

111TH CONGRESS
1ST SESSION

S. 977

To amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 5, 2009

Mrs. MURRAY 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 provide improved benefits for veterans who are former prisoners of war, 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 “Prisoner of War Bene-
5 fits Act of 2009”.

6 **SEC. 2. IMPROVED VETERANS’ BENEFITS FOR FORMER
7 PRISONERS OF WAR.**

8 (a) REPEAL OF MINIMUM PERIOD OF INTERNMENT
9 FOR PRESUMPTION OF SERVICE CONNECTION FOR CER-

1 TAIN DISEASES.—Subsection (b) of section 1112 of title
2 38, United States Code, is amended—

3 (1) in paragraph (1)—

4 (A) by striking subparagraph (B);

5 (B) in subparagraph (A), by striking “; and” and inserting a period; and

6 (C) by striking “a former prisoner of war—” and all that follows through “a disease specified in paragraph (2)” and inserting “a former prisoner of war, a disease specified in paragraph (2)”; and

7 (2) in paragraph (3)—

8 (A) by redesignating subparagraphs (A) through (M) as subparagraphs (G) through (S); and

9 (B) by striking “(3) The diseases specified” and all that follows through “the following:”.

10 (b) ADDITIONAL DISEASES PRESUMED TO BE SERVED
11 CONNECTED.—Paragraph (2) of section 1112(b) of such title, as amended by subsection (a)(2), is further
12 amended—

13 (1) in subparagraph (F), by striking “, if the Secretary determines that the veteran has post-traumatic stress disorder (PTSD)”;

1 (2) by adding at the end the following new sub-
2 paragraphs:

3 “(T) Diabetes (type 2).

4 “(U) Such other diseases as the Secretary de-
5 termines in regulations prescribed under subsection
6 (d) warrants a presumption of service-connection.”.

7 (c) AUTHORITY FOR ADMINISTRATIVE DETERMINA-
8 TION OF PRESUMPTION OF SERVICE CONNECTION FOR
9 ADDITIONAL DISEASES.—Section 1112 of title 38, United
10 States Code, as amended by subsections (a) and (b), is
11 further amended by adding at the end the following new
12 subsection:

13 “(d)(1) The Secretary may determine in regulations
14 prescribed under this subsection that a disease warrants
15 a presumption of service-connection by reason of having
16 positive association with the experience of being a prisoner
17 of war.

18 “(2)(A) Whenever the Secretary determines, on the
19 basis of sound medical and scientific evidence, that a posi-
20 tive association exists between the experience of being a
21 prisoner of war and the occurrence of a disease in humans,
22 the Secretary shall prescribe regulations providing that a
23 presumption of service connection is warranted for that
24 disease for purposes of this section.

1 “(B)(i) In making a determination under this sub-
2 section, the Secretary shall take into account—

3 “(I) recommendations received by the Secretary
4 from the Advisory Committee on Former Prisoners
5 of War under section 541 of this title; and

6 “(II) all other sound medical and scientific in-
7 formation and analyses available to the Secretary.

8 “(ii) In evaluating any study for the purpose of mak-
9 ing a determination under this subsection, the Secretary
10 shall take into consideration whether the results of the
11 study are—

12 “(I) statistically significant;
13 “(II) capable of replication; and
14 “(III) withstand peer review.

15 “(C) An association between the occurrence of a dis-
16 ease in humans and the experience of being a prisoner of
17 war shall be considered to be positive for the purposes of
18 subparagraph (A) if the credible evidence for the associa-
19 tion is equal to or outweighs the credible evidence against
20 the association.

21 “(3)(A) Not later than 60 days after the date on
22 which the Secretary receives a recommendation from the
23 Advisory Committee on Former Prisoners of War that a
24 presumption of service connection be established under
25 this subsection for any disease, the Secretary shall deter-

1 mine whether a presumption of service connection under
2 this subsection is warranted for that disease.

3 “(B) If the Secretary determines under this sub-
4 section that a presumption of service connection is war-
5 ranted for a disease, the Secretary shall, not later than
6 60 days after making the determination, issue proposed
7 regulations setting forth the Secretary’s determination.

8 “(C) If the Secretary determines under this sub-
9 section that a presumption of service connection is not
10 warranted for a disease—

11 “(i) the Secretary shall, not later than 60 days
12 after making the determination, publish in the Fed-
13 eral Register a notice of such determination that in-
14 cludes an explanation of the scientific basis for such
15 determination; and

16 “(ii) if the disease is already included in regula-
17 tions providing for a presumption of service connec-
18 tion, the Secretary shall, not later than 60 days
19 after publication of notice under clause (i), issue
20 proposed regulations removing the presumption for
21 the disease.

22 “(D) Not later than 90 days after the date on which
23 the Secretary issues a proposed regulation under this sub-
24 section, the Secretary shall issue a final regulation that
25 is effective on the date of issuance.

1 “(4) Whenever a presumption is removed from a dis-
2 ease under paragraph (3)—

3 “(A) a veteran who was awarded compensation
4 for such disease on the basis of the presumption pro-
5 vided in subsection (a) before the effective date of
6 the removal shall continue to be entitled to receive
7 compensation on that basis; and

8 “(B) a survivor of a veteran who was awarded
9 dependency and indemnity compensation for the
10 death of a veteran resulting from such disease on
11 the basis of such presumption shall continue to be
12 entitled to receive dependency and indemnity com-
13 pensation on such basis.

14 “(5) The Secretary shall carry out this subsection in
15 consultation with, and after taking into consideration the
16 views of, the Advisory Committee on Former Prisoners of
17 War under section 541 of this title.”.

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