

Calendar No. 539

116TH CONGRESS
2D SESSION

S. 805

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 SENATE OF THE UNITED STATES

MARCH 14, 2019

Mr. TESTER (for himself, Mr. BOOZMAN, Mr. BROWN, Mr. BLUMENTHAL, Ms. STABENOW, Ms. HARRIS, Ms. WARREN, Mr. WYDEN, Mrs. SHAHEEN, Ms. BALDWIN, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

SEPTEMBER 15, 2020

Reported by Mr. MORAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

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 ac-

corded 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veteran Debt Fairness
 5 Act of 2019”.

6 **SEC. 2. IMPROVING PROCESSING OF VETERANS BENEFITS**
 7 **BY DEPARTMENT OF VETERANS AFFAIRS.**

8 (a) **NOTIFICATION OF DEBTS INCURRED.**—The Sec-
 9 retary of Veterans Affairs shall make such changes to such
 10 information technology systems of the Department of Vet-
 11 erans Affairs, including the eBenefits system or successor
 12 system, as may be necessary so that a person who is enti-
 13 tled to a payment from the Department by virtue of the
 14 person’s participation in a benefits program administered
 15 by the Secretary will receive, at the request of the person,
 16 a notice from the Department through means selected by
 17 the individual (by electronic mail or other mechanism)
 18 whenever such person incurs a debt to the United States
 19 by virtue of such participation.

20 (b) **UPDATING DEPENDENT INFORMATION.**—The
 21 Secretary shall make such changes to such information
 22 technology systems of the Department, including the
 23 eBenefits system or successor system, as may be necessary
 24 so that whenever the Secretary records in such systems

1 information about a dependent of a person, the person is
 2 able to review and revise such information.

3 ~~(c) TRACKING OF METRICS.—~~The Secretary shall
 4 make such changes to such information technology sys-
 5 tems of the Department as may be necessary to track the
 6 following:

7 (1) The number and amount of payments made
 8 by the Department to persons as part of a benefits
 9 program administered by the Secretary which result
 10 in the persons incurring a debt to the United States
 11 by virtue of such payments.

12 (2) The average debt to the United States in-
 13 curred by a person by virtue of a payment described
 14 in paragraph (1).

15 (3) The frequency by which applications for re-
 16 lief under section 5302(a) of title 38, United States
 17 Code, are approved and denied.

18 (4) Such other metrics as the Secretary con-
 19 siders appropriate.

20 **SEC. 3. REFORMS RELATING TO RECOVERY BY DEPART-**
 21 **MENT OF VETERANS AFFAIRS OF AMOUNTS**
 22 **OWED BY VETERANS TO THE UNITED STATES.**

23 ~~(a) INDEBTEDNESS OFFSETS.—~~

1 (1) LIMITATION ON SCOPE OF AUTHORITY.—

2 Subsection (a) of section 5314 of title 38, United
3 States Code, is amended—

4 (A) by inserting “(1)” before “Subject to”;

5 (B) in paragraph (1), as designated by
6 subparagraph (A), by striking “to subsections
7 (b) and (d) of this section” and inserting “to
8 paragraphs (2) through (6) of this subsection;
9 subsections (b) and (c) of this section,”; and

10 (C) by adding at the end the following new
11 paragraph:

12 “(2) Notwithstanding any other provision of law, the
13 Secretary may only deduct under paragraph (1) an
14 amount of the indebtedness of a veteran, the estate of a
15 veteran, a spouse or child of a veteran who is deceased,
16 or a recipient of educational assistance under chapter 30,
17 31, 32, 33, 34, or 35 of this title if the indebtedness is
18 a result of one or more of the following:

19 “(A) An error made by or failure to report re-
20 quired information to the Department by the vet-
21 eran, estate, spouse, child, or recipient of edu-
22 cational assistance, as the case may be.

23 “(B) Fraud perpetrated by the veteran, estate,
24 spouse, child, or recipient of educational assistance,
25 as the case may be.

1 “(C) A misrepresentation made by the veteran;
2 estate, spouse, child, or recipient of educational as-
3 sistance, as the case may be.

4 “(D) In the case of a recipient of educational
5 assistance under such chapters, a reduction in or
6 termination of pursuit of a program of education by
7 the recipient.

8 “(E) A failure described in section
9 3319(i)(2)(A) of this title.

