

116TH CONGRESS
1ST SESSION

S. 1195

To amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2019

Mrs. GILLIBRAND (for herself, Mr. DAINES, Mr. TESTER, Ms. CORTEZ MASTO, Mr. PORTMAN, Mr. SCHUMER, Mr. CRAMER, Mr. BROWN, Mr. WYDEN, Mr. JONES, Ms. MURKOWSKI, Ms. ROSEN, Ms. SINEMA, Mr. BENNET, Ms. CANTWELL, Ms. WARREN, Mr. MERKLEY, Mr. BLUMENTHAL, Mr. HOEVEN, Mrs. FEINSTEIN, Mr. ROUNDS, Mr. COONS, Mr. GARDNER, Mr. PETERS, Mr. BOOZMAN, Ms. HIRONO, Mr. SCHATZ, Mr. UDALL, Ms. SMITH, Ms. KLOBUCHAR, Mr. RUBIO, and Mr. MENENDEZ) 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 clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, 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 “Blue Water Navy Viet-
5 nam Veterans Act of 2019”.

1 **SEC. 2. CLARIFICATION OF PRESUMPTIONS OF EXPOSURE**
 2 **FOR VETERANS WHO SERVED IN VICINITY OF**
 3 **REPUBLIC OF VIETNAM.**

4 (a) COMPENSATION.—Subsections (a)(1) and (f) of
 5 section 1116 of title 38, United States Code, are amended
 6 by inserting “(including the territorial seas of such Repub-
 7 lic pursuant to the maximum extent authorized by inter-
 8 national law)” after “served in the Republic of Vietnam”
 9 each place it appears.

10 (b) HEALTH CARE.—Section 1710(e)(4) of such title
 11 is amended by inserting “(including the territorial seas of
 12 such Republic pursuant to the maximum extent authorized
 13 by international law)” after “served on active duty in the
 14 Republic of Vietnam”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 subsections (a) and (b) shall take effect as of September
 17 25, 1985.

18 **SEC. 3. PRESUMPTION OF HERBICIDE EXPOSURE FOR CER-**
 19 **TAIN VETERANS WHO SERVED IN KOREA.**

20 (a) IN GENERAL.—Chapter 11 of title 38, United
 21 States Code, is amended by inserting after section 1116
 22 the following new section:

23 **“§ 1116A. Presumption of herbicide exposure for cer-**
 24 **tain veterans who served in Korea**

25 **“(a) PRESUMPTION OF SERVICE-CONNECTION.—(1)**
 26 **For the purposes of section 1110 of this title, and subject**

1 to section 1113 of this title, a disease specified in sub-
 2 section (b) that becomes manifest as specified in that sub-
 3 section in a veteran described in paragraph (2) shall be
 4 considered to have been incurred or aggravated in the line
 5 of duty in the active military, naval, or air service, not-
 6 withstanding that there is no record of evidence of such
 7 disease during the period of such service.

8 “(2) A veteran described in this paragraph is a vet-
 9 eran who, during active military, naval, or air service,
 10 served in or near the Korean Demilitarized Zone (DMZ),
 11 during the period beginning on September 1, 1967, and
 12 ending on August 31, 1971.

13 “(b) DISEASES.—A disease specified in this sub-
 14 section is—

15 “(1) a disease specified in paragraph (2) of
 16 subsection (a) of section 1116 of this title that be-
 17 comes manifest as specified in that paragraph; or

18 “(2) any additional disease that—

19 “(A) the Secretary determines in regula-
 20 tions warrants a presumption of service-connek-
 21 tion by reason of having positive association
 22 with exposure to an herbicide agent; and

23 “(B) becomes manifest within any period
 24 prescribed in such regulations.

1 “(c) HERBICIDE AGENT.—For purposes of this sec-
 2 tion, the term ‘herbicide agent’ has the meaning given
 3 such term in section 1821(d) of this title.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
 5 at the beginning of such chapter is amended by inserting
 6 after the item relating to section 1116 the following new
 7 item:

“1116A. Presumption of herbicide exposure for certain veterans who served in
 Korea.”.

