

115TH CONGRESS  
1ST SESSION

# S. 2094

To require the prompt reporting for national instant criminal background check system purposes of members of the Armed Forces convicted of domestic violence offenses under the Uniform Code of Military Justice, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 8, 2017

Mr. FLAKE (for himself, Mr. HEINRICH, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To require the prompt reporting for national instant criminal background check system purposes of members of the Armed Forces convicted of domestic violence offenses under the Uniform Code of Military Justice, 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 “Domestic Violence  
5 Loophole Closure Act”.

1 **SEC. 2. PROMPT REPORTING FOR NATIONAL INSTANT**  
2 **CRIMINAL BACKGROUND CHECK SYSTEM**  
3 **PURPOSES OF MEMBERS OF THE ARMED**  
4 **FORCES CONVICTED OF DOMESTIC VIO-**  
5 **LENCE OFFENSES UNDER THE UNIFORM**  
6 **CODE OF MILITARY JUSTICE.**

7 (a) **REPORTING REQUIRED.**—Under regulations and  
8 procedures prescribed by the Secretary of Defense, each  
9 Secretary concerned shall submit to the Attorney General  
10 for inclusion in the national instant criminal background  
11 check system the name and other appropriate information  
12 on each member of the Armed Forces under the jurisdic-  
13 tion of such Secretary who—

14 (1) has been convicted of an offense under  
15 chapter 47 of title 10, United States Code (the Uni-  
16 form Code of Military Justice), for conduct that  
17 would constitute an offense of domestic violence  
18 against a spouse, domestic partner, or dependent  
19 child under State law; or

20 (2) has entered into a plea agreement accepting  
21 liability for an offense described in paragraph (1).

22 (b) **DEADLINE FOR REPORTING.**—The name and  
23 other information on a member required to be submitted  
24 pursuant to subsection (a) shall be submitted not later  
25 than three days after the following (as applicable):

1           (1) The date of entry of judgment with respect  
2           to the member for the offense concerned in the case  
3           of a general court-martial or special court-martial.

4           (2) The date of judgment with respect to the  
5           member for the offense concerned in the case of a  
6           summary court-martial.

7           (3) The date of acceptance of the plea agree-  
8           ment of the member with respect to the offense con-  
9           cerned by the military judge.

10          (c) FAILURE TO SUBMIT.—If the Secretary con-  
11          cerned does not submit the name and other information  
12          on a member required by subsection (a) within the dead-  
13          line provided by subsection (b), the Secretary shall, as  
14          soon as practicable after the deadline, submit to Congress  
15          in writing a notice on the lack of submittal within the  
16          deadline, including an explanation for the lack of sub-  
17          mittal within the deadline and a statement when the name  
18          and other information will be so submitted.

19          (d) REGULATIONS AND PROCEDURES.—

20                (1) OFFENSES.—The regulations prescribed by  
21                the Secretary of Defense pursuant to subsection (a)  
22                shall set forth the offenses under chapter 47 of title  
23                10, United States Code, that would constitute an of-  
24                fense of domestic violence against a spouse, domestic  
25                partner, or dependent child under State law for pur-

1 poses of subsection (a). The offenses so prescribed  
2 shall be uniform throughout the United States.

3 (2) UNIFORMITY ACROSS ARMED FORCES.—The  
4 regulations and procedures prescribed pursuant to  
5 subsection (a) shall apply uniformly across the  
6 Armed Forces.

7 (e) ANNUAL REPORTS ON COMPLIANCE.—Not later  
8 than February 15 each year, the Inspector General of the  
9 Department of Defense shall, in consultation with the  
10 Comptroller General of the United States, submit to Con-  
11 gress a report setting forth a description and assessment  
12 of the compliance of the Secretaries concerned with the  
13 requirements of this section during the preceding year, in-  
14 cluding a description and assessment of the accuracy,  
15 completeness, and timeliness of the information submitted  
16 by the Secretaries concerned to the Attorney General  
17 under this section during such year.

18 (f) REPORT ON REMEDIATION OF DEFICIENCIES IN  
19 SYSTEM.—Not later than 180 days after the date of the  
20 enactment of this Act, the Secretary of Defense shall sub-  
21 mit to Congress a report setting forth a description of the  
22 actions taken, and to be taken, in order to ensure that  
23 the information in the national instant criminal back-  
24 ground check system on members and former members of  
25 the Armed Forces fully and accurately covers the members

1 and former members who have been convicted of an of-  
 2 fense or entered into a plea agreement described in sub-  
 3 section (a) as of the date of the report.

4 (g) DEFINITIONS.—In this section:

5 (1) The term “national instant criminal back-  
 6 ground check system” means the system established  
 7 under section 103 of the Brady Handgun Violence  
 8 Prevention Act (34 U.S.C. 40901).

9 (2) The term “Secretary concerned” has the  
 10 meaning given that term in section 101(a)(9) of title  
 11 10, United States Code.

12 **SEC. 3. CLARIFICATION OF APPLICABILITY OF PROHIBI-**  
 13 **TION ON POSSESSION AND TRANSPORTATION**  
 14 **OF FIREARMS AND AMMUNITION BY INDIVID-**  
 15 **UALS CONVICTED OF MISDEMEANOR CRIMES**  
 16 **OF DOMESTIC VIOLENCE TO INDIVIDUALS**  
 17 **CONVICTED OF SIMILAR OFFENSES UNDER**  
 18 **THE UNIFORM CODE OF MILITARY JUSTICE.**

19 Section 922(g)(9) of title 18, United States Code, is  
 20 amended by inserting before the comma at the end the  
 21 following: “, or has been convicted by court-martial of an  
 22 offense under chapter 47 of title 10 (the Uniform Code  
 23 of Military Justice) for conduct that would constitute such  
 24 a crime under State law”.

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