10 “(3)(A) The Secretary may not deduct under para-
11 graph (1) from any payment made under chapter 11 or
12 15 of this title more than the lesser of—

13 “(i) 25 percent of such payment; or

14 “(ii) such other percent of such payment as the
15 Secretary and the person whose future payments are
16 to be reduced under paragraph (1) agree would not
17 cause a hardship to the person of the payment.

18 “(B) A person whose future payments are to be re-
19 duced under paragraph (1) may request, via the adminis-
20 trative process prescribed under subsection (c), the Sec-
21 retary make a determination under subparagraph (A)(ii)
22 of this paragraph.

23 “(4) In the case of an indebtedness that was incurred
24 as a result of an error or failure described in paragraph
25 (2)(A), the Secretary may not deduct under paragraph (1)

1 any amount relating to such indebtedness after the date
 2 that is five years after the date on which the debt was
 3 incurred.

4 “(5) The Secretary may not deduct under paragraph
 5 (1) any amount relating to an indebtedness while the ex-
 6 istence or amount of such indebtedness is being—

7 “(A) disputed under subsection (c); or

8 “(B) appealed.

9 “(6) The Secretary may not deduct under paragraph
 10 (1) any amount if the Secretary determines that the cost
 11 that would be incurred by the Department to recover such
 12 amount would exceed the amount to be recovered.

13 “(7) Paragraphs (2) through (6) shall not apply to
 14 payments under chapter 19 of this title.”.

15 (2) DUE PROCESS.—

16 (A) MINIMUM PERIOD FOR NOTICE.—Sub-
 17 section (b) of such section is amended—

18 (i) by amending paragraph (1) to read

19 as follows:

20 “(1) has made reasonable efforts to notify such
 21 person of such person’s right—

22 “(A) to dispute through prescribed admin-
 23 istrative processes the existence or amount of
 24 such indebtedness;

1 “(B) to request a waiver of such indebted-
2 ness under section 5302 of this title; and

3 “(C) to request the Secretary make a de-
4 termination under subsection (a)(3)(A)(ii);”;
5 and

6 (ii) by striking paragraph (3) and in-
7 serting the following new paragraphs:

8 “(3) has notified such person about the pro-
9 posed deductions by mailing a notice of intent letter;
10 which—

11 “(A) is mailed to the person—

12 “(i) in the case of a debt incurred by
13 a person by virtue of the person’s partici-
14 pation in a program of educational assist-
15 ance administered by the Secretary, not
16 later than 45 days before making any of
17 such deductions; and

18 “(ii) in the case of a debt incurred by
19 a person by virtue of the person’s partici-
20 pation in any other benefit program ad-
21 ministered by the Secretary, not later than
22 90 days before making any of such deduc-
23 tions; and

24 “(B) includes detailed information about
25 the indebtedness, including, in the case of an

overpayment, an itemized list of each overpayment and the specific reason for the overpayment.”.

~~(B)~~ ADJUDICATION OF DISPUTES.—

(i) IN GENERAL.—Such section is amended—

(I) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(II) by inserting after subsection (b) the following new subsection (c):

“(c)(1) The Secretary shall prescribe an administrative process for—

“(A) the dispute of the existence or amount of an indebtedness subject to subsection (a); and

“(B) making requests under paragraph (3)(B) of such subsection.

“(2) The Secretary shall ensure that each dispute under paragraph (1)(A) is adjudicated not later than 120 days after the dispute is filed.

“(3) The Secretary may not submit to any debt collector (as defined in section 803 of the Fair Debt Collection Practices Act (15 U.S.C. 1692a)) any debt pending adjudication under the process prescribed under paragraph (1).

1 “(4) Nothing in this subsection shall be construed to
 2 prohibit a person from seeking relief from a court of com-
 3 petent jurisdiction.”.

4 (ii) LIMITATIONS ON INTEREST AND
 5 FEES CHARGED DURING PERIOD OF DIS-
 6 PUTE.—Section 5315 of such title is
 7 amended—

8 (I) in subsection (b)(1), in the
 9 first sentence by striking “or (B)”
 10 and inserting “(B) for any period dur-
 11 ing which the existence or amount of
 12 the indebtedness is being disputed
 13 under section 5314(e) of this title; or
 14 (C)”;

15 (II) in subsection (e)—

16 (aa) by inserting “(1)” be-
 17 fore “The administrative”; and

18 (bb) by adding at the end
 19 the following new paragraph:

20 “(2) No administrative costs may be charged under
 21 this section with respect to an indebtedness described in
 22 subsection (a) while the existence or amount of the indebt-
 23 edness is being disputed under section 5314(e) of this
 24 title.”.

