

112TH CONGRESS  
1ST SESSION

# S. 1391

To amend title 38, United States Code, to improve the disability compensation evaluation procedure of the Secretary of Veterans Affairs for veterans with post-traumatic stress disorder or mental health conditions related to military sexual trauma, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 20 (legislative day, JULY 19), 2011

Mr. TESTER introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to improve the disability compensation evaluation procedure of the Secretary of Veterans Affairs for veterans with post-traumatic stress disorder or mental health conditions related to 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,*

1 **SECTION 1. STANDARD OF PROOF FOR SERVICE-CONNEC-**  
2 **TION OF POST-TRAUMATIC STRESS DIS-**  
3 **ORDER AND MENTAL HEALTH CONDITIONS**  
4 **RELATED TO MILITARY SEXUAL TRAUMA.**

5 (a) STANDARD OF PROOF.—Section 1154 of title 38,  
6 United States Code, is amended by adding at the end the  
7 following new subsections:

8 “(c)(1) The Secretary shall accept as sufficient proof  
9 of service-connection of post-traumatic stress disorder al-  
10 leged to have been incurred in or aggravated by service  
11 in the active military, naval, or air service a diagnosis of  
12 post-traumatic stress disorder by a mental health profes-  
13 sional together with written testimony by the veteran of  
14 such incurrence or aggravation and a written determina-  
15 tion by the professional that such disorder is related to  
16 the veteran’s service, if consistent with the circumstances,  
17 conditions, or hardships of such service, notwithstanding  
18 the fact that there is no official record of such incurrence  
19 or aggravation in such service, and, to that end, shall re-  
20 solve every reasonable doubt in favor of the veteran.

21 “(2) Service-connection of post-traumatic stress dis-  
22 order may be rebutted by clear and convincing evidence  
23 to the contrary. In the case of such a rebuttal, the Sec-  
24 retary shall make all documents related to the service-con-  
25 nection of the veteran’s disability available to the veteran.

1           “(d)(1) The Secretary shall accept as sufficient proof  
2 of service-connection of covered mental health conditions  
3 alleged to have been incurred or aggravated by military  
4 sexual trauma experienced during service in the active  
5 military, naval, or air service a diagnosis of such mental  
6 health condition by a mental health professional together  
7 with written testimony by the veteran of such trauma al-  
8 leged to have been incurred during the veteran’s service  
9 and a written determination by the professional that such  
10 mental health condition is related to such trauma, if con-  
11 sistent with the circumstances, conditions, or hardships of  
12 such service, notwithstanding the fact that there is no offi-  
13 cial record of the incurrence of such trauma in such serv-  
14 ice, and, to that end, shall resolve every reasonable doubt  
15 in favor of the veteran.

16           “(2) Service-connection of covered mental health con-  
17 ditions under this subsection may be rebutted by clear and  
18 convincing evidence to the contrary. In the case of such  
19 a rebuttal, the Secretary shall make all documents related  
20 to the service-connection of the veteran’s disability avail-  
21 able to the veteran.

22           “(3) In this subsection:

23                   “(A) The term ‘covered mental health condi-  
24 tions’ means post-traumatic stress disorder, anxiety,  
25 depression, or other mental health conditions that

1 the Secretary determines to be related to military  
2 sexual trauma.

3 “(B) The term ‘military sexual trauma’ means,  
4 with respect to a veteran, psychological trauma,  
5 which in the judgment of a mental health profes-  
6 sional, resulted from a physical assault of a sexual  
7 nature, battery of a sexual nature, or sexual harass-  
8 ment which occurred while the veteran was serving  
9 on active duty or active duty for training.”.

10 (b) EFFECTIVE DATE.—Subsections (c) and (d) of  
11 section 1154 of title 38, United States Code, as added by  
12 subsection (a), shall apply with respect to any claim for  
13 disability compensation under laws administered by the  
14 Secretary of Veterans Affairs for which no final decision  
15 has been made before the date of the enactment of this  
16 Act.

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