

110TH CONGRESS
1ST SESSION

S. 1113

To facilitate the provision of care and services for members of the Armed Forces for traumatic brain injury, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 16, 2007

Mr. BAYH (for himself and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To facilitate the provision of care and services for members of the Armed Forces for traumatic brain injury, 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 “Traumatic Brain In-
5 jury Access to Options Act”.

6 **SEC. 2. CARE AND SERVICES FOR MEMBERS OF THE**
7 **ARMED FORCES FOR TRAUMATIC BRAIN IN-**
8 **JURY.**

9 (a) RETENTION ON ACTIVE DUTY.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (3) and subject to paragraph (4), the Sec-
3 retary of Defense shall prescribe regulations to en-
4 sure that each member of the Armed Forces who in-
5 curs a covered traumatic brain injury while on active
6 duty in the Armed Forces shall be retained on active
7 duty in the Armed Forces for one year after the
8 medical assessment of their ability to perform their
9 activities of daily living (ADL).

10 (2) LIMITATION ON PHYSICAL EVALUATION
11 BOARD.—A member of the Armed Forces who is re-
12 tained on active duty under paragraph (1) may not
13 be evaluated by a Physical Evaluation Board for
14 purposes of determining the eligibility of the member
15 for retirement or separation for disability under law
16 during the one-year period described in that para-
17 graph.

18 (3) ELECTION OF INAPPLICABILITY.—(A) Para-
19 graph (1) shall not apply to a member of the Armed
20 Forces otherwise described by that paragraph—

21 (i) upon the election of the member; or

22 (ii) if the member is incapacitated or oth-
23 erwise incapable of making the election—

24 (I) upon the election of the family
25 member;

1 (II) upon the election of the legal
2 guardian of the member under a medical
3 power of attorney; or

4 (III) if the member does not have any
5 family members or a medical power of at-
6 torney, the person appointed by the Sec-
7 retary of the military department con-
8 cerned to act as the medical advocate to
9 ensure the proper receipt by the member of
10 such care and services for the covered
11 traumatic brain injury as are available to
12 the member through the Department of
13 Defense.

14 (B) In any case where a family member or legal
15 guardian of a member of the Armed Forces is
16 present, the medical advocate shall provide a written
17 summary of benefits from the Department of De-
18 fense and the Department of Veterans Affairs that
19 are available to the member of the Armed Forces for
20 the injury or injuries involved.

21 (C) Any individual who carries out the duties of
22 a medical advocate under this paragraph shall re-
23 ceive such training for the discharge of such duties,
24 including training in applicable protocols of the De-
25 partment of Defense and the Department of Vet-

erans Affairs, as the Secretary of Defense (in consultation with the Secretary of Veterans Affairs) considers appropriate.

(D) The Secretary of Defense shall prescribe regulations to carry out this paragraph.

(4) EXTENSION OF PERIOD OF RETENTION ON ACTIVE DUTY.—The period of retention of a member of the Armed Forces on active duty under paragraph (1) may be such period longer than the period otherwise provided under that paragraph as the Secretary of the military department concerned considers appropriate in light of the medical progress of the member for the covered traumatic brain injury, as determined by such Secretary in consultation with the medical personnel providing care to the member for the covered traumatic brain injury and the family member, legal guardian, or medical advocate of the member.

(5) PURPOSES OF RETENTION ON ACTIVE DUTY.—The purposes of retaining a member of the Armed Forces on active duty under paragraph (1) shall include, but not be limited to, the following:

(A) The provision of recurring medical evaluations of the member for the effects of a covered traumatic brain injury.

1 (B) The provision of cognitive therapy for
2 the member for a covered traumatic brain in-
3 jury, including cognitive therapy through med-
4 ical facilities of the Veterans Administration
5 and private rehabilitation hospitals or facilities
6 with the cost of such therapy borne by the De-
7 partment of Defense.

8 (6) SUNSET.—This subsection shall expire on
9 the date that is five years after the date of the en-
10 actment of this Act. However, any member of the
11 Armed Forces retained on active duty under para-
12 graph (1) before that date may be retained on active
13 duty in accordance with this subsection after that
14 date.

15 (b) COMPTROLLER GENERAL ASSESSMENTS OF
16 CARE AND SERVICES PROVIDED BY DEPARTMENT OF DE-
17 FENSE AND DEPARTMENT OF VETERANS AFFAIRS.—Not
18 later than two years after the date of the enactment of
19 this Act, and every year thereafter, the Comptroller Gen-
20 eral of the United States shall submit to Congress a report
21 assessing the discrepancies in benefits and services avail-
22 able to members of the Armed Forces on active duty and
23 medically retired members of the Armed Forces with trau-
24 matic brain injuries. Each such report shall identify and
25 address such discrepancies.

1 (c) DEADLINE FOR REGULATIONS.—The Secretary of
2 Defense shall prescribe the regulations required by this
3 section not later than 90 days after the date of the enact-
4 ment of this Act.

5 (d) COVERED TRAUMATIC BRAIN INJURY DE-
6 FINED.—In this section, the term “covered traumatic
7 brain injury”, in the case of a member of the Armed
8 Forces, means a traumatic brain injury as a result of
9 which the member is unable to perform the activities of
10 daily living (ADL) for a period of least five consecutive
11 days from the date of medical assessment.

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