

115TH CONGRESS
2D SESSION

H. R. 7144

To amend title 38, United States Code, to improve the processing of veterans benefits by the Department of Veterans Affairs, to limit the authority of the Secretary of Veterans Affairs to recover overpayments made by the Department and other amounts owed by veterans to the United States, to improve the due process accorded veterans with respect to such recovery, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2018

Mr. DELANEY (for himself, Mr. TROTT, Mr. RYAN of Ohio, Mr. COFFMAN, Mr. SEAN PATRICK MALONEY of New York, Mrs. DINGELL, Mr. FOSTER, Mr. RASKIN, Mr. KILMER, and Mr. JOHNSON of Georgia) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to improve the processing of veterans benefits by the Department of Veterans Affairs, to limit the authority of the Secretary of Veterans Affairs to recover overpayments made by the Department and other amounts owed by veterans to the United States, to improve the due process accorded veterans with respect to such recovery, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Veteran Debt Fairness
3 Act of 2018”.

4 **SEC. 2. LIMITATIONS ON AUTHORITY OF THE SECRETARY**
5 **OF VETERANS AFFAIRS TO RECOVER**
6 **AMOUNTS OWED BY VETERANS TO THE**
7 **UNITED STATES.**

8 (a) INDEBTEDNESS OFFSETS.—Section 5314 of title
9 38, United States Code, is amended as follows:

10 (1) In subsection (a)—

11 (A) by inserting “AUTHORITY TO OFFSET;
12 LIMITATIONS.—(1)” before “Subject to”;

13 (B) by striking “subsections (b) and (d) of
14 this section and” and inserting “paragraphs (2)
15 and (3) of this subsection, subsections (b) and
16 (d) of this section, and”; and

17 (C) by adding at the end the following new
18 paragraph:

19 “(2) The Secretary may make a deduction under
20 paragraph (1) only if—

21 “(A) the indebtedness to the United States de-
22 scribed in that paragraph—

23 “(i) is the result of an error, a misrepre-
24 sentation, or fraud by the person described in
25 that paragraph;

1 “(ii) in the case of an error by the person
2 described in that paragraph, is less than five
3 years old;

4 “(iii) is not in dispute under regulations
5 prescribed pursuant to subsection (d)(2)(A);
6 and

7 “(iv) exceeds \$2,500; and

8 “(B) the Secretary determines that the amount
9 of the indebtedness exceeds the cost to the Depart-
10 ment to recover the indebtedness.

11 “(3) The Secretary may not make a deduction under
12 paragraph (1) to a payment under chapter 11 or 15 of
13 this title that exceeds the lesser of—

14 “(A) 25 percent of the payment; and

15 “(B) a percentage that the Secretary deter-
16 mines is the greatest percentage that would not
17 cause a hardship to the recipient.”.

18 (2) In subsection (b)—

19 (A) by striking “Deductions may not be
20 made” and inserting “NOTICE REQUIRED.—No
21 deduction may be made”;

22 (B) by striking “unless the Secretary” and
23 inserting “until after”;

24 (C) by amending paragraph (1) to read as
25 follows:

1 “(1) the Secretary has made reasonable efforts to no-
2 tify the person of the person’s right—

3 “(A) to dispute the existence or amount of such
4 indebtedness under regulations prescribed pursuant
5 to subsection (d)(2)(A);

6 “(B) to request a waiver of such indebtedness
7 under section 5302 of this title; and

8 “(C) in the case of a payment under chapter 11
9 or 15 of this title, to request the Secretary make a
10 determination under subsection (a)(3)(B);” and

11 (D) in paragraph (2), by inserting “the
12 Secretary” before “has made”; and

13 (E) by amending paragraph (3) to read as
14 follows:

15 “(3) the day that is 90 calendar days after the day
16 the Secretary sends notice to the person of the indebted-
17 ness and of the proposed deduction.”.

18 (3) In subsection (c), by inserting “INAPPLICA-
19 BILITY OF STATUTES OF LIMITATIONS TO ADMINIS-
20 TRATIVE ACTIONS.—” before “Notwithstanding”.

