

Everybody wants to know how this is happening. Federal law requires that before a person is reported to a gun ban list, he be determined to be a “mental defective.” The Bureau of Alcohol, Tobacco, Firearms and Explosives created a regulation to define what “mental defective” means. It includes, among other requirements, that a person is a danger to self or others. The VA has taken the position that this Alcohol, Tobacco, Firearms and Explosives regulation can then be made to fit within its own preexisting regulatory structure for assigning a fiduciary, thus requiring that name be put on the gun ban list.

The intent and purpose between these two regulations is entirely different. On the one hand, the VA regulation is designed to appoint a fiduciary. On the other hand, the ATF regulation is designed to regulate firearms. That is a great big, huge distinction. The level of mental impairment that justifies taking away the right to possess and own firearms must rest at a severe and substantial level—a level at which the mere possession of a firearm would constitute a danger to self or others. That decision is never made by the VA before submitting names to this gun ban list. As such, imposing a gun ban is a harsh result that could sweep up veterans who are fully capable of appropriately operating a firearm.

It gets worse.

When veterans are then placed on that gun ban list, they must prove that they are not dangerous to the public in order to get their names removed from that list. That dangerousness standard is much higher than the mere assignment of a fiduciary. Thus, veterans are subjected to a more rigorous and more demanding evidentiary standard to get their names off the gun ban list than the Federal Government must prove to put their names on that list. We ought to all agree that is patently unfair. I also believe that it is unconstitutional. When dealing with a fundamental, constitutional right like the one protected by the Second Amendment, at the very minimum, the government ought to be held to the same standard as we the people.

We owe it to our veterans to fix this problem. As of December 31, 2016, the Veterans Health Administration reported 167,815 veterans to the gun ban list for having been assigned a fiduciary. That is 167,815 out of 171,083 or another way of saying it is 98 percent of all names reported.

It is important to note that since the VA reports names to the gun ban list merely when a fiduciary is assigned to that veteran, not one of those names has been reported because a veteran has been deemed to be a public danger. Accordingly, not all veterans reported to the gun ban list should be on it.

On May 18, 2016, I debated this very issue on the Senate floor with Senator DURBIN. He said, “I do not dispute what the Senator from Iowa suggested, that some of these veterans may be suf-

fering from a mental illness not serious enough to disqualify them from owning a firearm, but certainly many of them do.”

Then Senator DURBIN said, “Let me just concede at the outset that reporting 174,000 names goes too far, but eliminating 174,000 names goes too far.”

I am pleased that Senator DURBIN acknowledged that many of the names supplied by the VA on the gun ban list do not pose a danger and should be removed.

I thank his staff for working with my staff during this process.

The essential question then is, How do we go about fixing it the right way?

I believe my legislation does just that. This legislation adds a new step before the VA can report names to a gun ban list. The step requires that once a fiduciary is assigned, the VA must first find the veteran to be a danger to self or to the public before taking away his firearm. That is the same standard that the veteran must satisfy currently in order to get his name off the gun ban list.

My legislation also provides constitutional due process. Specifically, it shifts the burden of proof to the government to prove a veteran is dangerous before taking away firearms. Currently, the entire burden of proof is on the veteran to prove that he or she is not dangerous. When a constitutional right is involved, the burden must always be on the government.

My bill also creates an option for the veteran to seek legal redress via an administrative board or the Federal court system. The veteran is in control. It provides an avenue for every veteran already on that gun ban list to get his name removed. That last point is important to note.

My bill does not automatically remove every veteran from the list, which was a concern Senator DURBIN raised previously when we debated this issue. It does require the VA to provide notice to every veteran on the list of his right to go through the new process to have his name removed. Should a veteran choose to do that, the protections, the process, the procedure, and the standards set forth in my bill would then apply to him. Every veteran is free to apply for relief, and every veteran will be treated equally under my bill. Of course, that is the fair thing to do. That is the constitutionally sound way to manage this process.

The bill does provide authority for the government to seek an emergency order if it believes a veteran is a serious and imminent risk to self or to others. That was a suggestion by Senator DURBIN—to provide for a short-term safety mechanism when the situation is too urgent to wait for a judge to evaluate all of the facts.

The bill also retains a mechanism for the VA to systematically refer veterans to the National Instant Criminal Background Check System. This was

another of Senator DURBIN’s main concerns. A simpler bill passed the House of Representatives last year that is similar to the amendment I tried to offer and that Senator DURBIN objected to in the year 2016. It would, simply, stop the VA from referring veterans to the gun ban list without first finding them a danger to self and others. However, it did not set up any system to make that happen. The argument is that this puts veterans using the VA in the same boat as everybody else. Of course, I am sympathetic to that argument, but the legislation I am introducing today is a good faith effort to overcome objections that have prevented action on this important issue in the past.

