

110TH CONGRESS
2D SESSION

S. 3307

To provide veterans with individualized notice about available benefits, to streamline application processes for the benefits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2008

Mrs. CLINTON (for herself and Mr. SCHUMER) introduced the following bill;
which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To provide veterans with individualized notice about available benefits, to streamline application processes for the benefits, 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 2008” or the “PRO-VETS Act
6 of 2008”.

7 **SEC. 2. SHARING INFORMATION TO IMPROVE VETERANS’**

8 **ACCESS TO BENEFITS.**

9 (a) AGREEMENT ON DATA TRANSFER.—

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

9 (2) CONTENTS OF AGREEMENT.—

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

18 (i) to determine the eligibility of a
19 member of the Armed Forces or veteran
20 for veterans benefits; and

21 (ii) as an indicator of a likelihood that
22 a member of the Armed Forces or veteran
23 is eligible for veterans benefits.

24 (B) ELECTRONIC DATA TRANSFER METH-
25 OD.—The agreement shall contain a description

1 of an efficient electronic method to be used for
2 the transfer of data identified in accordance
3 with the criteria specified under subparagraph
4 (A) under the agreement.

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

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

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

22 (b) IDENTIFICATION OF BENEFITS AVAILABLE.—

23 (1) GENERATION OF INITIAL LIST.—Not later
24 than 7 days after the date the Secretary of Veterans
25 Affairs receives data concerning a member of the

1 Armed Forces or veteran under the agreement under
2 subsection (a), the Secretary shall compile a list with
3 respect to the member or veteran of all veterans ben-
4 efits for which the member or veteran may be eligi-
5 ble based on the data. The list shall be divided
6 into—

7 (A) benefits for which the member or vet-
8 eran has a high probability of being eligible;
9 and

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

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

18 (c) NOTIFICATION OF AVAILABLE BENEFITS.—

19 (1) INITIAL NOTIFICATION.—Upon compiling
20 the list of benefits under subsection (b)(1)(A) with
21 respect to a member of the Armed Forces or vet-
22 eran, the Secretary of Veterans Affairs shall send a
23 notice of the benefits to the member or veteran or
24 the legal representative of the member or veteran.
25 The notice shall also contain an explanation of each

1 such benefit and a summary of any application re-
2 quirements and procedures that the member or vet-
3 eran must comply with to be eligible to receive the
4 benefit.

5 (2) SUBSEQUENT NOTIFICATIONS.—

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

17 (B) SUBSEQUENT ANNUAL NOTICES.—If a
18 member of the Armed Forces or veteran pro-
19 vided a notice under subparagraph (A) does not
20 apply for any benefit listed in the notice by the
21 end of the year beginning on the date that the
22 Secretary sent the notice, the Secretary shall
23 send a subsequent notice to the member or vet-
24 eran or the legal representative of the member
25 or veteran. The notice shall contain information

1 on the veterans benefits for which the member
 2 or veteran has a high probability of being eligi-
 3 ble based on the updated list under subsection
 4 (b)(2) with respect to the member or veteran.

5 (3) NOTICES BASED ON CHANGED CIR-
 6 CUMSTANCES.—

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

14 (i) the member or veteran has not ap-
 15 plied for the benefit;

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

19 (iii) the Secretary has not informed
 20 the member or veteran of the benefit under
 21 subsection (d)(2) or any other provision of
 22 law.

23 (B) CONTENTS.—The notice under sub-
 24 paragraph (A) shall contain information on the
 25 benefit for which the veteran has a high prob-

1 ability of being eligible, an explanation of such
2 benefit, and a summary of any application re-
3 quirements and procedures that the member or
4 veteran must comply with to be eligible to re-
5 ceive the benefit.

6 (4) OPTION TO DECLINE FURTHER NOTICES.—

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

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

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

23 (5) METHOD OF DELIVERY OF NOTICES.—

(A) IN GENERAL.—Subject to subparagraph (B), all notices under this subsection shall be sent—

(i) by mail; and

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

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

(i) by mail; or

(ii) through electronic methods, such as email.

(d) APPLICATION PROCESS.—

(1) STREAMLINED APPLICATION PROCESS.—

(A) IN GENERAL.—The Secretary of Veterans Affairs shall use the data received under subsection (a) and any additional relevant data that the Department of Veterans Affairs has in its possession to reduce the amount of information that a member of the Armed Forces or veteran must provide when the member or veteran applies to the Department for veterans benefits.

1 The use of such data may include prepopulating
2 a paper or Web-based application form to be
3 used by the member or veteran with the data.

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

10 (2) EVALUATION OF ELIGIBILITY.—

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

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

23 (C) RECORD OF DISCLOSURE.—If the Sec-
24 retary informs a member or veteran of a benefit
25 under subparagraph (B), the Secretary shall

1 keep a record, for a period of not less than 5
2 years, that contains, at a minimum—

3 (i) the date on which the Secretary in-
4 formed the member or veteran of such ben-
5 efit;

6 (ii) the name of the member or vet-
7 eran; and

8 (iii) a general description of the infor-
9 mation provided to the member or veteran
10 by the Secretary.

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

19 (e) TRANSITION PERIOD.—Not later than 5 years
20 after the date of enactment of this Act, for all veterans
21 discharged from the Armed Forces prior to the date of
22 enactment of this Act, the Secretary of Defense shall
23 transfer to the Department of Veterans Affairs all data
24 that exists in electronic systems of the Department of De-

1 fense on the date of the transfer and that meet the criteria
 2 specified in subsection (a)(2)(A).

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

12 (g) PRIVACY.—

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

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

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

7 (4) CONSTRUCTION.—

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

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

19 (h) DEFINITIONS.—For purposes of this section:

20 (1) VETERAN.—The term “veteran” has the
 21 meaning given such term under section 101 of title
 22 38, United States Code.

23 (2) ARMED FORCES.—The term “Armed
 24 Forces” shall have the meaning given the term

1 “armed forces” under section 101 of title 10, United
2 States Code.

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