21 (4) In subsection (d)—

22 (A) by inserting “REGULATIONS.—(1)” be-
23 fore “The Secretary” ; and

24 (B) by adding at the end the following new
25 paragraph:

1 “(2) The regulations under paragraph (1) shall in-
2 clude administrative processes by which a person described
3 in paragraph (1) of subsection (a) may—

4 “(A) dispute the existence or amount of indebt-
5 edness described in that paragraph; and

6 “(B) request that the Secretary make a deter-
7 mination under paragraph (3)(B) of such subsection.

8 “(3) The regulations under paragraph (1) shall direct
9 the Secretary to ensure that each dispute under paragraph
10 (2)(A) is adjudicated not later than 120 days after the
11 initiation of such dispute.

12 “(4) The regulations under paragraph (1) may not
13 permit the Secretary to submit to any debt collector (as
14 defined in section 803 of the Fair Debt Collection Prac-
15 tices Act (15 U.S.C. 1692a)) any debt in dispute under
16 paragraph (2)(A).

17 “(5) Nothing in this subsection shall be construed to
18 prohibit a person from seeking relief from a court of com-
19 petent jurisdiction.”.

20 (b) LIMITATIONS ON INTEREST AND FEES CHARGED
21 DURING PERIOD OF DISPUTE.—Section 5315 of such title
22 is amended—

23 (1) in subsection (b)(1), in the first sentence by
24 striking “or (B)” and inserting “(B) for any period
25 during which the existence or amount of the indebt-

1 edness is being disputed under regulations pre-
 2 scribed pursuant to section 5314(d) of this title, or
 3 (C)”; and

4 (2) in subsection (c)—

5 (A) by inserting “(1)” before “The admin-
 6 istrative”; and

7 (B) by adding at the end the following new
 8 paragraph:

9 “(2) No administrative costs may be charged under
 10 this section with respect to indebtedness described in sub-
 11 section (a) while the existence or amount of the indebted-
 12 ness is being disputed under section 5314(d) of this title.”.

13 (c) LIMITATION ON AUTHORITY TO SUE TO COL-
 14 LECT CERTAIN DEBTS.—Section 5316(a) of title 38,
 15 United States, is amended—

16 (1) in paragraph (1), by striking “paragraphs
 17 (2) and (3)” and inserting “paragraphs (2), (3), and
 18 (4)”;

19 (2) by redesignating paragraph (3) as para-
 20 graph (4); and

21 (3) by inserting after paragraph (2) the fol-
 22 lowing new paragraph (3):

23 “(3) No suit may be filed under this section to re-
 24 cover any indebtedness more than five years old.”.

25 (d) REPAIR OF CREDIT.—

1 (1) IN GENERAL.—Chapter 53 of such title is
2 amended by adding at the end the following new sec-
3 tion:

4 **“§ 5320. Correction of erroneous information sub-**
5 **mitted to consumer reporting agencies**

6 “(a) CORRECTING ERRORS BY THE DEPARTMENT.—
7 In any case in which the Secretary finds that the Depart-
8 ment has submitted erroneous information to a consumer
9 reporting agency about the indebtedness of any person
10 who has been determined by the Secretary to be indebted
11 to the United States by virtue of the participation of that
12 person in a benefits program administered by the Sec-
13 retary, the Secretary shall—

14 “(1) instruct the consumer reporting agency to
15 remove such erroneous information from the con-
16 sumer report of such person or take such other ac-
17 tion as may be required to ensure that such erro-
18 neous information is not included in the report of
19 such person; and

20 “(2) transmit to the consumer reporting agency
21 such information as the consumer reporting agency
22 may require to take such appropriate actions.

23 “(b) CORRECTING ERRORS BY DEBT COLLECTORS.—
24 In any case in which the Secretary finds that a debt col-
25 lector acting on behalf of the Department has submitted

1 erroneous information to a consumer reporting agency
2 about the indebtedness of any person who has been deter-
3 mined by the Secretary to be indebted to the United States
4 by virtue of the participation of that person in a benefits
5 program administered by the Secretary, the Secretary
6 shall instruct the debt collector to request the consumer
7 reporting agency remove such erroneous information from
8 the consumer report of such person or take such other
9 action as may be required to ensure such erroneous infor-
10 mation is not included in the report of such person.

