

113TH CONGRESS
2D SESSION

H. R. 5336

To establish or integrate an online significant event tracker (SET) system for tracking, reporting, and summarizing exposures of members of the Armed Forces, including members of the reserve components thereof, to traumatic events, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2014

Ms. DUCKWORTH (for herself, Mr. STIVERS, Mr. CUELLAR, and Ms. HAHN) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To establish or integrate an online significant event tracker (SET) system for tracking, reporting, and summarizing exposures of members of the Armed Forces, including members of the reserve components thereof, to traumatic events, 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 “Mental Health Expo-
5 sure Military Official Record Act of 2014”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to implement a significant
3 event tracker (SET) system to train and enable members
4 of the Armed Forces, including members of the reserve
5 components thereof, to track exposures to traumatic
6 events and address mental health issues during and after
7 service.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) UNIT COMMANDER DEFINED.—The term
11 “unit commander” means the first individual in the
12 chain of command with authority over the member
13 concerned under the Uniform Code of Military Jus-
14 tice.

15 (2) REPORTABLE EVENT.—The term “report-
16 able event” includes—

17 (A) a kinetic combat patrol;

18 (B) witnessed loss of life, dismemberment,
19 or significant physical injury in a combat oper-
20 ation, expeditionary operation, or peacetime
21 regular training;

22 (C) an injury or exposure that may con-
23 stitute a traumatic brain injury (TBI), includ-
24 ing a concussive or mechanical event involving
25 the head that occurs in a combat operation, ex-

1 peditionary operation, or peacetime regular
2 training;

3 (D) victimization or witnessing of a sexual
4 assault; and

5 (E) any other event determined by the Sec-
6 retary of Defense to be potentially traumatic to
7 an affected individual.

8 (3) RESERVE COMPONENT.—The term “reserve
9 component” means a reserve component of the
10 Armed Forces named in section 10101 of title 10,
11 United States Code.

12 **SEC. 4. REQUIREMENT TO IMPLEMENT SET SYSTEM.**

13 Not later than 180 days after the date of the enact-
14 ment of this Act, the Secretary of Defense shall prescribe
15 regulations to implement the significant event tracker sys-
16 tem described under section 5 (in this Act referred to as
17 the “SET system”).

18 **SEC. 5. SIGNIFICANT EVENT TRACKER (SET) SYSTEM.**

19 (a) ESTABLISHMENT.—The Secretary of Defense
20 shall establish a SET system to track, report, and summa-
21 rize individual exposures to traumatic events for the pur-
22 pose of enabling former members of the Armed Forces,
23 including members of the reserve components thereof, to
24 show evidence of possible traumatic events incurred during
25 their service.

1 (b) RECORDING OF EVENTS.—

2 (1) RESPONSIBILITY.—

3 (A) UNIT COMMANDERS.—A unit com-
4 mander may enter reportable events that affect
5 the entire unit and its members or delegate to
6 a leader of a subunit of the unit commander's
7 command the entry of reportable events affect-
8 ing the subunit.

9 (B) INDIVIDUAL REPORTING.—A unit com-
10 mander may choose to delegate event reporting
11 to the individual members of units who are em-
12 ployed as short-term, temporary (less than 30
13 days) detachments and individual augments
14 which, by the nature of their mission, preclude
15 the persistent inclusion in one common review-
16 ing unit. The delegation may be until a pre-
17 determined date such as the end of a deploy-
18 ment or on a 30-day basis, as determined by
19 the unit commander.

20 (C) MEDICAL TREATMENT FACILITY.—A
21 medical treatment facility may directly enter a
22 reportable event affecting a member of the
23 Armed Forces undergoing treatment at such fa-
24 cility for an injury identified by a military med-

1 ical personnel or as reported by a member of
2 the Armed Forces to such an individual.

3 (D) MILITARY LAW ENFORCEMENT.—Mili-
4 tary law enforcement may directly enter a re-
5 portable event involving victimization or wit-
6 nessing of a sexual assault.

7 (E) REPORTING OF OUTSIDE INCI-
8 DENTS.—The Secretary of Defense shall issue
9 guidance regarding the entry of reportable
10 events involving members of the Armed Forces
11 that occur while in duty status outside of mili-
12 tary installations and are initially reported to
13 local non-military law enforcement or non-mili-
14 tary medical treatment facilities.

15 (F) REPORTING OF PREVIOUS INCIDENTS
16 FOR CURRENTLY SERVING SERVICEMEMBERS.—
17 The Secretary of Defense shall issue guidance
18 regarding the potential entry of past reportable
19 events involving currently serving members of
20 the Armed Forces that occurred earlier in their
21 career.

22 (2) INCLUDED INFORMATION.—Each entry for
23 a reportable event shall include the following infor-
24 mation:

25 (A) Name, date, location, and unit.

1 (B) Duty status.

2 (C) Type of event.

3 (D) Whether a physical injury was sus-
4 tained as a result, and if so, the extent of such
5 injury.

6 (E) Other information as required by the
7 Secretary of Defense.

8 (c) VERIFICATION OF EVENTS.—

9 (1) EVENTS REPORTED BY INDIVIDUALS.—

10 (A) IN GENERAL.—A reportable event en-
11 tered by an individual member under subsection
12 (b)(1)(B) shall be reviewed by the unit com-
13 mander for purposes of verifying, contesting, or
14 denying the event.

15 (B) VERIFICATION TOOLS.—In reviewing
16 reportable events under subparagraph (A), the
17 unit commander shall use all available
18 verification tools, including Department of De-
19 fense reports, unit logs, reports from creditable
20 witnesses such as patrol leaders, and any other
21 evidence deemed appropriate by the unit com-
22 mander.

23 (C) GUIDANCE.—The Secretary of Defense
24 shall issue guidance designed to ensure that en-
25 tries submitted to a unit commander for review

1 are handled accurately with discretion and in a
2 timely fashion while recognizing the challenges
3 posed by operational tempo and competing time
4 demands.

5 (2) EVENTS REPORTED BY THE UNIT COM-
6 MANDERS OR DELEGATES.—Reportable events en-
7 tered by a unit commander or delegate under sub-
8 section (b)(1)(A), other than reportable events in-
9 volving victimization or witnessing of a sexual as-
10 sult, shall be submitted directly to the respective
11 unit's commanding officer for review under sub-
12 section (d). Reportable events involving victimization
13 or witnessing of a sexual assault shall be submitted
14 directly to the secure central tracking database
15 under subsection (e).

16 (3) EVENTS REPORTED BY MEDICAL TREAT-
17 MENT FACILITIES.—Reportable events entered by
18 medical treatment facilities under subsection
19 (b)(1)(C) shall be submitted directly to the secure
20 central tracking database under subsection (e).

21 (4) EVENTS REPORTED BY MILITARY LAW EN-
22 FORCEMENT.—Reportable events entered by military
23 law enforcement under subsection (b)(1)(D) shall be
24 submitted directly to the secure central tracking
25 database under subsection (e).

1 (d) COMMAND REVIEW.—

2 (1) AUTHORITY AND RESPONSIBILITY.—The
3 commanding officer shall have responsibility for re-
4 viewing and determining the disposition of a report-
5 able event involving the member submitted pursuant
6 to paragraph (1) or (2) of subsection (c), other than
7 a reportable event involving victimization or wit-
8 nessing of a sexual assault, and submitting the event
9 and such determination to the secure central track-
10 ing database under subsection (e).

11 (2) DISPOSITION.—The commanding officer
12 shall, in accordance with guidance issued by the Sec-
13 retary of Defense, assign to each such reportable
14 event one of the following designations:

15 (A) Approved, in the case of clear docu-
16 mentation and verification of the facts and the
17 individual's exposure.

18 (B) Approved/Contested, in the case of
19 clear documentation and verification of the oc-
20 currence of the event, but where the com-
21 manding officer has reasonable doubt for ap-
22 proval of the reportable event.

23 (C) Denied/Contested, in the case of ques-
24 tionable documentation or verification, but

1 where the commanding officer has reasonable
2 doubt for denial of the reportable event.

3 (D) Denied, in the case of no clear evi-
4 dence of the facts or the member's exposure.

5 (3) NON-REMOVAL OF DESIGNATION.—Each re-
6 portable entry reviewed under this subsection shall
7 be entered into the secure central tracking database
8 and may not be removed or deleted, regardless of
9 designation.

