

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To direct the Secretary of Veterans Affairs to furnish mental and behavioral health care to certain individuals discharged or released from the active military, naval, or air service under conditions other than honorable.

**IN THE SENATE OF THE UNITED STATES—115th Cong., 1st Sess.**

**S.** \_\_\_\_\_

Making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2018, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MURPHY

Viz:

1 At the appropriate place, insert the following:

1 **SEC. \_\_\_\_\_. ACCESS TO DEPARTMENT OF VETERANS AF-**  
2 **FAIRS MENTAL AND BEHAVIORAL HEALTH**  
3 **CARE FOR CERTAIN INDIVIDUALS DIS-**  
4 **CHARGED OR RELEASED FROM THE ACTIVE**  
5 **MILITARY, NAVAL, OR AIR SERVICE UNDER**  
6 **CONDITIONS OTHER THAN HONORABLE.**

7 (a) IN GENERAL.—Subchapter II of chapter 17 of  
8 title 38, United States Code, is amended by inserting after  
9 section 1712C the following new section:

10 **“§ 1712D. Mental and behavioral health care for cer-**  
11 **tain individuals discharged or released**  
12 **from the active military, naval, or air**  
13 **service under conditions other than hon-**  
14 **orable**

15 “(a) IN GENERAL.—Notwithstanding section 5303(a)  
16 of this title and subject to subsection (c), the Secretary  
17 shall furnish to an eligible individual covered mental and  
18 behavioral health care.

19 “(b) ELIGIBLE INDIVIDUALS.—For purposes of this  
20 section, an eligible individual is any of the following:

21 “(1) An individual who—

22 “(A) served in the active military, naval, or  
23 air service for a period of more than 180 days  
24 and was deployed in a theater of combat oper-  
25 ations, in support of a contingency operation, or  
26 in an area at a time during which hostilities are

1 occurring in that area, for a period of more  
2 than 30 days during such service;

3 “(B) was discharged or released from such  
4 service by reason of committing a covered of-  
5 fense; and

6 “(C) was diagnosed by a qualified mental  
7 health care provider with a mental or behavioral  
8 health condition before committing the covered  
9 offense.

10 “(2) An individual who—

11 “(A) served in the active military, naval, or  
12 air service for a period of more than 180 days  
13 and was deployed in a theater of combat oper-  
14 ations, in support of a contingency operation, or  
15 in an area at a time during which hostilities are  
16 occurring in that area, for a period of more  
17 than 30 days during such service;

18 “(B) was discharged or released from such  
19 service by reason of committing a covered of-  
20 fense;

21 “(C) is diagnosed with a mental or behav-  
22 ioral health condition after committing such  
23 covered offense but before the expiration of the  
24 five-year period beginning on the later of—

1                   “(i) the date of the enactment of this  
2                   section; or

3                   “(ii) the date on which the individual  
4                   is discharged or released from such service;

5                   “(D) submits to the Secretary—

6                   “(i) a certification from a qualified  
7                   mental health care provider that the pro-  
8                   vider believes such condition may have led  
9                   the individual to commit such offense; and

10                  “(ii) the Certificate of Release or Dis-  
11                  charge from Active Duty (DD Form 214)  
12                  of the individual; and

13                  “(E) is determined by the Secretary pursu-  
14                  ant to subsection (e) to have had a mental or  
15                  behavioral health condition at the time the indi-  
16                  vidual committed the covered offense that con-  
17                  tributed to the commission of the offense.

18                  “(c) DETERMINATION BY SECRETARY.—(1) Not later  
19                  than 90 days after receiving the information submitted  
20                  under subsection (b)(2)(D) with respect to an individual,  
21                  the Secretary shall determine whether, at the time of com-  
22                  mitting the covered offense, the individual had a mental  
23                  or behavioral health condition that contributed to the com-  
24                  mission of the offense.

