



September 8, 2020

Chairman Mark Takano
Committee on Veterans' Affairs
B-234 Longworth House Office Building
Washington, DC 20515

Ranking Member David P. Roe, M.D.
Committee on Veterans' Affairs
B-234 Longworth House Office Building
Washington, DC 20515

Subject: Everytown for Gun Safety's Statement on H.R. 3826

Dear Chairman Takano and Ranking Member Roe,

We are writing today to urge opposition to H.R. 3826. We write on behalf of Everytown for Gun Safety Action Fund, the largest gun violence prevention organization in America, and Everytown for Gun Safety's Veteran Advisory Council, of which Capt. Marvin was the founding member. The Veteran Advisory Council (VAC) launched in May of 2018 and is supported by a vision that military veterans play a critical role in ending gun violence in America. The VAC, which is composed of 30 veterans who served in the Army, Marine Corps, Navy & Air Force, derives its actions and messaging from the strong gun culture in the military, which is best described by three basic pillars: (1) training, (2) safety, and (3) accountability. Capt. Marvin is a retired Army officer, former Black Hawk helicopter pilot, and combat-wounded veteran of the war in Afghanistan.

We applaud the committee for its commitment to addressing veteran suicide and the laws that can help prevent these tragedies. We support many of the solutions being proposed, especially as they relate to access to lethal means, but we write with particular concerns about one proposal. We oppose H.R. 3826 because it would remove critical records from the background check system and override the careful determinations made by Department of Veteran Affairs (VA) professionals at a time when veteran suicide is on the rise. Any evaluation of the current system needs to recognize that we are in the midst of a veteran suicide crisis - [one that claims the lives of 17 veterans and three service members each day, more than two-thirds of which are by a gun](#). Veterans deserve a system that provides help to those who need it, while carefully balancing the safety of the veteran and their community with the due process that protects their Second Amendment rights. The current system and due process protections are strong and meet the mark.

We support the Second Amendment and recognize, as the Supreme Court did in *District of Columbia v. Heller*, that reasonable restrictions based on narrowly tailored mental health determinations



are constitutional. The records that the VA submits to the National Instant Background Check System (NICS) are for veterans who a mental health professional has determined to be incapable of handling their own affairs due to a lack of mental capacity. Federal law requires there to be due process when the VA is making a determination of mental capacity, including notice, opportunity for a hearing, an opportunity to present evidence, and the opportunity to be represented by counsel. Due process is further protected because the VA has an accessible appeal process for veterans to seek relief from these determinations. Veterans can appeal the determination either generally or as it relates to firearms, and will have their records removed from the NICS system if they are not a danger to themselves or their community.

The fact is that the VA makes the determination about mental competency sparingly and with great care. The determinations are made by trained mental health professionals who have dedicated their lives to serving those who have served our country. As of December 31, 2019, there are 256,232 active records submitted by the VA into NICS related to the mental health prohibitor. That means that of the estimated 18 million U.S. veterans, the VA processes have resulted in only 1.4 percent of all veterans becoming prohibited due to mental health.

The real danger in this proposal is the misinformation that spreads about the current process and the VA determinations. A veteran does not lose his firearm rights simply because he or she has a service-related disability or by seeking treatment. In the midst of a veteran suicide crisis, it is especially irresponsible and dangerous to spread a myth that merely seeking mental health treatment will lead to the loss of gun rights.

On behalf of the Everytown Veteran Advisory Council and Everytown for Gun Safety Action Fund, and our more than 6 million supporters around the country, we strongly urge you to oppose H.R. 3826.

Sincerely,

Capt. Chris Marvin, USA (retired)
Founding Member
Everytown Veterans Advisory Council

Robert B. Wilcox, Jr.
Deputy Director of Policy & Strategy
Everytown for Gun Safety Action Fund