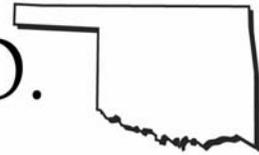




TOM COBURN, M.D.

UNITED STATES SENATOR · OKLAHOMA



By U.S. Senator Tom Coburn, M.D.

Whenever a tragedy occurs in America, Congress can be counted on to respond in two ways. First, politicians craft a bill to “prevent this from happening again.” Second, because politicians tend to be eager to send out a press release touting their quick action and compassion, the legislation itself tends to be a hastily drafted montage of good intentions and unintended consequences. We’ve seen this play out before. After 9-11, “Homeland Security” crisis management legislation helped lay the foundation for the Katrina response.

Today, we are being told that a new bill, H.R. 2640, the NICS Improvement Amendments Act of 2007, which will put mentally ill people in the National Instant Criminal Background Check System (NICS), will prevent another Virginia Tech tragedy. While this is a noble and important goal, the bill itself doesn’t match its good intentions and, in typical Washington fashion, creates unintended consequences no one wants.

This debate is being driven by two myths about H.R. 2640. The first myth is that H.R. 2640 strengthens the law to block dangerously ill people, like Seung-Hui Cho, from buying firearms and will close a loophole in the law. The fact is the underlying law regulating who is prohibited from buying and possessing a gun is not altered in any way in this bill. The Virginia Tech murders were prohibited under existing law. Also, existing law already required the state of Virginia to forward Cho’s name to the National Instant Criminal Background Check System database.

There was no federal loophole in the law and this bill does not address such a loophole. Virginia recognized it was not complying with the federal requirement. Governor Tim Kaine then issued an executive order (#50) to change the way Virginia reported those who are involuntarily committed to a mental institution for treatment.

The second myth is that if this bill had been in place, the Virginia Tech tragedy would not have occurred. The fact is the law is not changed in this bill. If the states, Virginia specifically, had been in full compliance with the federal reporting requirements the mentally dangerous Cho would not have been able to buy a gun.

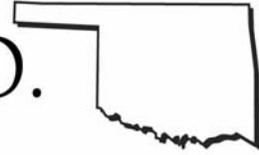
Proponents of this bill cite the \$400 million in funds it authorizes as reason to believe that states will increase compliance and therefore tragedies like Virginia Tech will no longer occur. This is simply not the case.

Title 42 U.S. Code 14601 authorized a grant program to help states comply with the transmittal of information required by the Brady bill (NICS compliance). This program was authorized at \$250 million for fiscal years 2002 through 2007. This program, in the two most recent fiscal years received only \$10 million, not the \$250 million authorized. Congress was



TOM COBURN, M.D.

UNITED STATES SENATOR · OKLAHOMA



so busy earmarking funds to its pet projects it never bothered to make NICS compliance a priority.

In terms of unintended consequences, H.R. 2640 is so poorly written it could make innocent Americans, and even our most heroic veterans, felons. For instance, if an American serving in Iraq suffers a traumatic brain injury and goes through a recovery period in which he “lacks the mental capacity to contract or manage his own affairs” – a key test in the bill for mental impairment – he will be placed on the NICS watch list for life. However, he will receive no notice he is on that list. Ten years later, if that same veteran buys a gun to take his son hunting he could be arrested and charged with a felony. He also will have to pay his own legal fees to regain his constitutional rights under H.R. 2640. So much for innocent until proven guilty.

Finally, it’s important to note my objections to this bill are not keeping the Senate from voting on this bill. The Senate often passes legislation by “unanimous consent,” meaning each senator has granted his or her consent for a bill to pass with no recorded vote, no debate and no opportunity to offer amendments. I will not give my consent for H.R. 2640 to pass unanimously but the Senate leadership may still bring the bill to the floor for consideration despite my objections. So far, they have decided against doing so.

Every American who was touched by the Virginia Tech tragedy, particularly the families of the victims, deserve Congress’ best effort, not another hastily crafted bill that has more to do with protecting politicians than the public.