

106TH CONGRESS
1ST SESSION

H. R. 3193

To amend title 38, United States Code, to reestablish the duty of the Department of Veterans Affairs to assist claimants for benefits in developing claims and to clarify the burden of proof for such claims.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 2, 1999

Mr. EVANS (for himself, Mr. FILNER, Mr. DOYLE, Mr. RODRIGUEZ, Mr. SHOWS, Ms. CARSON, Ms. BERKLEY, Mr. ABERCROMBIE, and Mr. HOLDEN) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to reestablish the duty of the Department of Veterans Affairs to assist claimants for benefits in developing claims and to clarify the burden of proof for such claims.

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 “Duty to Assist Vet-
5 erans Act of 1999”.

1 **SEC. 2. DUTY OF DEPARTMENT OF VETERANS AFFAIRS TO**
2 **ASSIST CLAIMANTS.**

3 (a) DUTY TO ASSIST.—(1) Chapter 51 of title 38,
4 United States Code, is amended by inserting after section
5 5103 the following new section:

6 **“§ 5103A. Duty to assist claimants**

7 “(a) The Secretary shall assist a person who submits
8 a claim for a benefit under a law administered by the Sec-
9 retary in developing information pertinent to a decision
10 on the claim.

11 “(b) The assistance that shall be provided by the Sec-
12 retary under subsection (a) before a decision on the claim
13 is rendered shall include the following:

14 “(1) Requesting information as described in
15 section 5106 of this title.

16 “(2) Informing the claimant of the information
17 and medical or lay evidence needed in order to fully
18 develop the claim.

19 “(3) Requesting information identified or ref-
20 erenced by the claimant if the claimant has executed
21 a release of information authorizing the Secretary to
22 obtain the information.

23 “(4) Informing the claimant if the Secretary is
24 unable to obtain pertinent evidence such as service
25 medical records or other evidence identified by the
26 claimant.

1 “(5) Providing a medical examination for the
2 purposes of determining the current disability of any
3 veteran who is unable to afford medical care as de-
4 termined under section 1722(a) of this title.

5 “(6) Any other assistance the Secretary con-
6 siders necessary and appropriate to assure the prop-
7 er development of the claim.”.

8 (2) The table of sections at the beginning of such
9 chapter is amended by inserting after the item relating
10 to section 5103 the following new item:

 “5103A. Duty to assist claimants.”.

11 (b) BURDEN OF PROOF.—(1) Subsection (a) of sec-
12 tion 5107 of such title is amended to read as follows:

13 “(a) A person who submits a claim for a benefit
14 under a law administered by the Secretary shall have the
15 burden of proving eligibility for that benefit. That burden
16 may be satisfied by meeting the requirements of any pre-
17 sumption provided by law or regulation applicable to the
18 claim.”.

19 (2) Subsection (b) of that section is amended by
20 striking “each” in the first sentence.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to any claim filed with the Sec-
23 retary of Veterans Affairs on or after July 14, 1999.

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