

AF Mac
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220P
S.L.C.
Tom a Coburn

AMENDMENT NO. _____ Calendar No. _____

Purpose: To clarify the conditions under which certain persons may be treated as adjudicated mentally incompetent for certain purposes.

IN THE SENATE OF THE UNITED STATES—113th Cong., 2d Sess.

S. 2363

AMENDMENT N^o	3462	recreational r purposes.
By <u>COBURN</u>	_____	_____ and
To: _____	_____	_____
<u>S. 2363</u>	_____	printed
<u>5</u>	_____	r. COBURN
Page(s)		

GPO: 2012 77-320 (mac)

- 1 On page 53, after line 11, add the following:
- 2 **TITLE III—OTHER MATTERS**
- 3 **SEC. 301. PROTECTING THE SECOND AMENDMENT RIGHTS**
- 4 **OF VETERANS.**
- 5 (a) IN GENERAL.—Chapter 55 of title 38, United
- 6 States Code, is amended by adding at the end the fol-
- 7 lowing new section:

1 **“§ 5511. Conditions for treatment of certain persons**
2 **as adjudicated mentally incompetent for**
3 **certain purposes**

4 “(a) IN GENERAL.—In any case arising out of the
5 administration by the Secretary of laws and benefits under
6 this title, a person who is determined by the Secretary to
7 be mentally incompetent shall not be considered adju-
8 dicated pursuant to subsection (d)(4) or (g)(4) of section
9 922 of title 18, until—

10 “(1) in the case in which the person does not
11 request a review as described in subsection (c)(1),
12 the end of the 30-day period beginning on the date
13 on which the person receives notice submitted under
14 subsection (b); or

15 “(2) in the case in which the person requests a
16 review as described in paragraph (1) of subsection
17 (c), upon an assessment by the board designated or
18 established under paragraph (2) of such subsection
19 or court of competent jurisdiction that a person can-
20 not safely use, carry, possess, or store a firearm due
21 to mental incompetency.

22 “(b) NOTICE.—Notice submitted under this sub-
23 section to a person described in subsection (a) is notice
24 submitted by the Secretary that notifies the person of the
25 following:

26 “(1) The determination made by the Secretary.

1 “(2) A description of the implications of being
2 considered adjudicated as a mental defective under
3 subsection (d)(4) or (g)(4) of section 922 of title 18.

4 “(3) The person’s right to request a review
5 under subsection (c)(1).

6 “(c) ADMINISTRATIVE REVIEW.—(1) Not later than
7 30 days after the date on which a person described in sub-
8 section (a) receives notice submitted under subsection (b),
9 such person may request a review by the board designed
10 or established under paragraph (2) or a court of com-
11 petent jurisdiction to assess whether a person cannot safe-
12 ly use, carry, possess, or store a firearm due to mental
13 incompetency. In such assessment, the board may consider
14 the person’s honorable discharge or decoration.

15 “(2) Not later than 180 days after the date of the
16 enactment of the Comprehensive Veterans Health and
17 Benefits and Military Retirement Pay Restoration Act of
18 2014, the Secretary shall designate or establish a board
19 that shall, upon request of a person under paragraph (1),
20 assess whether a person cannot safely use, carry, possess,
21 or store a firearm due to mental incompetency.

22 “(d) JUDICIAL REVIEW.—A person may file a peti-
23 tion with a Federal court of competent jurisdiction for ju-
24 dicial review of an assessment of the person under sub-

1 section (c) by the board designated or established under
2 paragraph (2).

3 “(e) PROTECTING RIGHTS OF VETERANS WITH EX-
4 ISTING RECORDS.—Not later than 90 days after the date
5 of the enactment of the Comprehensive Veterans Health
6 and Benefits and Military Retirement Pay Restoration Act
7 of 2014, the Secretary shall provide written notice of the
8 opportunity for administrative review and appeal under
9 subsection (c) to all persons who, on the date of the enact-
10 ment of the Comprehensive Veterans Health and Benefits
11 and Military Retirement Pay Restoration Act of 2014, are
12 considered adjudicated pursuant to subsection (d)(4) or
13 (g)(4) of section 922 of title 18 as a result of having been
14 found by the Department to be mentally incompetent.

15 “(f) FUTURE DETERMINATIONS.—(1) Not later than
16 180 days after the date of the enactment of the Com-
17 prehensive Veterans Health and Benefits and Military Re-
18 tirement Pay Restoration Act of 2014, the Secretary shall
19 review the policies and procedures by which individuals are
20 determined to be mentally incompetent, and shall revise
21 such policies and procedures as necessary to ensure that
22 any individual who is competent to manage his own finan-
23 cial affairs, including his receipt of Federal benefits, but
24 who voluntarily turns over the management thereof to a

1 fiduciary is not considered adjudicated pursuant to sub-
2 section (d)(4) or (g)(4) of section 922 of title 18.

3 “(2) Not later than 30 days after the Secretary has
4 made the review and changes required under paragraph
5 (1), the Secretary shall submit to Congress a report detail-
6 ing the results of the review and any resulting policy and
7 procedural changes.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 at the beginning of chapter 55 of such title is amended
10 by adding at the end the following new item:

“5511. Conditions for treatment of certain persons as adjudicated mentally in-
competent for certain purposes.”.

11 (c) APPLICABILITY.—Section 5511 of title 38, United
12 States Code (as added by subsection (a)), shall apply only
13 with respect to persons who are determined by the Sec-
14 retary of Veterans Affairs, on or after the date of the en-
15 actment of this Act, to be mentally incompetent, except
16 that those persons who are provided notice pursuant to
17 subsection (e) of such section shall be entitled to use the
18 administrative review under subsection (c) of such section
19 and, as necessary, the subsequent judicial review under
20 subsection (d) of such section.