

Not germane

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**AMENDMENT TO THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE TO H.R. 1236
OFFERED BY MR. BUCK OF COLORADO**

On page 22, line 20 strike “.” and replace with “; and”
and add the following between lines 20 and 21:

1 “(3) shall, in the case of any respondent who
2 is on active duty in the United States Armed Forces,
3 refer any petition for an extreme risk protection
4 order to the appropriate investigative agency or
5 tribunal within the Department of Defense for
6 investigation and adjudication consistent with the
7 Uniform Code of Military Justice, in lieu of issuing
8 an order in response to a petition described herein;
9 and

10 “(4) shall not, in regard to any petition
11 involving a respondent who is a veteran, as defined
12 in Section 101 of title 38, United States Code,
13 consider military service in the United States
14 Armed Forces and actions taken pursuant to lawful
15 military orders thereto as a risk factor described in
16 paragraphs (1) or (2) of this section.

On page 37, after line 12 insert the following:

17 **“SEC. 9. PROTECTIONS FOR VETERANS.—**

18 “(a) Section 922 of title 18 is amended by adding
19 the following:

1 “(aa) Notwithstanding any determination
2 made by the Secretary of Veterans Affairs under section
3 5501A of title 38, in any case arising out of the
4 administration by the Secretary of Veterans Affairs of any
5 law or benefit available under title 38, any person who
6 seeks or receives mental health counseling or is otherwise
7 mentally incapacitated, deemed mentally incompetent, or
8 experiencing an extended loss of consciousness shall not
9 be considered adjudicated as a mental defective under
10 subsection (d)(4) or (g)(4) of this section until such time
11 as:

12 “(1) a licensed psychologist within the
13 Department of Veterans Affairs who has
14 direct knowledge of such person’s mental
15 health condition based on personal and
16 extended medical evaluation or clinical
17 treatment, and based on overwhelming
18 evidence, concludes such person, by his or
19 her own clear and direct statements, poses a
20 risk of imminent danger to harm himself to
21 self or another individual and such risk is
22 directly related to the potential use of a
23 firearm;

24 “(2) such psychologist has issued a
25 written report summarizing their conclusions
26 for inclusion in such person’s medical
27 records; and

1 “(3) a judge or other judicial authority of
2 competent jurisdiction has issued an order or
3 made findings that concludes, upon review of
4 the person’s complete medical records and
5 based on clear and convincing evidence, that
6 such person is a danger to self or others.

7 “(b) Notwithstanding any other provision of law or
8 this Act, under no circumstances shall:

9 “(1) the fact that a veteran uses a third party
10 to assist with the management of the veteran’s
11 finances, benefits under title 38, or other personal
12 affairs be considered as a risk factor; or

13 “(2) any Patient Record Flags or similar
14 findings, conclusions, or designations by the
15 Department of Veterans Affairs be considered as
16 evidence of potential risk of harm to self or others,
17 for purposes of determining if an individual is a mental
18 defective under subsection (d)(4) or (g)(5) of section 922
19 of title 18 or considering a petition requesting the issuance
20 of an extreme risk protection order under section 932 of
21 title 18.

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