETERANS JUSTICE OUTREACH
 7 PROGRAM.—The term “Veterans Justice
 8 Outreach Program” means the program
 9 through which the Department of Veterans
 10 Affairs identifies justice-involved veterans
 11 and provides such veterans with access to
 12 Department services.

13 (d) DEFINITIONS.—In this section, the terms “active
 14 military, naval, or air service” and “veteran” have the
 15 meanings given such terms in section 101 of title 38,
 16 United States Code.

17 **SEC. 3. MODIFICATION OF REQUIREMENTS RELATING TO**
 18 **ELIGIBILITY FOR CERTAIN COUNSELING**
 19 **SERVICES FROM DEPARTMENT OF VETERANS**
 20 **AFFAIRS.**

21 (a) COUNSELING FOR MILITARY SEXUAL TRAUMA.—
 22 Section 1720I(b) of title 38, United States Code, is
 23 amended—

24 (1) in paragraph (4)—

25 (A) by striking subparagraph (B); and

1 (B) in subparagraph (A), by striking
 2 “(A)(i) served” and inserting “(i) served”; and
 3 (2) in paragraph (2), by redesignating subpara-
 4 graphs (A) and (B) as clauses (i) and (ii), respec-
 5 tively;

6 (3) in paragraph (1), by striking “is a former
 7 member” and inserting “(A) is a former member”;

8 (4) by redesignating paragraphs (2) through
 9 (4) as subparagraphs (B) through (D), respectively;
 10 and

11 (5) by adding at the end the following new
 12 paragraph:

13 “(2)(A) is a former member of the Armed Forces,
 14 including the reserve components;

15 “(B) is not enrolled in the health care system estab-
 16 lished by section 1705 of this title; and

17 “(C) while serving in the Armed Forces, was the vic-
 18 tim of a physical assault of a sexual nature, a battery of
 19 a sexual nature, or sexual harassment (as defined in sec-
 20 tion 1720D(f) of this title).”.

21 (b) COUNSELING IN VET CENTERS.—

22 (1) IN GENERAL.—Section 1712A(a)(1)(C) of
 23 such title is amended—

24 (A) by striking “individual who is a vet-
 25 eran or” each place it appears;

1 (B) in clause (ii), by striking “causalities”
 2 and inserting “casualties”;

3 (C) in clause (iii), by striking “such vet-
 4 eran or member” and inserting “such member”;

5 (D) in clause (vii)—

6 (i) in subclause (I), by striking “; or”
 7 and inserting a semicolon; and

8 (ii) in subclause (II), by striking “vet-
 9 eran or member of the Armed Forces” and
 10 inserting “veteran; or

11 “(III) member of the Armed Forces”;

12 (E) by redesignating clauses (i) through
 13 (vii) as clauses (ii) through (viii), respectively;
 14 and

15 (F) by inserting before clause (ii), as re-
 16 designated by subparagraph (E), the following
 17 new clause (i):

18 “(i) Any veteran.”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) IN GENERAL.—Section 1712A of such
 21 title is amended—

22 (i) in subsection (a)(1)—

23 (I) by striking “clauses (i)
 24 through (vi)” each place it appears

1 and inserting “clauses (i) through
2 (vii)”;

3 (II) by striking “clause (vii)”
4 each place it appears and inserting
5 “clause (viii)”;

6 (III) in subparagraph (B)(ii)(II),
7 by striking “veteran or member de-
8 scribed in subclause (II)” and insert-
9 ing “veteran or a member described in
10 subclause (III)”;

11 (ii) in subsection (g)(1), by striking
12 “described in subsection (a)(1)(C)”.

13 (B) SUICIDE PREVENTION ASSISTANCE.—
14 Section 201(q)(4)(C) of the Commander John
15 Scott Hannon Veterans Mental Health Care
16 Improvement Act of 2019 (Public Law 116–
17 171; 38 U.S.C. 1720F note) is amended by
18 striking “clauses (i) through (iv)” and inserting
19 “clauses (ii) through (v)”.

1 **SEC. 4. OUTREACH TO AND STUDY ON TREATMENT OF**
2 **MEMBERS OF THE ARMED FORCES DIS-**
3 **CHARGED UNDER CONDITIONS OTHER THAN**
4 **HONORABLE FOR NO OTHER REASON THAN**
5 **SEXUAL ORIENTATION OR GENDER IDEN-**
6 **TITY.**

7 (a) OUTREACH.—The Secretary of Veterans Affairs
8 shall conduct outreach to former members of the Armed
9 Forces who were discharged from the Armed Forces under
10 other than honorable conditions for no other reason than
11 the sexual orientation or gender identity of the member
12 pursuant to the Don't Ask, Don't Tell policy of the De-
13 partment of Defense.

14 (b) STUDY.—The Secretary shall conduct a study to
15 assess the scope and cost of providing health care under
16 the laws administered by the Secretary to former members
17 of the Armed Forces with other than honorable discharges
18 who were discharged from the Armed Forces after serving
19 on active duty in the Armed Forces for less than two years
20 for no other reason than the sexual orientation or gender
21 identity of the member, whether pursuant to the Don't
22 Ask, Don't Tell policy of the Department or not.

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