

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2383
OFFERED BY MR. JOHNSON OF OHIO**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Modernizing Notice
3 to Claimants Act”.

**4 SEC. 2. AUTHORIZATION OF USE OF ELECTRONIC COMMU-
5 NICATION TO PROVIDE NOTICE TO CLAIM-
6 ANTS FOR BENEFITS UNDER LAWS ADMINIS-
7 TERED BY THE SECRETARY OF VETERANS AF-
8 FAIR.**

9 (a) IN GENERAL.—Section 5103 of title 38, United
10 States Code, is amended—

11 (1) in subsection (a)(1)—

12 (A) by striking “Upon receipt of a com-
13 plete or substantially complete application, the”
14 and inserting “The”;

15 (B) by striking “notify” and inserting
16 “provide to”; and

17 (C) by inserting “by the most effective
18 means available, including electronic commu-

1 subsection (a), the Secretary shall make reasonable efforts
2 to obtain relevant private records unless the claimant de-
3 clines such assistance.

4 “(2)(A) Whenever the Secretary, after making such
5 reasonable efforts, is unable to obtain all of the relevant
6 records sought, the Secretary shall notify the claimant
7 that the Secretary is unable to obtain records with respect
8 to the claim. Such a notification shall—

9 “(i) identify the records the Secretary is unable
10 to obtain;

11 “(ii) briefly explain the efforts that the Sec-
12 retary made to obtain such records; and

13 “(iii) explain that the Secretary will decide the
14 claim based on the evidence of record but that this
15 section does not prohibit the submission of records
16 at a later date if such submission is otherwise al-
17 lowed.

18 “(B) The Secretary shall make not less than two re-
19 quests to a custodian of a private record in order for an
20 effort to obtain relevant private records to be treated as
21 reasonable under this section.

22 “(3) This section shall not apply if the evidence of
23 record allows for the Secretary to award the benefit sought
24 in accordance with this title based on the evidence of
25 record.

1 “(4) Under regulations prescribed by the Secretary,
2 the Secretary—

3 “(A) shall encourage claimants to submit rel-
4 evant private medical records of the claimant to the
5 Secretary if such submission does not burden the
6 claimant; and

7 “(B) in obtaining relevant private records under
8 paragraph (1), may require the claimant to author-
9 ize the Secretary to obtain such records if such au-
10 thORIZATION is required to comply with Federal,
11 State, or local law.

12 “(5) The claimant may waive any requirements under
13 this section.”.

14 (b) PUBLIC RECORDS.—Section 5103A(c) of such
15 title is amended to read as follows:

16 “(c) OBTAINING RECORDS FOR COMPENSATION
17 CLAIMS.—(1) In the case of a claim for disability com-
18 pensation, the assistance provided by the Secretary under
19 this section shall include obtaining the following records
20 if relevant to the claim:

21 “(A) The claimant’s service medical records
22 and, if the claimant has furnished the Secretary in-
23 formation sufficient to locate such records, other rel-
24 evant records pertaining to the claimant’s active

1 military, naval, or air service that are held or main-
2 tained by a governmental entity.

3 “(B) Records of relevant medical treatment or
4 examination of the claimant at Department health-
5 care facilities or at the expense of the Department,
6 if the claimant furnishes information sufficient to lo-
7 cate those records.

8 “(C) Any other relevant records held by any
9 Federal department or agency that the claimant ade-
10 quately identifies and authorizes the Secretary to ob-
11 tain.

12 “(2) Whenever the Secretary attempts to obtain
13 records from a Federal department or agency under this
14 subsection, the efforts to obtain those records shall con-
15 tinue until the records are obtained unless it is reasonably
16 certain that such records do not exist or that further ef-
17 forts to obtain those records would be futile.”.