1 ~~(3) EFFECTIVE DATE.~~—This subsection and the
 2 amendments made by this subsection shall take ef-
 3 fect on the date of the enactment of this Act and
 4 shall apply with respect to deductions made under
 5 section 5314 of such title on or after such date.

6 ~~(4) RULE OF CONSTRUCTION.~~—This subsection
 7 and the amendments made by this subsection shall
 8 be construed to apply to an error in a payment to
 9 a person from the Department of Veterans Affairs
 10 the person is entitled to by virtue of the person's
 11 participation in a benefits program administered by
 12 the Secretary of Veterans Affairs following the per-
 13 son's notice to the Department of a change in the
 14 person's eligibility regarding such benefit or partici-
 15 pation.

16 ~~(b) LIMITATION ON AUTHORITY TO SUE TO COL-~~
 17 ~~LECT CERTAIN DEBTS.—~~

18 ~~(1) IN GENERAL.~~—Section 5316(a) of such title
 19 is amended—

20 (A) in paragraph (1), by striking “(2) and
 21 (3)” and inserting “(2), (3), and (4)”;

22 (B) by redesignating paragraph (3) as
 23 paragraph (4); and

24 (C) by inserting after paragraph (2) the
 25 following new paragraph (3):

1 “(3) In the case of an indebtedness that was incurred
 2 as a result of an error or failure described in section
 3 5314(a)(2)(A) of this title, no suit may be filed under this
 4 section to recover the indebtedness after the date that is
 5 five years after the date on which the debt was incurred.”.

6 (2) EFFECTIVE DATE.—This subsection and the
 7 amendments made by this subsection shall take ef-
 8 fect on the date of the enactment of this Act and
 9 shall apply with respect to suits filed under section
 10 5316 of such title on or after such date.

11 (c) LIMITATION ON COOPERATION WITH OTHER
 12 FEDERAL AGENCIES TO COLLECT.—Section 5316 of such
 13 title is amended by adding at the end the following new
 14 subsection:

15 “(d) The Secretary may not provide any information
 16 or assistance to any other element of the Federal Govern-
 17 ment to recover, whether by bringing suit in a court of
 18 competent jurisdiction, by deducting amounts from future
 19 payments, or by other method, any indebtedness of any
 20 person who has been determined to be indebted to the
 21 United States by virtue of such person’s participation in
 22 a benefits program administered by the Secretary if the
 23 Secretary does not have the authority to recover such in-
 24 debtedness under this title.”.

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 such person’s participa-
 12 tion in a benefits program administered by the Secretary,
 13 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 such person's participation in a benefits pro-
 5 gram administered by the Secretary, the Secretary shall
 6 instruct the debt collector to request the consumer report-
 7 ing agency remove such erroneous information from the
 8 consumer report of such person or take such other action
 9 as may be required to ensure such erroneous information
 10 is not included in the report of such person."

11 “(e) 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) AUDITS.—

4 (1) ~~ONE-TIME AUDIT.~~—Not later than 180 days
5 after the date of the enactment of this Act, the Sec-
6 retary of Veterans Affairs shall complete an audit to
7 determine the following:

8 (A) The frequency by which the Depart-
9 ment of Veterans Affairs makes an error that
10 results in a payment to a person by virtue of
11 such person’s participation in a benefits pro-
12 gram administered by the Secretary that such
13 person is not entitled to or in an amount that
14 exceeds the amount to which the person is enti-
15 tled.

16 (B) Whether and to what degree vacant
17 positions in the Veterans Benefits Administra-
18 tion affect such errors.

19 (2) ~~ANNUAL AUDITS.~~—Section ~~5314~~ of such
20 title, as amended by subsection (a), is further
21 amended by adding at the end the following new
22 subsection:

23 “(f) Not less frequently than once each year, the Sec-
24 retary shall complete an audit of not less than 10 percent

1 of all debts to the United States incurred by virtue of a
2 person's participation in a benefits program administered
3 by the Secretary to identify errors.”.