11 “(c) NOTICE.—Not later than 60 days after the date
12 on which the Secretary issues an instruction under sub-
13 section (a)(1) or (b) with respect to a person, the Sec-
14 retary shall notify the person that the Secretary issued
15 such instruction.

16 “(d) DEFINITIONS.—In this section:

17 “(1) The terms ‘consumer report’ and ‘con-
18 sumer reporting agency’ have the meanings given
19 such terms in section 603 of the Fair Credit Report-
20 ing Act (15 U.S.C. 1681a).

21 “(2) The term ‘debt collector’ has the meaning
22 given such term in section 803 of the Fair Debt Col-
23 lection Practices Act (15 U.S.C. 1692a).”.

24 (2) CLERICAL AMENDMENT.—The table of sec-
25 tions at the beginning of chapter 53 of such title is

1 amended by adding at the end the following new
2 item:

“5320. Correction of erroneous information submitted to consumer reporting agencies.”.

3 (e) **EFFECTIVE DATE.**—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act and shall apply with respect to deductions
6 made under section 5314 of such title, administrative
7 costs under section 5315 of such title, and suits filed
8 under section 5316 of such title on or after such date.

9 **SEC. 3. IMPROVED PROCESSING OF BENEFITS BY DEPART-**
10 **MENT OF VETERANS AFFAIRS.**

11 The Secretary of Veterans Affairs shall improve the
12 information technology of the Department of Veterans Af-
13 fairs (including the eBenefits system or successor system)
14 as may be necessary to achieve the following:

15 (1) **NOTIFICATION OF DEBTS INCURRED.**—The
16 Secretary shall provide a notification to a person
17 who—

18 (A) is entitled to a payment from the Sec-
19 retary under a benefits program administered
20 by the Secretary;

21 (B) incurs a debt to the United States
22 under that benefits program; and

23 (C) elects to receive such notifications.

1 (2) REVIEW OF INFORMATION REGARDING DE-
2 PENDENTS.—A person entitled to a payment from
3 the Secretary under a benefits program administered
4 by the Secretary may review information relating to
5 dependents of that person.

6 (3) TRACKING METRICS.—The Secretary shall
7 be able to track—

8 (A) the number and amount of payments
9 made by the Secretary to a person entitled to
10 a payment from the Secretary under a benefits
11 program administered by the Secretary who in-
12 curs a debt to the United States under such
13 program;

14 (B) the average debt to the United States
15 incurred by a person described in subparagraph
16 (A);

17 (C) how frequently the Secretary approves
18 and denies applications for relief under section
19 5302(a) of title 38, United States Code; and

20 (D) such other metrics the Secretary deter-
21 mines appropriate.

1 **SEC. 4. AUDIT OF ERRONEOUS PAYMENTS BY VETERANS**
2 **BENEFITS ADMINISTRATION; PLAN OF COR-**
3 **RECTION.**

4 (a) AUDIT.—Not later than 180 days after the date
5 of the enactment of this Act, the Secretary of Veterans
6 Affairs shall complete an audit to determine the following:

7 (1) The frequency by which the Department of
8 Veterans Affairs makes an error that results in a
9 payment to a person by virtue of such person's par-
10 ticipation in a benefits program administered by the
11 Secretary that such person is not entitled to or in
12 an amount that exceeds the amount to which the
13 person is entitled.

14 (2) Whether and to what degree vacant posi-
15 tions in the Veterans Benefits Administration affect
16 such frequency.

17 (b) PLAN.—Not later than 30 days after the comple-
18 tion of the audit under subsection (a), the Secretary of
19 Veterans Affairs shall submit to the Committees on Vet-
20 erans' Affairs of the Senate and House of Representatives
21 a plan and description of resources necessary to align in-
22 formation technology systems to ensure that errors de-
23 scribed in subsection (a)(1) are not the result of commu-
24 nication or absence of communication between information
25 technology systems.