8 **SEC. 4. BENEFITS FOR CHILDREN OF CERTAIN THAILAND**
 9 **SERVICE VETERANS BORN WITH SPINA**
 10 **BIFIDA.**

11 (a) IN GENERAL.—Subchapter III of chapter 18 of
 12 title 38, United States Code, is amended by adding at the
 13 end the following new section:

14 **“§ 1822. Benefits for children of certain Thailand**
 15 **service veterans born with spina bifida**

16 “(a) BENEFITS AUTHORIZED.—The Secretary may
 17 provide to any child of a veteran of covered service in
 18 Thailand who is suffering from spina bifida the health
 19 care, vocational training and rehabilitation, and monetary
 20 allowance required to be paid to a child of a Vietnam vet-
 21 eran who is suffering from spina bifida under subchapter
 22 I of this chapter as if such child of a veteran of covered
 23 service in Thailand were a child of a Vietnam veteran who
 24 is suffering from spina bifida under such subchapter.

1 “(b) SPINA BIFIDA CONDITIONS COVERED.—This
 2 section applies with respect to all forms and manifesta-
 3 tions of spina bifida, except spina bifida occulta.

4 “(c) VETERAN OF COVERED SERVICE IN THAI-
 5 LAND.—For purposes of this section, a veteran of covered
 6 service in Thailand is any individual, without regard to
 7 the characterization of that individual’s service, who—

8 “(1) served in the active military, naval, or air
 9 service in Thailand, as determined by the Secretary
 10 in consultation with the Secretary of Defense, dur-
 11 ing the period beginning on January 9, 1962, and
 12 ending on May 7, 1975; and

13 “(2) is determined by the Secretary, in con-
 14 sultation with the Secretary of Defense, to have been
 15 exposed to a herbicide agent during such service in
 16 Thailand.

17 “(d) HERBICIDE AGENT.—For purposes of this sec-
 18 tion, the term ‘herbicide agent’ means a chemical in a her-
 19 bicide used in support of United States and allied military
 20 operations in Thailand, as determined by the Secretary in
 21 consultation with the Secretary of Defense, during the pe-
 22 riod beginning on January 9, 1962, and ending on May
 23 7, 1975.”.

24 (b) CONFORMING AMENDMENT TO DEFINITION OF
 25 “CHILD”.—Section 1831(1) of such title is amended—

1 (1) in subparagraph (B)—

2 (A) by striking “subchapter III of this
3 chapter” and inserting “section 1821 of this
4 title”; and

5 (B) in clause (i), by striking “section 1821
6 of this title” and inserting “that section”; and

7 (2) by adding at the end the following new sub-
8 paragraph:

9 “(C) For purposes of section 1822 of this
10 title, an individual, regardless of age or marital
11 status, who—

12 “(i) is the natural child of a veteran
13 of covered service in Thailand (as deter-
14 mined for purposes of that section); and

15 “(ii) was conceived after the date on
16 which that veteran first entered service de-
17 scribed in subsection (c) of that section.”.

18 (c) CLERICAL AMENDMENTS.—

19 (1) SUBCHAPTER HEADING.—The heading for
20 subchapter III of chapter 18 of such title is amend-
21 ed by inserting “AND THAILAND” after
22 “KOREA”.

23 (2) TABLE OF SECTIONS.—The table of sections
24 at the beginning of chapter 18 of such title is
25 amended—

1 (A) by striking the item relating to sub-
 2 chapter III and inserting the following new
 3 item:

“SUBCHAPTER III—CHILDREN OF CERTAIN KOREA AND THAILAND SERVICE
 VETERANS BORN WITH SPINA BIFIDA”;

4 and

5 (B) by inserting after the item relating to
 6 section 1821 the following new item:

“1822. Benefits for children of certain Thailand service veterans born with spina
 bifida.”.

7 (d) REPORT.—Not later than 180 days after the date
 8 of the enactment of this Act, the Secretary of Veterans
 9 Affairs, in consultation with the Secretary of Defense,
 10 shall submit to the Committees on Veterans’ Affairs of
 11 the House of Representatives and the Senate a report
 12 identifying—

13 (1) the military installations of the United
 14 States located in Thailand during the period begin-
 15 ning on January 9, 1962, and ending on May 7,
 16 1975, at which an herbicide agent (as defined in sec-
 17 tion 1822 of title 38, United States Code, as added
 18 by subsection (a)) was actively used; and

19 (2) the period of such use.

20 **SEC. 5. UPDATED REPORT ON CERTAIN GULF WAR ILLNESS**
 21 **STUDY.**

22 Not later than 180 days after the date of the enact-
 23 ment of this Act, the Secretary of Veterans Affairs shall

1 submit to the Committees on Veterans' Affairs of the
2 House of Representatives and the Senate an updated re-
3 port on the findings, as of the date of the updated report,
4 of the Follow-Up Study of a National Cohort of Gulf War
5 and Gulf Era Veterans under the epidemiology program
6 of the Department of Veterans Affairs.

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