

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To amend title 38, United States Code, to improve the processing of veterans benefits by the Departments 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 individuals to the United States, to improve due process accorded individuals with respect to such recovery, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title 38, United States Code, to improve the processing of veterans benefits by the Departments 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 individuals to the United States, to improve due process accorded individuals 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; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “VA Beneficiary Debt Collection Improvement Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Prohibition of debt arising from overpayment due to delay in processing by the Department of Veterans Affairs.
- Sec. 3. Prohibition on Department of Veterans Affairs interest and administrative cost charges for debts relating to certain benefits programs.
- Sec. 4. Extension of window to request relief from recovery of debt arising under laws administered by the Secretary of Veterans Affairs.
- Sec. 5. Reforms relating to recovery by Department of Veterans Affairs of amounts owed by individuals to the United States.

6 **SEC. 2. PROHIBITION OF DEBT ARISING FROM OVERPAY-**
7 **MENT DUE TO DELAY IN PROCESSING BY THE**
8 **DEPARTMENT OF VETERANS AFFAIRS.**

9 (a) BAR TO RECOVERY.—

10 (1) IN GENERAL.—Chapter 53 of title 38,
11 United States Code, is amended by inserting after
12 section 5302A the following new section:

13 **“§ 5302B. Prohibition of debt arising from overpay-**
14 **ment due to delay in processing**

15 “(a) LIMITATION.—(1) Except as provided in para-
16 graph (2), no individual may incur a debt to the United
17 States that—

18 “(A) arises from the participation of the indi-
19 vidual in a program or benefit administered by the
20 Under Secretary for Benefits; and

1 “(B) is attributable to the failure of an em-
2 ployee or official of the Department to process infor-
3 mation provided by or on behalf of that individual
4 within applicable timeliness standards established by
5 the Secretary.

6 “(2) Nothing in this section shall be construed to af-
7 fect the penal and forfeiture provisions for fiduciaries set
8 forth in chapter 61 of this title.

9 “(b) NOTICE.—(1) If the Secretary determines that
10 the Secretary has made an overpayment to an individual,
11 the Secretary shall provide notice to the individual of the
12 overpayment.

13 “(2) Notice under paragraph (1) shall include a de-
14 tailed explanation of the right of the individual—

15 “(A) to dispute the overpayment, including a
16 detailed explanation of the process by which to dis-
17 pute the overpayment; or

18 “(B) to request a waiver of indebtedness.

19 “(c) DELAY ON COLLECTION.—(1) Subject to para-
20 graph (2), the Secretary may not take any action under
21 section 3711 of title 31 regarding an overpayment de-
22 scribed in a notice under subsection (b) of this section
23 until the date that is 90 days after the date the Secretary
24 issues such notice.

1 “(2) The Secretary may take action under section
2 3711 of title 31 regarding an overpayment described in
3 a notice under subsection (b) of this section before the
4 date that is 90 days after the date the Secretary issues
5 such notice if the Secretary determines that delaying such
6 action is—

7 “(A) likely to make repayment of such overpay-
8 ment more difficult for an individual;

9 “(B) likely to cause an unpaid debt to be re-
10 ferred to the Treasury Offset Program; or

11 “(C) not in the best interest of the individual.”.

12 (2) CLERICAL AMENDMENT.—The table of sec-
13 tions at the beginning of such chapter is amended
14 by inserting after the item relating to section 5302A
15 the following new item:

“5302B. Prohibition of debt arising from overpayment due to delay in pro-
cessing.”.

16 (3) DEADLINE.—The Secretary of Veterans Af-
17 fairs shall prescribe regulations to establish stand-
18 ards under section 5302B(a)(2) of such title, as
19 added by subsection (a), not later than 180 days
20 after the date of the enactment of this Act.

21 (b) PLAN FOR IMPROVED NOTIFICATION AND COM-
22 MUNICATION OF DEBTS.—

23 (1) IN GENERAL.—Not later than 180 days
24 after the date of the enactment of this Act, and one

1 year thereafter, the Secretary of Veterans Affairs
2 shall submit to Congress a report on the improve-
3 ment of the notification of and communication with
4 individuals who receive overpayments made by the
5 Secretary.

6 (2) CONTENTS.—Each report under paragraph
7 (1) shall include each of the following:

8 (A) The plan of the Secretary to carry out
9 each of the following:

10 (i) The development and implementa-
11 tion of a mechanism by which individuals
12 enrolled in the patient enrollment system
13 under section 1705 of title 38, United
14 States Code, may view their monthly pa-
15 tient medical statements electronically.

16 (ii) The development and implementa-
17 tion of a mechanism by which individuals
18 eligible for benefits under the laws admin-
19 istered by the Secretary may receive elec-
20 tronic correspondence relating to debt and
21 overpayment information.

22 (iii) The development and implemen-
23 tation, by not later than October 1, 2022,
24 of a mechanism by which individuals eligi-
25 ble for benefits under the laws adminis-

1 tered by the Secretary may access informa-
2 tion related to Department of Veterans Af-
3 fairs debt electronically.

4 (iv) The improvement and clarification
5 of Department communications relating to
6 overpayments and debt collection, including
7 letters and electronic correspondence and
8 including information relating to the most
9 common reasons individuals eligible for
10 benefits under the laws administered by
11 the Secretary incur debts to the United
12 States and the process for requesting a
13 waiver of such debt. The Secretary shall
14 develop such improvements and clarifica-
15 tions in consultation with veterans service
16 organizations, labor organizations that rep-
17 resent employees of the Department, and
18 other relevant nongovernmental organiza-
19 tions.

20 (B) A description of the current efforts
21 and plans for improving the accuracy of pay-
22 ments to individuals entitled to benefits under
23 the laws administered by the Secretary, includ-
24 ing specific data matching agreements.

1 (C) A description of steps to be taken to
2 improve the identification of underpayments to
3 such individuals and to improve Department
4 procedures and policies to ensure that such in-
5 dividuals who are underpaid receive adequate
6 compensation payments.

7 (D) A list of actions completed, implemen-
8 tation steps, and timetables for each require-
9 ment described in subparagraphs (A) through
10 (C).

11 (E) A description of any new legislative
12 authority required to complete any such re-
13 quirement.

14 **SEC. 3. PROHIBITION ON DEPARTMENT OF VETERANS AF-**
15 **FAIRS INTEREST AND ADMINISTRATIVE COST**
16 **CHARGES FOR DEBTS RELATING TO CERTAIN**
17 **BENEFITS PROGRAMS.**

18 (a) IN GENERAL.—Section 5315(a)(1) of title 38,
19 United States Code, is amended—

20 (1) by striking “other than a loan” and all that
21 follows through the semicolon and inserting “other
22 than—”; and

23 (2) by adding at the end the following new sub-
24 paragraphs:

1 “(A) a loan, loan-guaranty, or loan-insur-
2 ance program;

3 “(B) a disability compensation program;

4 “(C) a pension program; or

5 “(D) an educational assistance program.”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 subsection (a) shall apply with respect to an indebtedness
8 that occurs on or after the date of the enactment of this
9 Act.

10 **SEC. 4. EXTENSION OF WINDOW TO REQUEST RELIEF FROM**
11 **RECOVERY OF DEBT ARISING UNDER LAWS**
12 **ADMINISTERED BY THE SECRETARY OF VET-**
13 **ERANS AFFAIRS.**

14 Section 5302(a) of title 38, United States Code, is
15 amended by striking “180 days” and inserting “one year”.

16 **SEC. 5. REFORMS RELATING TO RECOVERY BY DEPART-**
17 **MENT OF VETERANS AFFAIRS OF AMOUNTS**
18 **OWED BY INDIVIDUALS TO THE UNITED**
19 **STATES.**

20 (a) LIMITATION ON INDEBTEDNESS OFFSETS.—Sub-
21 section (a) of section 5314 of title 38, United States Code,
22 is amended—

23 (1) by inserting “(1)” before “Subject to”; and

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

1 “(2) The Secretary may not make a deduction under
2 paragraph (1) while the existence or amount of such in-
3 debtedness is disputed under section 5314A of this title.”.

