AMENDMENT TO H.R. 11 (NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2022) OFFERED BY MR. GOHMERT OF TEXAS

At the appropriate place in title V, insert the following new section:

SEC. 5. TREATMENT OF CERTAIN RECORDS OF CRIMINAL INVESTIGATIONS.

(a) REMOVAL REQUIRED.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall direct each Defense criminal investigative organization to remove, from the system used by such organization to document records of criminal investigations (commonly known as a “title system”), any record (including any biometric information) identifying a member of the Armed Forces who—

(1) is cleared of wrongdoing as described in subsection (e);

(2) is subject to non-judicial punishment for the offense to which the record pertains; or

(3) is pardoned for the offense to which the record pertains.

(b) DOCUMENTATION BY JUDGE ADVOCATE.—As soon as practicable after a member of the Armed forces
meets one of the criteria specified in paragraphs (1) through (3) of subsection (a), a judge advocate in the chain of command of the member shall submit to the Defense criminal investigative organization concerned a written notice verifying that the member meets such criteria.

(e) DEADLINE FOR REMOVAL.—A record described in subsection (a) shall be removed from the title system of a Defense criminal investigative organization not later than 30 days after the date on which the organization receives the notice described in subsection (b).

(d) NOTICE OF ENTRY OR REMOVAL.—A Defense criminal investigative organization shall provide to any member of the Armed Forces who is entered into or removed from a title system, written notice of such entry or removal.

(e) DISPOSITION OF INVESTIGATIONS.—A member of the Armed Forces who is the subject of a criminal investigation shall be considered to have been cleared of wrongdoing for purposes of subsection (a) if—

(1) the member is found not guilty, not responsible, or it is found that the reasons specified for the proceeding are unsupported by the evidence of the offense for which the member was under investigation—
(A) through a court-martial or other proceeding brought under the chapter 47 of title 10, United States Code (the Uniform Code of Military Justice);

(B) through an administrative proceeding within the Department of Defense or the Armed Force concerned;

(C) by a civilian court; or

(2) the Government makes a final determination not to prosecute the member for the criminal offense for which the member was under investigation.

(f) DEFENSE CRIMINAL INVESTIGATIVE ORGANIZATION DEFINED.—In this section, the term “Defense criminal investigative organization” means any organization or element of the Department of Defense or an Armed Force that is responsible for conducting criminal investigations, including—

(1) the Army Criminal Investigation Command;

(2) the Naval Criminal Investigative Service;

(3) the Air Force Office of Special Investigations;

(4) the Coast Guard Investigative Service; and

(5) the Defense Criminal Investigative Service.