

115TH CONGRESS
1ST SESSION

S. 833

To amend title 38, United States Code, to expand health care and benefits from the Department of Veterans Affairs for military sexual trauma, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, APRIL 4), 2017

Mr. TESTER (for himself, Ms. MURKOWSKI, Ms. HARRIS, Ms. KLOBUCHAR, Mrs. McCASKILL, Mrs. MURRAY, Mr. KING, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to expand health care and benefits from the Department of Veterans Affairs for military sexual trauma, 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 “Servicemembers and
5 Veterans Empowerment and Support Act of 2017”.

1 **SEC. 2. EXPANSION OF COVERAGE BY THE DEPARTMENT**
2 **OF VETERANS AFFAIRS OF COUNSELING AND**
3 **TREATMENT FOR SEXUAL TRAUMA.**

4 (a) COVERAGE OF CYBER HARASSMENT OF A SEX-
5 UAL NATURE.—Paragraph (1) of section 1720D(a) of title
6 38, United States Code, is amended by inserting “cyber
7 harassment of a sexual nature,” after “battery of a sexual
8 nature,”.

9 (b) EXPANSION OF AVAILABILITY FOR MEMBERS OF
10 THE ARMED FORCES.—Paragraph (2)(A) of such section
11 is amended—

12 (1) by striking “on active duty”; and

13 (2) by inserting “that was suffered by the mem-
14 ber while serving on active duty, active duty for
15 training, or inactive duty training” before the period
16 at the end.

17 **SEC. 3. STANDARD OF PROOF FOR SERVICE-CONNECTION**
18 **OF MENTAL HEALTH CONDITIONS RELATED**
19 **TO MILITARY SEXUAL TRAUMA.**

20 (a) STANDARD OF PROOF.—Section 1154 of title 38,
21 United States Code, is amended by adding at the end the
22 following new subsection:

23 “(c)(1) In the case of any veteran who claims that
24 a covered mental health condition was incurred in or ag-
25 gravated by military sexual trauma during active military,
26 naval, or air service, the Secretary shall accept as suffi-

1 cient proof of service-connection a diagnosis of such men-
 2 tal health condition by a mental health professional to-
 3 gether with satisfactory lay or other evidence of such trau-
 4 ma and an opinion by the mental health professional that
 5 such covered mental health condition is related to such
 6 military sexual trauma, if consistent with the cir-
 7 cumstances, conditions, or hardships of such service, not-
 8 withstanding the fact that there is no official record of
 9 such incurrence or aggravation in such service, and, to
 10 that end, shall resolve every reasonable doubt in favor of
 11 the veteran. Service-connection of such covered mental
 12 health condition may be rebutted by clear and convincing
 13 evidence to the contrary. The reasons for granting or de-
 14 nying service-connection in each case shall be recorded in
 15 full.

16 “(2) In this subsection:

17 “(A) The term ‘covered mental health condi-
 18 tion’ means post-traumatic stress disorder, anxiety,
 19 depression, or other mental health diagnosis de-
 20 scribed in the current version of the Diagnostic and
 21 Statistical Manual of Mental Disorders published by
 22 the American Psychiatric Association that the Sec-
 23 retary determines to be related to military sexual
 24 trauma.

1 “(B) The term ‘military sexual trauma’ means,
 2 with respect to a veteran, a physical assault of a sex-
 3 ual nature, battery of a sexual nature, cyber harass-
 4 ment of a sexual nature, or sexual harassment which
 5 occurred during active military, naval, or air serv-
 6 ice.”.

7 (b) USE OF EVIDENCE IN EVALUATING DISABILITY
 8 CLAIMS INVOLVING MILITARY SEXUAL TRAUMA.—

9 (1) IN GENERAL.—Subchapter VI of chapter 11
 10 of such title is amended by adding at the end the
 11 following new section:

12 **“§ 1164. Evaluation of claims involving military sex-**
 13 **ual trauma**

14 “(a) NONMILITARY SOURCES OF EVIDENCE.—(1) In
 15 carrying out section 1154(c) of this title, the Secretary
 16 shall ensure that if a claim for compensation under this
 17 chapter is received by the Secretary for post-traumatic
 18 stress disorder based on a physical assault of a sexual na-
 19 ture, battery of a sexual nature, cyber harassment of a
 20 sexual nature, or sexual harassment experienced by a vet-
 21 eran during active military, naval, or air service, evidence
 22 from sources other than official records of the Department
 23 of Defense regarding the veteran’s service may corroborate
 24 the veteran’s account of the assault, battery, or harass-
 25 ment.

1 “(2) Examples of evidence described in paragraph (1)
2 include the following:

3 “(A) Records from law enforcement authorities,
4 rape crisis centers, mental health counseling centers,
5 hospitals, and physicians.

6 “(B) Pregnancy tests and tests for sexually
7 transmitted diseases.

8 “(C) Statements from family members, room-
9 mates, other members of the Armed Forces or vet-
10 erans, and clergy.

11 “(b) BEHAVIOR CHANGES CORROBORATING EVI-
12 DENCE.—(1) In carrying out section 1154(c) of this title,
13 the Secretary shall ensure that evidence of a behavior
14 change following an assault, battery, or harassment de-
15 scribed in subsection (a)(1) is one type of relevant evi-
16 dence that may be found in sources described in such sub-
17 section.

18 “(2) Examples of behavior changes that may be rel-
19 evant evidence of an assault, battery, or harassment de-
20 scribed in subsection (a)(1) include the following:

21 “(A) A request for a transfer to another mili-
22 tary duty assignment.

23 “(B) Deterioration in work performance.

24 “(C) Substance abuse.

1 “(D) Episodes of depression, panic attacks, or
2 anxiety without an identifiable cause.

3 “(E) Unexplained economic or social behavior
4 changes.

5 “(c) NOTICE AND OPPORTUNITY TO SUPPLY EVI-
6 DENCE.—The Secretary may not deny a claim of a veteran
7 for compensation under this chapter for a post-traumatic
8 stress disorder that is based on an assault, battery, or har-
9 assment described in subsection (a)(1) without first—

10 “(1) advising the veteran that evidence de-
11 scribed in subsections (a) and (b) may constitute
12 credible corroborating evidence of the assault, bat-
13 tery, or harassment; and

14 “(2) allowing the veteran an opportunity to fur-
15 nish such corroborating evidence or advise the Sec-
16 retary of potential sources of such evidence.

17 “(d) REVIEW OF EVIDENCE.—In reviewing a claim
18 for compensation described in subsection (a)(1), for any
19 evidence received with such claim that is described in sub-
20 section (a) or (b), the Secretary may submit such evidence
21 to such medical or mental health professional as the Sec-
22 retary considers appropriate, including clinical and coun-
23 seling experts employed by the Department, to obtain a
24 credible opinion as to whether the evidence indicates that

1 an assault, battery, or harassment described in subsection
2 (a)(1) occurred.

3 “(e) POINT OF CONTACT.—The Secretary shall en-
4 sure that each document provided to a veteran relating
5 to a claim for compensation described in subsection (a)(1)
6 includes contact information for an appropriate point of
7 contact with the Department.”.

8 (2) CLERICAL AMENDMENT.—The table of sec-
9 tions at the beginning of such chapter is amended
10 by adding at the end the following new item:

“1164. Evaluation of claims involving military sexual trauma.”.

11 (c) ANNUAL REPORTS.—

12 (1) IN GENERAL.—Subchapter VI of chapter 11
13 of title 38, United States Code, as amended by sub-
14 section (b), is further amended by adding at the end
15 the following new section:

16 **“§ 1165. Reports on claims for disabilities incurred or**
17 **aggravated by military sexual trauma**

18 “(a) REPORTS.—Not later than March 1, 2018, and
19 not less frequently than once each year thereafter through
20 2027, the Secretary shall submit to Congress a report on
21 covered claims submitted during the previous fiscal year
22 to identify and track the consistency of decisions across
23 regional offices.

24 “(b) ELEMENTS.—Each report under subsection (a)
25 shall include the following:

1 “(1) The number of covered claims submitted
2 to or considered by the Secretary during the fiscal
3 year covered by the report.

4 “(2) Of the covered claims listed under para-
5 graph (1), the number and percentage of such
6 claims—

7 “(A) submitted by each sex;

8 “(B) that were approved, including the
9 number and percentage of such approved claims
10 submitted by each sex; and

11 “(C) that were denied, including the num-
12 ber and percentage of such denied claims sub-
13 mitted by each sex.

14 “(3) Of the covered claims listed under para-
15 graph (1) that were approved, the number and per-
16 centage, disaggregated by sex, of claims assigned to
17 each rating percentage.

18 “(4) Of the covered claims listed under para-
19 graph (1) that were denied—

20 “(A) the three most common reasons given
21 by the Secretary under section 5104(b)(1) of
22 this title for such denials; and

23 “(B) the number of denials that were
24 based on the failure of a veteran to report for
25 a medical examination.

1 “(5) The number of covered claims that, as of
2 the end of the fiscal year covered by the report, are
3 pending and, separately, the number of such claims
4 on appeal.

5 “(6) For the fiscal year covered by the report,
6 the average number of days that covered claims take
7 to complete, beginning on the date on which the
8 claim is submitted.

9 “(7) A description of the training that the Sec-
10 retary provides to employees of the Veterans Bene-
11 fits Administration specifically with respect to cov-
12 ered claims, including the frequency, length, and
13 content of such training.

14 “(c) DEFINITIONS.—In this section:

15 “(1) The term ‘covered claims’ means claims
16 for disability compensation submitted to the Sec-
17 retary based on a covered mental health condition
18 alleged to have been incurred or aggravated by mili-
19 tary sexual trauma.

20 “(2) The terms ‘covered mental health condi-
21 tion’ and ‘military sexual trauma’ have the meanings
22 given such terms in section 1154(c)(3) of this title.”.

23 (2) CLERICAL AMENDMENT.—The table of sec-
24 tions at the beginning of such chapter, as amended

1 by subsection (b), is further amended by adding at
 2 the end the following new item:

“1165. Reports on claims for disabilities incurred or aggravated by military sexual trauma.”.

3 (d) **EFFECTIVE DATE.**—Subsection (c) of section
 4 1154 of title 38, United States Code, as added by sub-
 5 section (a), shall apply with respect to any claim for dis-
 6 ability compensation under laws administered by the Sec-
 7 retary of Veterans Affairs for which no final decision has
 8 been made before the date of the enactment of this Act.

9 **SEC. 4. INFORMATION FOR MEMBERS OF THE ARMED**
 10 **FORCES REGARDING AVAILABILITY OF SERV-**
 11 **ICES AT VET CENTERS.**

12 (a) **IN GENERAL.**—The Secretary of Defense shall in-
 13 form members of the Armed Forces, using mechanisms
 14 available to the Secretary, of the eligibility of such mem-
 15 bers for services at Vet Centers.

16 (b) **INFORMATION FROM SEXUAL ASSAULT RE-**
 17 **SPONSE COORDINATORS.**—The Secretary shall ensure that
 18 Sexual Assault Response Coordinators of the Department
 19 of Defense advise members of the Armed Forces who re-
 20 port instances of military sexual trauma regarding the eli-
 21 gibility of such members for services at Vet Centers.

22 (c) **DEFINITIONS.**—In this section:

23 (1) **MILITARY SEXUAL TRAUMA.**—The term
 24 “military sexual trauma” means psychological trau-

1 ma described in section 1720D(a)(1) of title 38,
2 United States Code.

3 (2) VET CENTER.—The term “Vet Center” has
4 the meaning given that term in section 1712A(h) of
5 such title.

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