

113TH CONGRESS
2D SESSION

S. 2368

To establish 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 SENATE OF THE UNITED STATES

MAY 21, 2014

Mr. BROWN introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To establish 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 “Fairman Significant
5 Event Tracker (SET) 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 sustained in connection with
25 the event.

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

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

13 (2) INCLUDED INFORMATION.—Each entry for
 14 a reportable event shall include the following infor-
 15 mation:

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

17 (B) Duty status.

18 (C) Type of event.

19 (D) Whether a physical injury was sus-
 20 tained as a result, and if so, the extent of such
 21 injury.

22 (E) Other information as required by the
 23 Secretary of Defense.

24 (c) VERIFICATION OF EVENTS.—

25 (1) EVENTS REPORTED BY INDIVIDUALS.—

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

6 (B) VERIFICATION TOOLS.—In reviewing
7 reportable events under subparagraph (A), the
8 unit commander shall use all available
9 verification tools, including Department of De-
10 fense reports, unit logs, reports from creditable
11 witnesses such as patrol leaders, and any other
12 evidence deemed appropriate by the unit com-
13 mander.

14 (C) GUIDANCE.—The Secretary of Defense
15 shall issue guidance designed to ensure that en-
16 tries submitted to a unit commander for review
17 are handled accurately and in a timely fashion
18 while recognizing the challenges posed by oper-
19 ational tempo and competing time demands.

20 (2) EVENTS REPORTED BY THE UNIT COM-
21 MANDERS OR DELEGATES.—Reportable events en-
22 tered by a unit commander or delegate under sub-
23 section (b)(1)(A), other than reportable events in-
24 volving victimization or witnessing of a sexual as-
25 sault, shall be submitted directly to the respective

1 unit's commanding officer for review under sub-
2 section (d). Reportable events involving victimization
3 or witnessing of a sexual assault shall be submitted
4 directly to the secure central tracking database
5 under subsection (e).

6 (3) EVENTS REPORTED BY MEDICAL TREAT-
7 MENT FACILITIES.—Reportable events entered by
8 medical treatment facilities under subsection
9 (b)(1)(C) shall be submitted directly to the secure
10 central tracking database under subsection (e).

11 (4) EVENTS REPORTED BY MILITARY LAW EN-
12 FORCEMENT.—Reportable events entered by military
13 law enforcement under subsection (b)(1)(D) shall be
14 submitted directly to the secure central tracking
15 database under subsection (e).

16 (d) COMMAND REVIEW.—

17 (1) AUTHORITY AND RESPONSIBILITY.—The
18 commanding officer shall have responsibility for re-
19 viewing and determining the disposition of a report-
20 able event involving the member submitted pursuant
21 to paragraph (1) or (2) of subsection (c), other than
22 a reportable event involving victimization or wit-
23 nessing of a sexual assault, and submitting the event
24 and such determination to the secure central track-
25 ing database under subsection (e).

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

5 (A) Approved, in the case of clear docu-
 6 mentation and verification of the facts and the
 7 individual's exposure.

8 (B) Approved/Contested, in the case of
 9 clear documentation and verification of the oc-
 10 currence of the event, but where the com-
 11 manding officer has reasonable doubt for ap-
 12 proval of the reportable event.

13 (C) Denied/Contested, in the case of ques-
 14 tionable documentation or verification, but
 15 where the commanding officer has reasonable
 16 doubt for denial of the reportable event.

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

19 (3) NON-REMOVAL OF DESIGNATION.—Each re-
 20 portable entry reviewed under this subsection shall
 21 be entered into the secure central tracking database
 22 and may not be removed or deleted, regardless of
 23 designation.

24 (e) SECURE CENTRAL TRACKING DATABASE.—

25 (1) STORAGE OF INFORMATION.—

1 (A) IN GENERAL.—All reportable events
2 shall be submitted to a secure central tracking
3 database, either indirectly pursuant to sub-
4 section (d), or directly pursuant to paragraph
5 (3) or (4) of subsection (c) or, in the case of
6 a reportable event involving victimization or
7 witnessing of a sexual assault, paragraph (2) of
8 subsection (c). The database shall serve as the
9 central repository for all reportable events relat-
10 ing to a member of the Armed Forces, includ-
11 ing for purposes of preparing the member's offi-
12 cial SET record upon separation from service.