4 (b) ADMINISTRATIVE PROCESS FOR DISPUTE OF EX-
5 ISTENCE OR AMOUNT OF INDEBTEDNESS.—

6 (1) ESTABLISHMENT.—Chapter 53 of title 38,
7 United States Code, is amended by inserting after
8 section 5314 the following new section:

9 **“§ 5314A. Dispute of indebtedness**

10 “(a) ESTABLISHMENT.—The Secretary shall pre-
11 scribe regulations that establish an administrative process
12 for the dispute of the existence or amount of an indebted-
13 ness described in section 5314(a)(1) of this title (without
14 regard to whether the Secretary has made a deduction
15 under such section regarding such indebtedness).

16 **【“(b) STANDARDS.—The process under subsection**
17 **(a) shall be efficient, effective, and equitable.】**

18 “(c) TIMELINESS.—The Secretary shall ensure that
19 each dispute under subsection (a) proceeds in accordance
20 with standards for timeliness prescribed by the Secretary
21 under this section.

22 “(d) LIMITATION.—The Secretary may not submit to
23 any debt collector (as defined in section 803 of the Fair
24 Debt Collection Practices Act (15 U.S.C. 1692a)) any dis-
25 pute pending under this section.

1 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be construed to modify the procedures for seek-
3 ing review of a decision of the agency of original jurisdic-
4 tion described in section 5104C(a)(1) of this title.”.

5 **[(2) EXISTING ADMINISTRATIVE PROCESS.—**
6 The Secretary of Veterans Affairs shall carry out
7 section 5314A of such title, as added by paragraph
8 (1), by improving the administrative process of the
9 Department of Veterans Affairs for the dispute of
10 the existing or amount of an indebtedness that was
11 in effect on the day before the date of the enactment
12 of this Act. **[*This seems redundant with the enact-***
13 ***ment of 5314A in paragraph (1). Might paragraphs***
14 ***(2) and (3) be condensed to directions to the Secretary***
15 ***to provide info about the new dispute process to bene-***
16 ***ficiaries on the Dept. website and via written notice***
17 ***as in (3)(B)?*]**

18 **(3) IMPROVEMENTS TO DEPARTMENT WEBSITE**
19 **AND NOTICES.—**In carrying out paragraph (2), the
20 Secretary shall—

21 **[(A) improve the website of the Depart-**
22 **ment; and]**

23 **(B) ensure that such website and written**
24 **notices sent to a person about indebtedness de-**
25 **scribed in section 5314(a) of title 38, United**

1 States Code, contain all information a person
2 needs to dispute such an indebtedness, includ-
3 ing a description of—

4 (i) the specific actions the person will
5 need to take in order to dispute the indebt-
6 edness;

7 (ii) the documentation that will be re-
8 quired for the dispute; and

9 (iii) how the documentation is to be
10 submitted.

11 (4) CLERICAL AMENDMENT.—The table of sec-
12 tions at the beginning of such chapter is amended
13 by inserting after the item relating to section 5314
14 the following new item:

“5314A. Dispute of indebtedness.”.

15 (c) LIMITATION ON AUTHORITY TO RECOVER
16 DEBTS.—Section 5302(a) of title 38, United States Code,
17 is amended—

18 (1) by inserting “(1)” before “There”; and

19 (2) by adding at the end the following new
20 paragraph:

21 “(2) The Secretary may not seek to recover an in-
22 debtedness described in paragraph (1) if the Secretary de-
23 termines that the cost to the Department to recover such
24 indebtedness¹, as determined when the debt is estab-

1 lished,] **[*The meaning of this phrase is a bit unclear.*]**

2 would exceed the amount of the indebtedness.”.