4 (f) PLAN.—Not later than 180 days after the date
5 of the enactment of this Act, the Secretary shall submit
6 to the Committee on Veterans' Affairs of the Senate and
7 the Committee on Veterans' Affairs of the House of Rep-
8 resentatives a plan and description of resource require-
9 ments necessary to align information technology systems
10 to ensure that errors described in subsection (d)(1) are
11 not the result of communication or absence of communica-
12 tion between information technology systems.

13 (g) COORDINATION WITH OTHER FEDERAL AGEN-
14 CIES.—

15 (1) INTERAGENCY WORKING GROUP.—The Sec-
16 retary of Veterans Affairs may establish an inter-
17 agency working to assess how executive agencies
18 should submit timely information to the Secretary of
19 Veterans Affairs in order to reduce overpayments to
20 veterans in the event of a life event, such as a
21 change in work status, incarceration, or change in
22 marital status.

23 (2) QUARTERLY REPORTING BY SECRETARY OF
24 DEFENSE TO SECRETARY OF VETERANS AFFAIRS.—
25 Each quarter, the Secretary of Defense shall trans-

1 mit to the Secretary of Veterans Affairs information
 2 on compensation received by members of the reserve
 3 components of the Armed Forces who received dur-
 4 ing such quarter for instruction, training, or other
 5 duties under section 206 of title 37, United States
 6 Code.

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Stopping Harm and*
 9 *Implementing Enhanced Lead-time for Debts for Veterans*
 10 *Act of 2020” or the “SHIELD for Veterans Act of 2020”.*

11 **SEC. 2. PROHIBITION OF DEBT ARISING FROM OVERPAY-**
 12 **MENT DUE TO DELAY IN PROCESSING BY THE**
 13 **DEPARTMENT OF VETERANS AFFAIRS.**

14 *(a) BAR TO RECOVERY.—*

15 *(1) IN GENERAL.—Chapter 53 of title 38, United*
 16 *States Code, is amended by inserting after section*
 17 *5302A the following new section:*

18 **“§ 5302B. Prohibition of debt arising from overpay-**
 19 **ment due to delay in processing**

20 *“(a) LIMITATION.—No individual may incur a debt*
 21 *to the United States that—*

22 *“(1) arises from any program or benefit admin-*
 23 *istered by the Secretary; and*

24 *“(2) is attributable to the failure of an employee*
 25 *or official of the Department to process information*

1 *provided by or on behalf of that individual within*
 2 *applicable timeliness standards established by the*
 3 *Secretary.*

4 “(b) *NOTICE TO BENEFICIARY.*—(1) *If the Secretary*
 5 *determines that the Secretary has made an overpayment to*
 6 *an individual, the Secretary shall provide notice to the in-*
 7 *dividual of the overpayment.*

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

10 “(A) *to dispute the overpayment, including a de-*
 11 *tailed explanation of the process by which to dispute*
 12 *the overpayment; or*

13 “(B) *to request a waiver of indebtedness.*

14 “(c) *DELAY ON COLLECTION.*—*The Secretary may not*
 15 *take any action under section 3711 of title 31 regarding*
 16 *an overpayment described in a notice under subsection (b)*
 17 *until the date that is 90 days after the date the Secretary*
 18 *issues such notice.”.*

19 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
 20 *tions at the beginning of such chapter is amended by*
 21 *inserting after the item relating to section 5302A the*
 22 *following new item:*

 “5302B. *Prohibition of debt arising from overpayment due to delay in proc-*
 essing.”.

23 (3) *DEADLINE.*—*The Secretary of Veterans Af-*
 24 *fairs shall prescribe regulations to establish standards*

1 *under section 5302B(a)(2) of such title, as added by*
 2 *subsection (a), not later than 180 days after the date*
 3 *of the enactment of this Act.*

4 *(b) PLAN FOR IMPROVED NOTIFICATION AND COMMU-*
 5 *NICATION OF DEBTS.—*

6 *(1) IN GENERAL.—Not later than 180 days after*
 7 *the date of the enactment of this Act, and one year*
 8 *thereafter, the Secretary of Veterans Affairs shall sub-*
 9 *mit to Congress a report on the improvement of the*
 10 *notification of and communication with individuals*
 11 *who receive overpayments made by the Secretary.*

12 *(2) CONTENTS.—Each report under paragraph*
 13 *(1) shall include each of the following:*

14 *(A) The plan of the Secretary to carry out*
 15 *each of the following:*

16 *(i) The development and implementa-*
 17 *tion of a mechanism by which individuals*
 18 *enrolled in the patient enrollment system*
 19 *under section 1705 of title 38, United States*
 20 *Code, may view their monthly patient med-*
 21 *ical statements electronically.*