My bill solves a problem that has existed for many years: denying veterans their Second Amendment rights. Veterans should not be subject to a harsher standard than what the government is subject to. Veterans deserve full due process protections when their constitutional rights are at stake. That is the core of this legislation.

The regulatory process at the back end to remove a veteran from the gun ban list is simply moved to the front end; that is, the Federal Government must first prove that a veteran is dangerous before taking away firearms. This is the same standard applied to nonveterans.

This fix will not change existing firearms laws. Felons are still prohibited from owning firearms. Persons with domestic violence convictions are still prohibited. Persons adjudicated as mentally defective are still prohibited. Persons involuntarily committed are still prohibited. If my bill were to become law, every Federal firearm prohibition would still exist.

Again, the core of my bill simply requires the Federal Government to prove that a veteran is dangerous before taking away his or her firearms. That is the same standard our veterans must live by currently in order to remove their name from the gun ban list and get their guns back.

If we, the people, have to live under that standard, then, so should our Federal Government.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 392—COMMEMORATING THE SUCCESS OF THE UNITED STATES OLYMPIC AND PARALYMPIC TEAMS IN THE PAST 23 OLYMPIC WINTER GAMES AND 11 PARALYMPIC WINTER GAMES AND SUPPORTING THE UNITED STATES OLYMPIC AND PARALYMPIC TEAMS IN THE 2018 OLYMPIC WINTER GAMES AND PARALYMPIC WINTER GAMES

Ms. KLOBUCHAR (for herself, Mr. HATCH, Mr. BENNET, Mr. ISAKSON, and Mr. THUNE) submitted the following resolution; which was referred to the

Committee on Commerce, Science, and Transportation:

S. RES. 392

Whereas, for more than 100 years, the Olympic and Paralympic movements have built a more peaceful and better world by—

(1) educating young people through amateur athletics;

(2) bringing together athletes from many countries in friendly competition; and

(3) forging new relationships among athletes bound by friendship, solidarity, and fair play;

Whereas the 2018 Olympic Winter Games will take place in PyeongChang, South Korea, from February 9 to February 25, 2018;

Whereas the 2018 Paralympic Winter Games will take place in PyeongChang, South Korea, from March 9 to March 18, 2018;

Whereas at the 2018 Olympic Winter Games, 90 nations will compete in 7 sports, and the United States Olympic and Paralympic Teams (referred to in this preamble as “Team USA”) will compete in all 7 sports;

Whereas at the 2018 Paralympic Winter Games, approximately 45 nations will compete in 5 sports, and Team USA will compete in all 5 sports;

Whereas Team USA has won 96 gold medals, 102 silver medals, and 84 bronze medals, totaling 282 medals, during the past 23 Olympic Winter Games;

Whereas Team USA has won 98 gold medals, 104 silver medals, and 77 bronze medals, totaling 279 medals, during the past 11 Paralympic Winter Games;

Whereas the people of the United States stand united in respect and admiration for the members of Team USA and the athletic accomplishments, sportsmanship, and dedication to excellence of Team USA;

Whereas the many accomplishments of Team USA would not have been possible without the hard work and dedication of many individuals, including—

(1) individuals on the United States Olympic Committee; and

(2) the many administrators, coaches, and family members who provide critical support to the athletes of Team USA;

Whereas the United States takes great pride in the athletes of Team USA exhibiting a commitment to excellence, grace under pressure, and good will toward other competitors; and

Whereas the Olympic and Paralympic Movements celebrate competition, fair play, and the pursuit of dreams: Now, therefore, be it

Resolved, That the Senate—

(1) applauds the athletes and coaches of the United States Olympic and Paralympic Teams (referred to in this resolving clause as “Team USA”) and the families who support them;

(2) supports the athletes of Team USA in competing at the 2018 Olympic Winter Games and Paralympic Winter Games in PyeongChang, South Korea; and

(3) supports the goals and ideals of the Olympic Games and the Paralympic Games.

SENATE RESOLUTION 393—MAKING MINORITY APPOINTMENTS FOR THE 115TH CONGRESS

Mr. SCHUMER submitted the following resolution; which was considered and agreed to:

S. RES. 393

Resolved, That the following be the minority membership on the following committees for the remainder of the 115th Congress, or until their successors are appointed:

COMMITTEE ON FOREIGN RELATIONS: Mr. Menendez, Mr. Cardin, Mrs. Shaheen, Mr. Coons, Mr. Udall, Mr. Murphy, Mr. Kaine, Mr. Markey, Mr. Merkley, Mr. Booker.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP: Mr. Cardin, Ms. Cantwell, Mrs. Shaheen, Ms. Heitkamp, Mr. Markey, Mr. Booker, Mr. Coons, Ms. Hirono, Ms. Duckworth.