10 (e) SECURE CENTRAL TRACKING DATABASE.—

11 (1) STORAGE OF INFORMATION.—

12 (A) IN GENERAL.—All reportable events
13 shall be submitted to a secure central tracking
14 database, either indirectly pursuant to sub-
15 section (d), or directly pursuant to paragraph
16 (3) or (4) of subsection (c) or, in the case of
17 a reportable event involving victimization or
18 witnessing of a sexual assault, paragraph (2) of
19 subsection (c). The database shall serve as the
20 central repository for all reportable events relat-
21 ing to a member of the Armed Forces, includ-
22 ing for purposes of preparing the member's offi-
23 cial SET record upon separation from service.

24 (B) TREATMENT OF INFORMATION.—

1 (i) CLASSIFIED AND SENSITIVE OPER-
2 ATIONS.—The secure central tracking
3 database shall include measures to ensure
4 that information related to classified and
5 sensitive operations is coded so as to docu-
6 ment the event without violating oper-
7 ational security concerns.

8 (ii) SEXUAL ASSAULT CASES.—The
9 secure central tracking database shall in-
10 clude measures to ensure that information
11 related to sexual assault cases in the se-
12 cure central tracking database is coded in
13 order to protect privacy and to correctly
14 reflect the status, and protect the integrity,
15 of ongoing investigations.

16 (iii) CONFIDENTIALITY OF INDIV-
17 IDUAL RECORDS.—An individual mem-
18 ber's complete SET record and individual
19 entries may not be reviewed by the mem-
20 ber's unit commander or the chain of com-
21 mand, and may not be used by anyone for
22 the purpose of evaluating promotion, reen-
23 listment, or assignment issues.

24 (C) USE BY MEDICAL TREATMENT FACILI-
25 TIES.—Medical treatment facilities shall be pro-

1 vided access to the secure central tracking data-
2 base for purposes of entering reportable events
3 under subsection (b)(1)(C) and consulting for
4 diagnoses.

5 (D) USE BY MILITARY LAW ENFORCEMENT
6 AND CRIMINAL INVESTIGATIVE SERVICES.—
7 Military law enforcement and criminal inves-
8 tigative services shall be provided general access
9 to the secure central tracking database for pur-
10 poses of entering reportable events under sec-
11 tion (b)(1)(D) and to a limited summary for
12 purposes of diagnosing patterns and trends re-
13 lated to crimes committed inside their jurisdic-
14 tion. The summary shall not include specific in-
15 formation about events, evidence, or individual
16 members, including private personal informa-
17 tion such as names and social security numbers.

18 (E) ACCESS TO INDIVIDUAL RECORDS FOR
19 PURPOSES OF MILITARY AND NON-MILITARY
20 DISCIPLINARY AND JUDICIAL PROCEEDINGS.—

21 (i) IN GENERAL.—An individual mem-
22 ber's complete SET record and individual
23 entries may, with the explicit consent of
24 the member, be reviewed, evaluated, and
25 shared with—

1 (I) in the case of a military dis-
2 ciplinary or judicial hearing or pro-
3 ceeding, the member's military and ci-
4 vilian legal representative or rep-
5 resentatives, unit commander, or mili-
6 tary judge for the purpose of address-
7 ing concerns related to such hearing
8 or proceeding; and

9 (II) in the case of a non-military
10 disciplinary or judicial hearing or pro-
11 ceeding, the member's civilian legal
12 representative or representatives for
13 the purpose of addressing concerns re-
14 lated to such hearing or proceeding.

15 (ii) ACCESS IN CASES OF MENTAL IN-
16 CAPACITY.—The Secretary of Defense shall
17 provide guidance for questions related to
18 the accessing a servicemember's SET
19 record for servicemembers who have been
20 determined to be mentally incapable and
21 thus are unable to provide their own con-
22 sent or objection to the release of personal
23 information.

24 (F) UNIT COMMANDER REVIEW.—

1 (i) IN GENERAL.—Except as provided
2 in clause (ii), unit commanders may only
3 view individual pending entries that have
4 been submitted to them for review and des-
5 ignation, and may not view previous en-
6 tries that have already been reviewed and
7 designated.