22 *(ii) The development and implementa-*
 23 *tion of a mechanism by which individuals*
 24 *eligible for benefits under the laws adminis-*
 25 *tered by the Secretary may receive elec-*

1 *tronic correspondence relating to debt and*
2 *overpayment information.*

3 *(iii) The development and implementa-*
4 *tion, by not later than October 1, 2022, of*
5 *a mechanism by which individuals eligible*
6 *for benefits under the laws administered by*
7 *the Secretary may access information re-*
8 *lated to Department of Veterans Affairs debt*
9 *electronically.*

10 *(iv) The improvement and clarification*
11 *of Department communications relating to*
12 *overpayments and debt collection, including*
13 *letters and electronic correspondence and in-*
14 *cluding information relating to the most*
15 *common reasons veterans incur debts to the*
16 *United States. The Secretary shall develop*
17 *such improvements and clarifications in*
18 *consultation with veterans service organiza-*
19 *tions and other relevant nongovernmental*
20 *organizations.*

21 *(v) The development and implementa-*
22 *tion, by not later than October 1, 2022, of*
23 *a mechanism by which veterans may update*
24 *their dependency information electronically.*

1 (B) A description of the current efforts and
 2 plans for improving the accuracy of payments to
 3 individuals entitled to benefits under the laws
 4 administered by the Secretary, including specific
 5 data matching agreements.

6 (C) A description of steps to be taken to im-
 7 prove the identification of underpayments to
 8 such individuals and to improve Department
 9 procedures and policies to ensure that such indi-
 10 viduals who are underpaid receive adequate com-
 11 pensation payments.

12 (D) A list of actions completed, implemen-
 13 tation steps, and timetables for each requirement
 14 described in subparagraphs (A) through (C).

15 (E) A description of any new legislative au-
 16 thority required to complete any such require-
 17 ment.

18 **SEC. 3. PROHIBITION ON DEPARTMENT OF VETERANS AF-**
 19 **FAIRS INTEREST AND ADMINISTRATIVE COST**
 20 **CHARGES FOR DEBTS RELATING TO CERTAIN**
 21 **BENEFITS PROGRAMS.**

22 (a) *IN GENERAL.*—Section 5315(a)(1) of title 38,
 23 *United States Code*, is amended—

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

4 (2) by adding at the end the following new sub-
 5 paragraphs:

6 “(A) a loan, loan-guaranty, or loan-insur-
 7 ance program;

8 “(B) a disability compensation program;

9 “(C) a pension program; or

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

11 (b) *EFFECTIVE DATE.*—The amendments made by sub-
 12 section (a) shall apply with respect to an indebtedness that
 13 occurs on or after the date of the enactment of this Act.

14 **SEC. 4. THRESHOLD FOR REPORTING DEBTS TO CONSUMER**
 15 **REPORTING AGENCIES.**

16 (a) *IN GENERAL.*—Chapter 53 of title 38, United
 17 States Code, is amended by adding after section 5319 the
 18 following new section:

19 **“§ 5320. Threshold for reporting debts to consumer re-**
 20 **porting agencies**

21 “The Secretary shall prescribe regulations that estab-
 22 lish the minimum amount of a claim or debt, arising from
 23 a benefit administered by the Under Secretary for Benefits
 24 or Under Secretary for Health, that the Secretary will re-

1 port to a consumer reporting agency under section 3711
2 of title 31.”.

3 (b) *CLERICAL AMENDMENT.*—*The table of sections at*
4 *the beginning of such chapter is amended by adding after*
5 *the item relating to section 5319 the following new item:*
“5320.Threshold for reporting debts to consumer reporting agencies.”.