SENATE RESOLUTION 394—RECOGNIZING JANUARY 2018 AS NATIONAL MENTORING MONTH

Mr. ISAKSON (for himself, Mr. WHITEHOUSE, Mr. BOOKER, Mr. BROWN, Mrs. CAPITO, Mr. CASSIDY, Mr. CORNYN, Mr. DURBIN, Mr. VAN HOLLEN, Mr. WYDEN, and Mr. PETERS) submitted the following resolution; which was considered and agreed to:

S. RES. 394

Whereas the goals of National Mentoring Month are—

(1) to raise awareness of mentoring;

(2) to recruit individuals to mentor;

(3) to celebrate the powerful impact of caring adults who volunteer time for the benefit of young people; and

(4) to encourage organizations to engage and integrate quality in mentoring into the efforts of the organizations;

Whereas young people across the United States make everyday choices that lead to the big decisions in life without the guidance and support on which many other people rely;

Whereas a mentor is a caring, consistent presence who devotes time to a young person to help that young person—

(1) discover personal strength; and

(2) achieve the potential of that young person through a structured and trusting relationship;

Whereas quality mentoring—

(1) encourages positive choices;

(2) promotes self-esteem;

(3) supports academic achievement; and

(4) introduces young people to new ideas;

Whereas mentoring programs have shown to be effective in helping young people make positive choices;

Whereas young people who meet regularly with mentors are 46 percent less likely than peers to start using illegal drugs;

Whereas research shows that young people who were at risk for not completing high school but who had a mentor were, as compared with similarly situated young people without a mentor—

(1) 55 percent more likely to be enrolled in college;

(2) 81 percent more likely to report participating regularly in sports or extracurricular activities;

(3) more than twice as likely to say they held a leadership position in a club or sports team; and

(4) 78 percent more likely to pay it forward by volunteering regularly in the communities of young people;

Whereas 90 percent of young people who were at risk for not completing high school but who had a mentor said they are now interested in becoming mentors themselves;

Whereas mentoring can play a role in helping young people attend school regularly, as research shows that students who meet regularly with a mentor are, as compared with the peers of those students—

(1) 52 percent less likely to skip a full day of school; and

(2) 37 percent less likely to skip a class;

Whereas youth development experts agree that mentoring—

(1) encourages positive youth development and smart daily behaviors such as finishing homework and having healthy social interactions; and

(2) has a positive impact on the growth and success of a young person;

Whereas mentors help young people set career goals and use the personal contacts of the mentors to help young people meet industry professionals and train for and find jobs;

Whereas each of the benefits of mentors described in this preamble serve to link youth to economic and social opportunity while also strengthening communities in the United States; and

Whereas, despite those described benefits, 9,000,000 young people in the United States feel isolated from meaningful connections with adults outside the home, constituting a “mentoring gap” that demonstrates a need for collaboration and resources: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes January 2018 as National Mentoring Month;

(2) recognizes the caring adults who—

(A) serve as staff and volunteers at quality mentoring programs; and

(B) help the young people of the United States find inner strength and reach their full potential;

(3) acknowledges that mentoring is beneficial because mentoring supports educational achievement and self-confidence, reduces juvenile delinquency, improves life outcomes, and strengthens communities;

(4) promotes the establishment and expansion of quality mentoring programs across the United States to equip young people with the tools needed to lead healthy and productive lives; and

(5) supports initiatives to close the “mentoring gap” that exists for the many young people in the United States who do not have meaningful connections with adults outside the home.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1922. Mr. MCCONNELL proposed an amendment to the bill H.R. 695, to amend the National Child Protection Act of 1993 to establish a voluntary national criminal history background check system and criminal history review program for certain individuals who, related to their employment, have access to children, the elderly, or individuals with disabilities, and for other purposes.

SA 1923. Mr. MCCONNELL proposed an amendment to amendment SA 1922 proposed by Mr. MCCONNELL to the bill H.R. 695, supra.

SA 1924. Mr. MCCONNELL proposed an amendment to amendment SA 1923 proposed by Mr. MCCONNELL to the amendment SA 1922 proposed by Mr. MCCONNELL to the bill H.R. 695, supra.

SA 1925. Mr. HELLER submitted an amendment intended to be proposed by him to the bill H.R. 695, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1922. Mr. MCCONNELL proposed an amendment to the bill H.R. 695, to amend the National Child Protection Act of 1993 to establish a voluntary national criminal history background check system and criminal history review program for certain individuals who, related to their employment, have access to children, the elderly, or individuals with disabilities, and for other purposes; as follows: