

114TH CONGRESS
2D SESSION

S. 3535

To amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from employing any individual who has been convicted of a felony and medical personnel who have had their medical licenses or credentials revoked or suspended, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 2016

Mr. FLAKE 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 prohibit the Secretary of Veterans Affairs from employing any individual who has been convicted of a felony and medical personnel who have had their medical licenses or credentials revoked or suspended, 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 “Clean Up the Depart-
5 ment of Veterans Affairs Act of 2016”.

1 **SEC. 2. PROHIBITION ON EMPLOYMENT BY SECRETARY OF**
2 **VETERANS AFFAIRS OF INDIVIDUALS CON-**
3 **VICTED OF FELONIES AND MEDICAL PER-**
4 **SONNEL WHO HAVE HAD THEIR MEDICAL LI-**
5 **CENSES OR CREDENTIALS REVOKED OR SUS-**
6 **PENDED.**

7 (a) INDIVIDUALS CONVICTED OF FELONIES.—Sec-
8 tion 709 of title 38, United States Code, is amended by
9 adding at the end the following new subsection:

10 “(d)(1) The Secretary may not employ, transfer, or
11 hire in any position at the Department any person who
12 has been convicted of a State or Federal criminal offense
13 described in paragraph (2) for which the minimum term
14 of imprisonment is more than 1 year.

15 “(2) The criminal offenses described in this para-
16 graph are as follows:

17 “(A) A sex offense (as defined in section 111
18 of the Sex Offender Registration and Notification
19 Act (42 U.S.C. 16911)).

20 “(B) An offense involving the sale or distribu-
21 tion of a controlled substance (as defined in section
22 102 of the Controlled Substances Act (21 U.S.C.
23 802)).

24 “(C) Fraud.

25 “(D) Theft.

26 “(E) Assault.

1 “(F) Battery.

2 “(G) A crime of violence (as defined in section
3 16 of title 18).

4 “(H) An offense involving the use of a firearm
5 (as defined in section 921 of title 18) or other dead-
6 ly weapon.

7 “(I) An offense under section 2113 of title 18
8 or similar State statute.

9 “(J) Kidnapping.

10 “(K) Such other offenses as the Secretary con-
11 sider inappropriate for employment at the Depart-
12 ment.

13 “(3) Before hiring any individual for a position at
14 the Department, the Secretary shall conduct a background
15 check to determine whether the individual has been con-
16 victed of any offenses listed in paragraph (2).”.

17 (b) INDIVIDUALS WHO HAVE HAD MEDICAL LI-
18 CENSES OR CREDENTIALS REVOKED OR SUSPENDED.—
19 Section 7402 of such title is amended by adding at the
20 end the following new subsection:

21 “(h)(1) The Secretary may not employ, transfer, or
22 hire any individual in a position listed in section 7401(1)
23 of this title who has had a license or credential relating
24 to such position revoked or suspended.

1 “(2) Before hiring any individual for a position listed
 2 in section 7401(1) of this title, the Secretary shall conduct
 3 a background check to determine whether the individual
 4 has had a license or credential relating to such position
 5 revoked or suspended in any State.”.

6 (c) TERMINATION OF CURRENT EMPLOYEES.—As
 7 soon as practicable after the date of the enactment of this
 8 Act, the Secretary of Veterans Affairs shall begin the proc-
 9 ess of terminating the employment of each individual em-
 10 ployed by the Secretary in violation of section 709(d) or
 11 section 7402(h) of title 38, United States Code, as added
 12 by subsections (a) and (b), respectively.

13 (d) RELATION TO OTHER PROVISIONS OF LAW.—

14 (1) IN GENERAL.—Any provision of title 5,
 15 United States Code, or subchapter V of chapter 74
 16 of title 38, United States Code, otherwise applicable
 17 to the termination of an employee under subsection
 18 (c) of this section, section 709(d) of title 38, United
 19 States Code, as added by subsection (a) of this sec-
 20 tion, or section 7402(h) of such title, as added by
 21 subsection (b) of this section, shall apply to the ter-
 22 mination, except to the extent such provision of title
 23 5, United States Code, or subchapter V of chapter
 24 74 of title 38, United States Code, conflicts with,
 25 and is superseded by, subsection (c) of this section,

1 section 709(d) of title 38, United States Code, or
2 section 7402(h) of such title.

3 (2) MERIT SYSTEM PRINCIPLES.—The Sec-
4 retary shall carry out any termination described in
5 paragraph (1) in a manner consistent with the merit
6 system principles set forth in section 2301(b) of title
7 5, United States Code.

8 (3) RULE OF CONSTRUCTION.—Subsection (c)
9 of this section, section 709(d) of title 38, United
10 States Code, as added by subsection (a) of this sec-
11 tion, and section 7402(h) of such title, as added by
12 subsection (b) of this section shall not be construed
13 to deprive or waive for any individual any employ-
14 ment protection or due process requirement in effect
15 on the day before the date of the enactment of this
16 Act, except as provided in paragraph (1) of this sub-
17 section.

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