

117TH CONGRESS
2D SESSION

S. 5274

To amend title 38, United States Code, to reinstate criminal penalties for persons charging veterans unauthorized fees relating to claims for benefits under the laws administered by the Secretary of Veterans Affairs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 2022

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to reinstate criminal penalties for persons charging veterans unauthorized fees relating to claims for benefits under the laws administered by the Secretary of Veterans Affairs, 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. REINSTATEMENT OF PENALTIES FOR CHARG-**
 2 **ING VETERANS UNAUTHORIZED FEES RELAT-**
 3 **ING TO CLAIMS FOR BENEFITS UNDER LAWS**
 4 **ADMINISTERED BY THE SECRETARY OF VET-**
 5 **ERANS AFFAIRS.**

6 Section 5905 of title 38, United States Code, is
 7 amended—

8 (1) in the section heading, by striking “**Pen-**
 9 **alty**” and inserting “**Penalties**” (and conforming
 10 the table of sections at the beginning of chapter 59
 11 of such title accordingly);

12 (2) by striking “Whoever” and inserting the fol-
 13 lowing:

14 “(a) WITHHOLDING OF BENEFITS.—Whoever”; and

15 (3) by adding at the end the following new sub-
 16 section:

17 “(b) CHARGING OF UNAUTHORIZED FEES.—Except
 18 as provided in sections 5904 or 1984 of this title, whoever
 19 solicits, contracts for, charges, or receives, or attempts to
 20 solicit, contract for, charge, or receive, any fee or com-
 21 pensation with respect to the preparation, presentation, or
 22 prosecution of any claim for benefits under the laws ad-
 23 ministered by the Secretary shall be fined as provided in
 24 title 18.”.

1 **SEC. 2. LIMITATION ON ATTORNEY FEES FOR FEDERAL**
 2 **CAUSE OF ACTION RELATING TO WATER AT**
 3 **CAMP LEJEUNE, NORTH CAROLINA.**

4 Section 804 of the Sergeant First Class Heath Robin-
 5 son Honoring our Promise to Address Comprehensive
 6 Toxics Act of 2022 (Public Law 117–168; 28 U.S.C. 2671
 7 note prec.) is amended by adding at the end the following
 8 new subsection:

9 “(k) ATTORNEY FEES.—

10 “(1) LIMITATIONS.—No legal representative of
 11 an individual who brings an action under subsection
 12 (b) or who presents a claim under section 2675 of
 13 title 28, United States Code, pursuant to subsection
 14 (h) shall charge, demand, receive, or collect for serv-
 15 ices rendered in bringing such action or presenting
 16 such claim, fees in excess of—

17 “(A) 20 percent of an award, compromise,
 18 or settlement made or reached within 180 days
 19 after presenting a claim under section 2675 of
 20 title 28, United States Code, pursuant to sub-
 21 section (h); and

22 “(B) 33.3 percent on a claim that is re-
 23 solved by settlement, compromise, or judgement
 24 after the initiation of an action.

25 “(2) TERMS FOR PAYMENT OF FEES.—Any
 26 judgment rendered, settlement entered, compromise

1 made, or other award made with respect to an action
2 brought under subsection (b) or a claim presented
3 under section 2675 of title 28, United States Code,
4 pursuant to subsection (h) by a legal representative
5 of an individual shall require the following:

6 “(A) All funds from the judgment, settle-
7 ment, compromise, or other award shall be de-
8 posited into an account held in trust for the in-
9 dividual in accordance with all applicable provi-
10 sions of State law.

11 “(B) The legal representative shall—

12 “(i) once any funds described in sub-
13 paragraph (A) have been deposited into an
14 account pursuant to such subparagraph,
15 notify the individual of such deposit; and

16 “(ii) promptly deliver to such indi-
17 vidual such amount of such funds as the
18 individual is entitled to receive.

19 “(C) That no funds shall be paid from the
20 account described in subparagraph (A) to a
21 legal representative of the individual as com-
22 pensation for services rendered to such indi-
23 vidual until the relevant funds from such ac-
24 count have been disbursed to the individual in
25 accordance with subparagraph (B).

1 “(3) PENALTIES.—

2 “(A) FEE LIMITATIONS.—Any legal rep-
3 resentative who charges, demands, receives, or
4 collects for services rendered in connection with
5 an action under subsection (b) or a claim under
6 section 2675 of title 28, United States Code,
7 pursuant to subsection (h), any amount in ex-
8 cess of that allowed under paragraph (1) of this
9 subsection, if recovery be had, shall be fined not
10 more than \$5,000.

11 “(B) TERMS FOR PAYMENT.—Failure of a
12 legal representative subject to paragraph (2) to
13 comply with a requirement of such paragraph
14 shall be punishable consistent with the penalties
15 provided in section 2678 of title 28, United
16 States Code.

17 “(4) RULE OF CONSTRUCTION.—Nothing in
18 this subsection shall be construed to annul, alter, af-
19 fect, or exempt any person from complying with the
20 laws of any State or locality with respect to the
21 practice of law, except to the extent that those laws
22 are inconsistent with any provision of this sub-
23 section, and then only to the extent of the inconsis-
24 tency.”.

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