8 (ii) ADMINISTRATIVE ACCESS.—Unit
9 commanders may only access entries that
10 have already been reviewed, designated,
11 and entered into the secure central data-
12 base by that individual commander in
13 order to correct roster entries for subunits,
14 provide additional post-incident docu-
15 mentation, or take such other administra-
16 tive actions as may be determined appro-
17 priate by the Secretary of Defense. In no
18 instance may such access permit the re-
19 moval of any entry, regardless of designa-
20 tion.

21 (G) STATISTICAL ANALYSIS AND EVALUA-
22 TION OF UNIT COMMANDERS.—

23 (i) INFORMATION SHARING.—The Sec-
24 retary of Defense shall issue guidance gov-
25 erning the sharing of SET entry statistics

1 among unit commands and other Depart-
2 ment of Defense individuals, offices, activi-
3 ties, and agencies for purposes of ana-
4 lyzing the number and types of entries
5 generated over time. Information so shared
6 may not include specific information about
7 events, evidence, or individual members, in-
8 cluding private personal information such
9 as names and social security numbers.

10 (ii) EVALUATION ON UNIT COM-
11 MANDERS.—Unit commanders may not be
12 evaluated by their superiors for the num-
13 ber and types of entries generated by their
14 command, but may be evaluated by their
15 superior officer in the chain of command
16 for the speed and accuracy of their entries,
17 and the review of their entries.

18 (H) ADDITIONAL LIMITATIONS ON AC-
19 CESS.—No non-Department of Defense agen-
20 cies, organizations, or individuals, such as vet-
21 erans' service organizations, local law enforce-
22 ment, judicial courts, or civilian medical treat-
23 ment facilities, shall be granted access to the
24 secure central tracking database. Department
25 of Defense medical officers may only review an

1 individual member's entire SET record for the
2 medical purposes set forth in subsection
3 (e)(2)(A) and such other purposes as may be
4 determined appropriate by the Secretary of De-
5 fense.

6 (2) DISTRIBUTION AND CONTROL.—

7 (A) PRE-DISCHARGE.—

8 (i) MEDICAL RETIREMENTS.—In the
9 case of a member of the Armed Services
10 preparing for medical retirement due to in-
11 jury or other conditions, the official SET
12 record shall be provided to and used by the
13 Medical Evaluation Board or Physical
14 Evaluation Board.

15 (ii) NON-MEDICAL DISCHARGES AND
16 RETIREMENTS.—In the case of a member
17 of the Armed Services preparing for a non-
18 medical discharge or retirement, the offi-
19 cial SET record shall be reviewed by the
20 medical officer of the member's parent unit
21 and serve as the basis for any follow-on ac-
22 tions as determined by the medical officer.

23 (iii) BENEFITS DELIVERY AT DIS-
24 CHARGE CLAIMS.—In the case of a member
25 of the Armed Services initiating a Benefits

1 Delivery at Discharge (BDD) claim, the
2 BDD Specialist shall be provided with the
3 official SET record in order to file a fully
4 developed claim for the member.

5 (B) UPON DISCHARGE.—Upon a member’s
6 separation from service in the Armed Forces,
7 including a member of a reserve component
8 thereof, copies of the member’s official SET
9 record, including a compilation of all reported
10 events and a summary prepared by an author-
11 izing agent with cleared access to the secure
12 central tracking database, shall be distributed
13 in accordance with the procedures of the mili-
14 tary service in which the individual served, in-
15 cluding copies to the following recipients:

16 (i) The separating member.

17 (ii) The separating member’s Service
18 Personnel and Medical File, or other rel-
19 evant record as determined under the Sec-
20 retary of Defense’s guidance.

21 (iii) The Department of Veterans Af-
22 fairs, and if specifically designated by the
23 member, the veteran affairs agency of the
24 State that is the separating member’s rel-
25 evant home of record or intended new resi-

1 dence and such other veterans service or-
2 ganization as may be designated by the
3 member.

4 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated out of funds
6 available to the Department of Defense such sums as may
7 be necessary for fiscal year 2015 and fiscal years there-
8 after to carry out activities under this Act.

9 **SEC. 7. RULE OF CONSTRUCTION.**

10 Nothing in this Act shall be construed as limiting the
11 ability of current and former members of the Armed
12 Forces to provide documentation other than the SET
13 record, including handwritten statements, for purposes of
14 appealing, documenting, or presenting evidence related to
15 post traumatic stress disorder or traumatic brain injury
16 claims.

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