6 (c) *DEADLINE.*—*The Secretary of Veterans Affairs*
7 *shall prescribe regulations under section 5320 of such title,*
8 *as added by subsection (a), not later than 180 days after*
9 *the date of the enactment of this Act.*

10 **SEC. 5. 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. 6. REFORMS RELATING TO RECOVERY BY DEPART-**
17 **MENT OF VETERANS AFFAIRS OF AMOUNTS**
18 **OWED BY VETERANS TO THE UNITED STATES.**

19 (a) *ADMINISTRATIVE PROCESS FOR DISPUTE OF EX-*
20 *ISTENCE OR AMOUNT OF INDEBTEDNESS.*—

21 (1) *IN GENERAL.*—*Section 5314 of title 38,*
22 *United States Code, is amended—*

23 (A) *by redesignating subsections (c) and (d)*
24 *as subsections (d) and (e); and*

1 (B) by inserting after subsection (b) the fol-
2 lowing new subsection (c):

3 “(c)(1) *The Secretary shall prescribe an administra-*
4 *tive process for the dispute of the existence or amount of*
5 *an indebtedness subject to subsection (a).*

6 “(2) *The Secretary shall ensure that each dispute*
7 *under paragraph (1) is adjudicated not later than 120 days*
8 *after the dispute is filed.*

9 “(3) *The Secretary may not submit to any debt col-*
10 *lector (as defined in section 803 of the Fair Debt Collection*
11 *Practices Act (15 U.S.C. 1692a)) any debt pending adju-*
12 *dication under the process prescribed under paragraph (1).*

13 “(4) *Notwithstanding any other provision of law, the*
14 *Secretary may not deduct under subsection (a) any amount*
15 *relating to an indebtedness while the existence or amount*
16 *of such indebtedness is being—*

17 “(A) *disputed under paragraph (1) of this sub-*
18 *section; or*

19 “(B) *appealed.*

20 “(5) *Nothing in this subsection shall be construed to*
21 *prohibit a person from seeking relief from a court of com-*
22 *petent jurisdiction.*

23 “(6) *Nothing in this subsection shall be construed to*
24 *affect a dispute regarding a decision on a claim that is*
25 *subject to section 5104C(a)(1) of this title.”.*

1 (2) *EXISTING ADMINISTRATIVE PROCESS.*—*The*
 2 *Secretary of Veterans Affairs shall carry out sub-*
 3 *section (c) of such section, as added by paragraph*
 4 *(1)(B), by improving the administrative process of the*
 5 *Department of Veterans Affairs for the dispute of the*
 6 *existing or amount of an indebtedness that was in ef-*
 7 *fect on the day before the date of the enactment of this*
 8 *Act.*

9 (3) *IMPROVEMENTS REGARDING DEPARTMENT*
 10 *WEBSITE AND NOTICES.*—*In carrying out paragraph*
 11 *(2), the Secretary shall—*

12 *(A) improve the website of the Department;*
 13 *and*

14 *(B) ensure that such website and written*
 15 *notices sent to veterans about indebtedness de-*
 16 *scribed in section 5314(a) of title 38, United*
 17 *States Code, contain all information veterans*
 18 *need to dispute such a indebtedness, including a*
 19 *description of—*

20 *(i) the specific actions the veterans will*
 21 *need to take in order to dispute the indebt-*
 22 *edness;*

23 *(ii) the documentation that will be re-*
 24 *quired for the dispute; and*

1 (iii) *how the documentation is to be*
 2 *submitted.*

3 (b) *MINIMUM THRESHOLDS FOR AMOUNTS TO BE RE-*
 4 *COVERED.*—*Subsection (a) of such section is amended—*

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

6 (2) *by adding at the end the following new para-*
 7 *graph:*

8 “(2) *The Secretary may not deduct under paragraph*
 9 *(1) any amount if the Secretary determines that the cost*
 10 *that would be incurred by the Department to recover such*
 11 *amount would exceed the amount to be recovered.”.*

12 (c) *CONFORMING AMENDMENT.*—*Subsection (a)(1), as*
 13 *designated by subsection (b)(1), is amended by striking “to*
 14 *subsections (b) and (d) of this section” and inserting “to*
 15 *paragraph (2) of this subsection, subsections (b), (c), and*
 16 *(e) of this section,”.*

17 **SEC. 7. REMOVAL OF DEPENDENTS FROM AWARD OF COM-**
 18 **PENSATION OR PENSION.**

19 *The Secretary of Veterans Affairs shall ensure that—*

20 (1) *a veteran may remove any dependent from*
 21 *an award of compensation or pension to the veteran*
 22 *using the eBenefits system of the Department of Vet-*
 23 *erans Affairs, or a successor system; and*

- 1 (2) *such removal takes effect not later than 60*
- 2 *days after the date on which the veteran makes such*
- 3 *removal.*

Calendar No. 539

116TH CONGRESS
2D Session

S. 805

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.

SEPTEMBER 15, 2020

Reported with an amendment