

1 are relevant to a determination of whether a
2 member of the Armed Forces involved in such
3 proceeding is disqualified from possessing or re-
4 ceiving a firearm under subsection (g) or (n) of
5 section 922 of title 18, United States Code, for
6 use in background checks performed by the Na-
7 tional Instant Criminal Background Check Sys-
8 tem.

9 “(B) JUDICIAL PROCEEDING DEFINED.—
10 In this paragraph, the term ‘judicial pro-
11 ceeding’ means a hearing—

12 “(i) of which the person received ac-
13 tual notice; and

14 “(ii) at which the person had an op-
15 portunity to participate with counsel.”.

16 **SEC. 545. REMOVAL OF PERSONALLY IDENTIFYING AND**
17 **OTHER INFORMATION OF CERTAIN PERSONS**
18 **FROM INVESTIGATIVE REPORTS, THE DE-**
19 **PARTMENT OF DEFENSE CENTRAL INDEX OF**
20 **INVESTIGATIONS, AND OTHER RECORDS AND**
21 **DATABASES.**

22 (a) POLICY AND PROCESS REQUIRED.—Not later
23 than October 1, 2021, the Secretary of Defense shall es-
24 tablish and maintain a policy and process through which
25 any covered person may request that the person’s name,

1 personally identifying information, and other information
2 pertaining to the person shall, in accordance with sub-
3 section (c), be corrected in, or expunged or otherwise re-
4 moved from, the following:

5 (1) A law enforcement or criminal investigative
6 report of the Department of Defense or any compo-
7 nent of the Department.

8 (2) An index item or entry in the Department
9 of Defense Central Index of Investigations (DCII).

10 (3) Any other record maintained in connection
11 with a report described in paragraph (1), or an
12 index item or entry described in paragraph (2), in
13 any system of records, records database, records
14 center, or repository maintained by or on behalf of
15 the Department.

16 (b) COVERED PERSONS.—For purposes of this sec-
17 tion, a covered person is any person whose name was
18 placed or reported, or is maintained—

19 (1) in the subject or title block of a law enforce-
20 ment or criminal investigative report of the Depart-
21 ment of Defense (or any component of the Depart-
22 ment);

23 (2) as an item or entry in the Department of
24 Defense Central Index of Investigations; or

1 (3) in any other record maintained in connec-
2 tion with a report described in paragraph (1), or an
3 index item or entry described in paragraph (2), in
4 any system of records, records database, records
5 center, or repository maintained by or on behalf of
6 the Department.

7 (c) ELEMENTS.—The policy and process required by
8 subsection (a) shall include the following elements:

9 (1) BASIS FOR CORRECTION OR
10 EXPUNGEMENT.—That the name, personally identi-
11 fying information, and other information of a cov-
12 ered person shall be corrected in, or expunged or
13 otherwise removed from, a report, item or entry, or
14 record described in paragraphs (1) through (3) of
15 subsection (a) in the following circumstances:

16 (A) Probable cause did not or does not
17 exist to believe that the offense for which the
18 person's name was placed or reported, or is
19 maintained, in such report, item or entry, or
20 record occurred, or insufficient evidence existed
21 or exists to determine whether or not such of-
22 fense occurred.

23 (B) Probable cause did not or does not
24 exist to believe that the person actually com-
25 mitted the offense for which the person's name

1 was so placed or reported, or is so maintained,
2 or insufficient evidence existed or exists to de-
3 termine whether or not the person actually com-
4 mitted such offense.

5 (C) Such other circumstances, or on such
6 other bases, as the Secretary may specify in es-
7 tablishing the policy and process, which cir-
8 cumstances and bases may not be inconsistent
9 with the circumstances and bases provided by
10 subparagraphs (A) and (B).

11 (2) CONSIDERATIONS.—While not dispositive as
12 to the existence of a circumstance or basis set forth
13 in paragraph (1), the following shall be considered
14 in the determination whether such circumstance or
15 basis applies to a covered person for purposes of this
16 section:

17 (A) The extent or lack of corroborating
18 evidence against the covered person concerned
19 with respect to the offense at issue.

20 (B) Whether adverse administrative, dis-
21 ciplinary, judicial, or other such action was ini-
22 tiated against the covered person for the offense
23 at issue.

1 (C) The type, nature, and outcome of any
2 action described in subparagraph (B) against
3 the covered person.

4 (3) PROCEDURES.—The policy and process re-
5 quired by subsection (a) shall include procedures as
6 follows:

7 (A) Procedures under which a covered per-
8 son may appeal a determination of the applica-
9 ble component of the Department of Defense
10 denying, whether in whole or in part, a request
11 for purposes of subsection (a).

12 (B) Procedures under which the applicable
13 component of the Department will correct, ex-
14 punge or remove, take other appropriate action
15 on, or assist a covered person in so doing, any
16 record maintained by a person, organization, or
17 entity outside of the Department to which such
18 component provided, submitted, or transmitted
19 information about the covered person, which in-
20 formation has or will be corrected in, or ex-
21 punged or removed from, Department records
22 pursuant to this section.

23 (C) The timeline pursuant to which the
24 Department, or a component of the Depart-

1 ment, as applicable, will respond to each of the
2 following:

3 (i) A request pursuant to subsection
4 (a).

5 (ii) An appeal under the procedures
6 required by subparagraph (A).

7 (iii) A request for assistance under
8 the procedures required by subparagraph
9 (B).

10 (D) Mechanisms through which the De-
11 partment will keep a covered person apprised of
12 the progress of the Department on a covered
13 person's request or appeal as described in sub-
14 paragraph (C).

15 (d) **APPLICABILITY.**—The policy and process re-
16 quired to be developed by the Secretary under subsection
17 (a) shall not be subject to the notice and comment rule-
18 making requirements under section 553 of title 5, United
19 States Code.

20 (e) **REPORT.**—Not later than October 1, 2021, the
21 Secretary shall submit to the Committees on Armed Serv-
22 ices of the Senate and the House of Representatives a re-
23 port on the actions taken to carry out this section, includ-
24 ing a comprehensive description of the policy and process

1 developed and implemented by the Secretary under sub-
2 section (a).

3 **SEC. 546. BRIEFING ON MENTAL HEALTH SUPPORT FOR VI-**
4 **CARIOUS TRAUMA FOR CERTAIN PERSONNEL**
5 **IN THE MILITARY JUSTICE SYSTEM.**

6 (a) **BRIEFING REQUIRED.**—Not later than 180 days
7 after the date of the enactment of this Act, the Judge Ad-
8 vocates General of the Army, the Navy, and the Air Force
9 and the Staff Judge Advocate to the Commandant of the
10 Marine Corps shall jointly brief the Committees on Armed
11 Services of the Senate and the House of Representatives
12 on the mental health support for vicarious trauma pro-
13 vided to personnel in the military justice system specified
14 in subsection (b).

15 (b) **PERSONNEL.**—The personnel specified in this
16 subsection are the following:

17 (1) Court-martial convening authorities who are
18 members of the Armed Forces.

19 (2) Trial counsel.

20 (3) Defense counsel.

21 (4) Military judges.

22 (5) Special Victims' Counsel.

23 (6) Military investigative personnel.

24 (c) **ELEMENTS.**—The briefing required by subsection
25 (a) shall include the following: