

Coburn Amendment 3462- Protecting Veterans' 2nd Amendment Rights

Coburn amendment 3462 provides proper due process for veterans to prevent them from being unfairly deprived of their Second Amendment Rights.

The Brady Bill prohibits those “adjudicated as a mental defective” from purchasing or possessing a firearm

- As a result of the Brady Bill, the Bureau of Alcohol, Tobacco, and Firearms Enforcement Regulations (ATF) promulgated regulations to define the term “adjudicated as a mental defective.”
- Anyone covered under this definition is prohibited from purchasing or possessing a firearm.
- Unfortunately, this regulation was overly expansive and included individuals who are in no danger to themselves or to others but simply cannot manage their own affairs.

This amendment addresses a Veterans Affairs (VA) reporting issue to the Federal Bureau of Investigations (FBI) National Instant Criminal Background Check System (NICS) which fails to differentiate between a veteran that needs help managing their finances and one that is dangerous to themselves or others.

- The Department of Veterans Affairs (VA) determined that the ATF regulations from the Brady Bill directed them to send the names of all those determined to be “mentally-incompetent” to ATF to be included on National Instant Criminal Background Check System (NICS) and prohibited from purchasing or possessing firearms.
- If a veteran is declared unable to handle their own finances and assigned a fiduciary, they are considered “adjudicated as a mental defective” and lose their rights to possess and purchase firearms.
- During this evaluation, a VA bureaucrat gathers evidence to make a judgment whether a veteran needs a fiduciary to handle their benefits, not whether they should be eligible to purchase, possess, or operate a firearm.
- The current process have prompted the VA to forward the names of Veterans who are in no danger to themselves but merely depend on others to manage their finances. In fact, the type of disability a veteran may suffer from is not considered.
- Balancing a checkbook has nothing to do with the capability of handling a firearm.
- As of August 2011, the VA accounted for 98 percent of NICS submissions by a federal agency for mental health concerns. Veterans account for 11 percent of all Americans included in NICS as persons prohibited from possessing or purchasing firearms because of mental health concerns (138,968 of 1,286,489 individuals).¹

¹ NICS Index Stats(as of 8/31/2011)

Coburn amdt 3462 would provide for proper due process for our veterans and provide relief to those that have already been unfairly deprived of their 2nd amendment rights

- Coburn Amendment 3462 provides ex ante due process for veterans that are appointed a fiduciary to receive a hearing from a VA board or a court of competent jurisdiction based on his/her ability to handle a firearm, rather than finances
- Coburn Amendment 3462 also provides veterans that are already in the NICS system with recourse with an appeals process through a court of competent jurisdiction to regain his/her 2nd amendment rights
- Coburn Amendment 3462 requires the VA to review current policy to ensure that a veteran that voluntarily appoints a fiduciary is not automatically placed in the NICS system

These men and women were willing to sacrifice their lives to protect the freedoms guaranteed by the Constitution and should not have any of the rights they served to protect stripped without proper due process.