

115TH CONGRESS 1ST SESSION

H. R. 1954

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 HOUSE OF REPRESENTATIVES

April 5, 2017

Ms. Pingree (for herself, Ms. Delauro, Ms. Tsongas, Ms. Brownley of California, Ms. Titus, Mr. Rush, Mr. Takano, Ms. Esty, Mr. Peters, and Mr. Sablan) introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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-
- tion' means post-traumatic stress disorder, anxiety,
- depression, or other mental health diagnosis de-
- 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-
- retary determines to be related to military sexual
- 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 harassment of a sexual nature, or sexual harassment which occurred during active military, naval, or air serv-5 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 shall ensure that if a claim for compensation under this 16 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-
- from sources other than official records of the Department

eran during active military, naval, or air service, evidence

- 23 of Defense regarding the veteran's service may corroborate
- the veteran's account of the assault, battery, or harass-
- 25 ment.

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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. "(C) Statements from family members, room-8 9 mates, other members of the Armed Forces or vet-10 erans, and clergy. 11 "(b) Behavior Changes Corroborating Evi-DENCE.—(1) In carrying out section 1154(c) of this title, the Secretary shall ensure that evidence of a behavior 13 14 change following an assault, battery, or harassment de-15 scribed in subsection (a)(1) is one type of relevant evidence that may be found in sources described in such sub-16 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: "(A) A request for a transfer to another mili-21 22 tary duty assignment. "(B) Deterioration in work performance. 23 "(C) Substance abuse. 24

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-DENCE.—The Secretary may not deny a claim of a veteran 6 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 "(2) allowing the veteran an opportunity to fur-14 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 Secretary considers appropriate, including clinical and coun-22 23 seling experts employed by the Department, to obtain a

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
- 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
- of title 38, United States Code, as amended by sub-
- section (b), is further amended by adding at the end
- the following new section:
- 16 "§ 1165. Annual reports on claims for disabilities in-
- 17 curred or aggravated by military sexual
- 18 trauma
- "(a) REPORTS.—Not later than March 1, 2018, and
- 20 not less frequently than once each year thereafter through
- 21 2027, the Secretary shall submit to Congress a report on
- 22 covered claims submitted during the previous fiscal year
- 23 to identify and track the consistency of decisions across
- 24 regional offices.

1	"(b) Elements.—Each report under subsection (a)
2	shall include the following:
3	"(1) The number of covered claims submitted
4	to or considered by the Secretary during the fiscal
5	year covered by the report.
6	"(2) Of the covered claims listed under para-
7	graph (1), the number and percentage of such
8	claims—
9	"(A) submitted by each sex;
10	"(B) that were approved, including the
11	number and percentage of such approved claims
12	submitted by each sex; and
13	"(C) that were denied, including the num-
14	ber and percentage of such denied claims sub-
15	mitted by each sex.
16	"(3) Of the covered claims listed under para-
17	graph (1) that were approved, the number and per-
18	centage, disaggregated by sex, of claims assigned to
19	each rating percentage.
20	"(4) Of the covered claims listed under para-
21	graph (1) that were denied—
22	"(A) the three most common reasons given
23	by the Secretary under section 5104(b)(1) of
24	this title for such denials: and

- 1 "(B) the number of denials that were 2 based on the failure of a veteran to report for 3 a medical examination.
 - "(5) The number of covered claims that, as of the end of the fiscal year covered by the report, are pending and, separately, the number of such claims on appeal.
 - "(6) For the fiscal year covered by the report, the average number of days that covered claims take to complete, beginning on the date on which the claim is submitted.
 - "(7) A description of the training that the Secretary provides to employees of the Veterans Benefits Administration specifically with respect to covered claims, including the frequency, length, and content of such training.
 - "(c) Definitions.—In this section:
 - "(1) The term 'covered claims' means claims for disability compensation submitted to the Secretary based on a covered mental health condition alleged to have been incurred or aggravated by military sexual trauma.
 - "(2) The terms 'covered mental health condition' and 'military sexual trauma' have the meanings given such terms in section 1154(c)(3) of this title.".

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- 2 tions at the beginning of such chapter, as amended
- 3 by subsection (b), is further amended by adding at
- 4 the end the following new item:

"1165. Annual reports on claims for disabilities incurred or aggravated by military sexual trauma.".

- 5 (d) Effective Date.—Subsection (c) of section
- 6 1154 of title 38, United States Code, as added by sub-
- 7 section (a), shall apply with respect to any claim for dis-
- 8 ability compensation under laws administered by the Sec-
- 9 retary of Veterans Affairs for which no final decision has
- 10 been made before the date of the enactment of this Act.
- 11 SEC. 4. INFORMATION FOR MEMBERS OF THE ARMED
- 12 FORCES REGARDING AVAILABILITY OF SERV-
- 13 ICES AT VET CENTERS.
- 14 (a) IN GENERAL.—The Secretary of Defense shall in-
- 15 form members of the Armed Forces, using mechanisms
- 16 available to the Secretary, of the eligibility of such mem-
- 17 bers for services at Vet Centers.
- 18 (b) Information From Sexual Assault Re-
- 19 SPONSE COORDINATORS.—The Secretary shall ensure that
- 20 Sexual Assault Response Coordinators of the Department
- 21 of Defense advise members of the Armed Forces who re-
- 22 port instances of military sexual trauma regarding the eli-
- 23 gibility of such members for services at Vet Centers.
- 24 (c) Definitions.—In this section:

1	(1) MILITARY SEXUAL TRAUMA.—The term
2	"military sexual trauma" means psychological trau-
3	ma described in section 1720D(a)(1) of title 38,
4	United States Code.
5	(2) Vet center.—The term "Vet Center" has
6	the meaning given that term in section 1712A(h) of
7	such title.

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