1           “(2) If the Secretary does not make a determination  
2 under paragraph (1) with respect to a mental or behav-  
3 ioral health condition of an individual before the end of  
4 the 90-day period beginning on the date of the submittal  
5 of the information described in subsection (b)(2)(D), the  
6 condition is deemed to be a mental or behavioral health  
7 condition that contributed to the commission of the of-  
8 fense until such time as the Secretary makes the deter-  
9 mination.

10           “(d) INITIAL MENTAL HEALTH SCREENING.—(1)  
11 The Secretary may furnish to each individual described  
12 in paragraph (2) an initial mental health screening not  
13 later than the later of—

14                   “(A) five years after the date of the enactment  
15 of this section; or

16                   “(B) five years after the date on which the indi-  
17 vidual was discharged or released from the active  
18 military, naval, or air service.

19           “(2) Individuals described in this paragraph are the  
20 following:

21                   “(A) Eligible individuals described in subsection  
22 (b)(1).

23                   “(B) Individuals described in subparagraphs  
24 (A), (B), and (C) of subsection (b)(2).

1           “(3) The mental health screening provided to an indi-  
2     vidual under paragraph (1) shall be at no cost to the indi-  
3     vidual.

4           “(e) NOTIFICATION OF ELIGIBILITY.—The Secretary  
5     shall notify each eligible individual described in subsection  
6     (b)(1) about the eligibility of the individual for covered  
7     mental and behavioral health care under this section not  
8     later than the later of—

9           “(1) 180 days after the date of the enactment  
10     of this section; or

11           “(2) 180 days after the date on which the indi-  
12     vidual was discharged or released from the active  
13     military, naval, or air service.

14           “(f) ANNUAL REPORT.—Not less frequently than an-  
15     nually, the Secretary shall submit to the Committee on  
16     Veterans’ Affairs of the Senate and the Committee on Vet-  
17     erans’ Affairs of the House of Representatives a report  
18     that includes, with respect to the year preceding the sub-  
19     mittal of the report, the following:

20           “(1) The number of eligible individuals who  
21     were furnished covered mental and behavioral health  
22     care under this section.

23           “(2) The number of individuals who the Sec-  
24     retary determined under subsection (c) did not have  
25     a mental or behavioral health condition at the time

1 of committing a covered offense that contributed to  
2 the commission of the offense.

3 “(3) The number of individuals who requested  
4 an initial mental health screening under subsection  
5 (d).

6 “(4) The number of individuals who were fur-  
7 nished an initial mental health screening under sub-  
8 section (d).

9 “(g) DEFINITIONS.—In this section:

10 “(1) The term ‘covered mental and behavioral  
11 health care’ means the same types of medical serv-  
12 ices furnished by the Department to individuals with  
13 service-connected mental or behavioral health condi-  
14 tions to treat such conditions.

15 “(2) The term ‘covered offense’ means an of-  
16 fense for which an individual is discharged or sepa-  
17 rated from the active military, naval, or air service  
18 under conditions other than honorable but not a dis-  
19 honorable discharge or a discharge by court-martial.

20 “(3) The term ‘qualified mental health care  
21 provider’ means a licensed or certified health care  
22 provider whose scope of practice includes diagnosing  
23 mental or behavioral health conditions and includes  
24 physicians, psychologists, psychiatric nurse practi-

1           tioners, physician assistants, clinical social workers,  
2           and licensed professional counselors.”.

3           (b) CLERICAL AMENDMENT.—The table of sections  
4 at the beginning of chapter 17 of such title is amended  
5 by inserting after the item relating to section 1712C the  
6 following new item:

          “1712D. Mental and behavioral health care for certain individuals discharged  
          or released from the active military, naval, or air service under  
          conditions other than honorable.”.

7           (c) EFFECTIVE DATE.—Section 1712D of title 38,  
8 United States Code, as added by subsection (a), shall take  
9 effect on the date that is 120 days after the date of the  
10 enactment of this Act.