13 (B) TREATMENT OF INFORMATION.—

14 (i) CLASSIFIED AND SENSITIVE OPER-
15 ATIONS.—The secure central tracking
16 database shall include measures to ensure
17 that information related to classified and
18 sensitive operations is coded so as to docu-
19 ment the event without violating oper-
20 ational security concerns.

21 (ii) SEXUAL ASSAULT CASES.—The
22 secure central tracking database shall in-
23 clude measures to ensure that information
24 related to sexual assault cases in the se-
25 cure central tracking database is coded in

1 order to protect privacy and to correctly
2 reflect the status, and protect the integrity,
3 of ongoing investigations.

4 (iii) CONFIDENTIALITY OF INDI-
5 VIDUAL RECORDS.—An individual mem-
6 ber's complete SET record and individual
7 entries may not be reviewed by the mem-
8 ber's unit commander or the chain of com-
9 mand, and may not be used by anyone for
10 the purpose of evaluating promotion, reen-
11 listment, or assignment issues.

12 (C) USE BY MEDICAL TREATMENT FACILI-
13 TIES.—Medical treatment facilities shall be pro-
14 vided access to the secure central tracking data-
15 base for purposes of entering reportable events
16 under subsection (b)(1)(C) and consulting for
17 diagnoses.

18 (D) USE BY MILITARY LAW ENFORCEMENT
19 AND CRIMINAL INVESTIGATIVE SERVICES.—
20 Military law enforcement and criminal inves-
21 tigative services shall be provided general access
22 to the secure central tracking database for pur-
23 poses of entering reportable events under sec-
24 tion (b)(1)(D) and to a limited summary for
25 purposes of diagnosing patterns and trends re-

lated to crimes committed inside their jurisdiction. The summary shall not include specific information about events, evidence, or individual members, including private personal information such as names and social security numbers.

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

An individual member's complete SET record and individual entries may, with the explicit consent of the member, be reviewed, evaluated, and shared with—

(i) in the case of a military disciplinary or judicial hearing or proceeding, the member's military and civilian legal representative or representatives, unit commander, or military judge for the purpose of addressing concerns related to such hearing or proceeding; and

(ii) in the case of a non-military disciplinary or judicial hearing or proceeding, the member's civilian legal representative or representatives for the purpose of addressing concerns related to such hearing or proceeding.

1 (F) UNIT COMMANDER REVIEW.—

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

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

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

24 (i) INFORMATION SHARING.—The Sec-
25 retary of Defense shall issue guidance gov-

erning the sharing of SET entry statistics among unit commands and other Department of Defense individuals, offices, activities, and agencies for purposes of analyzing the number and types of entries generated over time. Information so shared may not include specific information about events, evidence, or individual members, including private personal information such as names and social security numbers.

(ii) EVALUATION ON UNIT COMMANDERS.—Unit commanders may not be evaluated by their superiors for the number and types of entries generated by their command, but may be evaluated by their superior officer in the chain of command for the speed and accuracy of their entries, and the review of their entries.

(H) ADDITIONAL LIMITATIONS ON ACCESS.—No non-Department of Defense agencies, organizations, or individuals, such as veterans' service organizations, local law enforcement, judicial courts, or civilian medical treatment facilities, shall be granted access to the secure central tracking database. Department

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

7 (2) DISTRIBUTION AND CONTROL.—

8 (A) PRE-DISCHARGE.—

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

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

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

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

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

17 (i) The separating member.

18 (ii) The separating member's Service
19 Personnel File.

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

ganization as may be designated by the member.

(f) SEXUAL ASSAULT PROVISIONS.—

(1) REPORTING TO MILITARY CRIMINAL INVESTIGATIVE UNITS.—A unit commander shall notify the appropriate military criminal investigative service of any reportable event involving the victimization or witnessing of a sexual assault that is either entered or verified by the unit commander or a delegate under subsection (b)(1)(A) or (c)(1), respectively, but shall not provide the reportable event entry to the military criminal investigative service without the consent of the victim or witness reporting such event.

(2) TREATMENT OF FALSE STATEMENTS AND REPORTS.—The Secretary of Defense shall prescribe regulations regarding the disposition of reportable events based upon deliberately filed false statements or reports related to victimization or witnessing of a sexual assault. The regulations shall provide that an appropriate authority designated by the Secretary of Defense shall amend the relevant official SET record of the member filing the false statement or report to reflect the falseness of such statement or report.

1 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

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

6 **SEC. 7. RULE OF CONSTRUCTION.**

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

