

108TH CONGRESS
2D SESSION

H. R. 5166

To prohibit the Department of Defense from requiring members of the Armed Forces to receive the anthrax and smallpox immunizations without their consent, to correct the records of servicemembers previously punished for refusing to take these vaccines, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2004

Mr. SHAYS (for himself and Mr. TOWNS) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit the Department of Defense from requiring members of the Armed Forces to receive the anthrax and smallpox immunizations without their consent, to correct the records of servicemembers previously punished for refusing to take these vaccines, 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 “Armed Forces Voluntary
5 Immunization and Health Justice Act of 2004”.

1 **SEC. 2. CONSENT OF SERVICEMEMBER REQUIRED FOR**
2 **SMALLPOX AND ANTHRAX IMMUNIZATIONS.**

3 (a) **SMALLPOX VACCINE IMMUNIZATION PROGRAM.**—
4 A member of the Armed Forces may not be required to
5 participate in the smallpox vaccine immunization program
6 of the Department of Defense. A smallpox immunization
7 vaccination may not be administered to any such member
8 without the informed consent of the member.

9 (b) **ANTHRAX VACCINE IMMUNIZATION PROGRAM.**—
10 A member of the Armed Forces may not be required to
11 participate in the anthrax vaccine immunization program
12 of the Department of Defense. An anthrax immunization
13 vaccination may not be administered to any such member
14 without the informed consent of the member.

15 **SEC. 3. CORRECTION OF RECORDS OF SERVICEMEMBERS**
16 **PREVIOUSLY PUNISHED FOR REFUSAL TO**
17 **TAKE SMALLPOX OR ANTHRAX VACCINE.**

18 (a) **CORRECTION.**—In the case of a member or
19 former member of the Armed Forces who before the date
20 of the enactment of this Act was subject to any form of
21 adverse personnel action as a result of the refusal of the
22 member or former member (while a member of the Armed
23 Forces) to take a vaccine covered by section 2, the Sec-
24 retary concerned, acting through the appropriate board for
25 the correction of military records under chapter 79 of title
26 10, United States Code, shall, upon application, take such

1 actions as may be necessary to correct the military records
2 of the member or former member so as to obviate any
3 adverse consequences of the member or former member's
4 refusal to take such a vaccine.

5 (b) TIME FOR APPLICATION.—Any period established
6 by law or regulation for the submission of an application
7 for correction of a military record shall be treated, for pur-
8 poses of an application to make a correction by reason
9 of subsection (a), as running from the date of the enact-
10 ment of this Act.

11 (c) EXPEDITING CONSIDERATION OF APPLICA-
12 TIONS.—The Secretary of each military department shall
13 take such actions as may be necessary to expedite consid-
14 eration of applications for correction of military records
15 under subsection (a).

16 (d) SECRETARY CONCERNED.—In this section, the
17 term “Secretary concerned” has the meaning given that
18 term in section 101 of title 10, United States Code.

19 (e) ANNUAL REPORT.—(1) The Secretary of Defense
20 shall submit to the congressional committees specified in
21 paragraph (2) an annual report on activities under this
22 section. Each such report shall identify the number of ap-
23 plications received for correction of military records under
24 this section, the basis for decisions taken on those applica-

1 tions, and the types of actions taken with respect to those
2 applications.

3 (2) The congressional committees referred to in para-
4 graph (1) are the following:

5 (A) The Committee on Government Reform, the
6 Committee on Armed Services, and the Committee
7 on Veterans' Affairs of the House of Representa-
8 tives.

9 (B) The Committee on Governmental Affairs,
10 the Committee on Armed Services, and the Com-
11 mittee on Veterans' Affairs of the Senate.

12 **SEC. 4. ASSESSMENT OF CURRENT THREAT OF ANTHRAX**
13 **AND SMALLPOX ATTACKS.**

14 (a) REEVALUATION REQUIRED.—The Secretary of
15 Defense shall include in the report to Congress specified
16 in subsection (b) an assessment of the current threat of
17 an anthrax attack or a smallpox attack on members of
18 the Armed Forces. The assessment shall be prepared in
19 consultation with the head of each element of the intel-
20 ligence community (as defined in section 3(4) of the Na-
21 tional Security Act of 1947 (50 U.S.C. 401a(4))).

22 (b) ANNUAL CHEM-BIO REPORT.—The report re-
23 ferred to in subsection (a) is the next annual report sub-
24 mitted to Congress after the date of the enactment of this
25 Act under section 1703 of the National Defense Author-

1 ization Act for Fiscal Year 1994 (50 U.S.C. 1523), relat-
2 ing to chemical and biological warfare defense.

3 **SEC. 5. RESEARCH FUNCTIONS OF THE SECRETARY OF**
4 **VETERANS AFFAIRS.**

5 The Secretary of Veterans Affairs shall—

6 (1) carry out an ongoing assessment of the ad-
7 verse health effects being reported by members and
8 former members of the Armed Forces with respect
9 to the smallpox and anthrax vaccines administered
10 by the Department of Defense;

11 (2) carry out a research program to determine
12 causal relationships (if any) between such effects
13 and those vaccines; and

14 (3) prepare an estimate of the future cost to
15 the Department of Veterans Affairs to treat those
16 adverse health effects, if determined to be service-
17 connected.

18 **SEC. 6. ESTABLISHMENT OF NATIONAL CENTER FOR MILI-**
19 **TARY DEPLOYMENT HEALTH RESEARCH.**

20 (a) ESTABLISHMENT.—The President shall establish
21 a National Center for Military Deployment Health Re-
22 search to coordinate and synthesize research efforts by
23 Federal departments and agencies relating to the health
24 effects of military deployments on members of the Armed
25 Forces, including members of the reserve components.

1 (b) CRITERIA.—To the maximum extent practicable,
2 the center shall be established in a manner consistent with
3 the recommendations of the Institute of Medicine of the
4 National Academy of Sciences in a report dated January
5 1, 1999, titled “National Center for Military Deployment
6 Health Research”.

7 (c) IMPLEMENTATION.—The center shall be estab-
8 lished not later than 120 days after the date of the enact-
9 ment of this Act.

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