

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2074

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IN THE SENATE OF THE UNITED STATES

OCTOBER 12, 2011

Received; read twice and referred to the Committee on Veterans' Affairs

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## AN ACT

To amend title 38, United States Code, to require a comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents that occur at medical facilities of the Department of Veterans Affairs, to improve rehabilitative services for veterans with 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 “Veterans Sexual As-  
5 sault Prevention and Health Care Enhancement Act”.

6 **SEC. 2. COMPREHENSIVE POLICY ON REPORTING AND**  
7 **TRACKING SEXUAL ASSAULT INCIDENTS AND**  
8 **OTHER SAFETY INCIDENTS.**

9 (a) POLICY.—Subchapter I of chapter 17 of title 38,  
10 United States Code, is amended by adding at the end the  
11 following:

12 **“§ 1709. Comprehensive policy on reporting and**  
13 **tracking sexual assault incidents and**  
14 **other safety incidents**

15 “(a) POLICY REQUIRED.—Not later than March 1,  
16 2012, the Secretary of Veterans Affairs shall develop and  
17 implement a centralized and comprehensive policy on the  
18 reporting and tracking of sexual assault incidents and  
19 other safety incidents that occur at each medical facility  
20 of the Department, including—

21 “(1) suspected, alleged, attempted, or confirmed  
22 cases of sexual assault, regardless of whether such  
23 assaults lead to prosecution or conviction;

24 “(2) criminal and purposefully unsafe acts;

1           “(3) alcohol or substance abuse related acts (in-  
2           cluding by employees of the Department); and

3           “(4) any kind of event involving alleged or sus-  
4           pected abuse of a patient.

5           “(b) SCOPE.—The policy required by subsection (a)  
6 shall cover each of the following:

7           “(1) For purposes of reporting and tracking  
8           sexual assault incidents and other safety incidents,  
9           definitions of the terms—

10                   “(A) ‘safety incident’;

11                   “(B) ‘sexual assault’; and

12                   “(C) ‘sexual assault incident’.

13           “(2) The development and use of specific risk-  
14           assessment tools to examine any risks related to sex-  
15           ual assault that a veteran may pose while being  
16           treated at a medical facility of the Department, in-  
17           cluding clear and consistent guidance on the collec-  
18           tion of information related to—

19                   “(A) the legal history of the veteran; and

20                   “(B) the medical record of the veteran.

21           “(3) The mandatory training of employees of  
22           the Department on security issues, including aware-  
23           ness, preparedness, precautions, and police assist-  
24           ance.

1           “(4) The mandatory implementation, use, and  
2 regular testing of appropriate physical security pre-  
3 cautions and equipment, including surveillance cam-  
4 era systems, computer-based panic alarm systems,  
5 stationary panic alarms, and electronic portable per-  
6 sonal panic alarms.

7           “(5) Clear, consistent, and comprehensive cri-  
8 teria and guidance with respect to an employee of  
9 the Department communicating and reporting sexual  
10 assault incidents and other safety incidents to—

11                   “(A) supervisory personnel of the employee

12           at—

13                   “(i) a medical facility of the Depart-  
14                   ment;

15                   “(ii) an office of a Veterans Inte-  
16                   grated Service Network; and

17                   “(iii) the central office of the Veterans  
18                   Health Administration; and

19                   “(B) a law enforcement official of the De-  
20           partment.

21           “(6) Clear and consistent criteria and guide-  
22 lines with respect to an employee of the Department  
23 referring and reporting to the Office of Inspector  
24 General of the Department sexual assault incidents  
25 and other safety incidents that meet the regulatory

1 criminal threshold in accordance with section 1.201  
2 and 1.204 of title 38, Code of Federal Regulations.

3 “(7) An accountable oversight system within  
4 the Veterans Health Administration that includes—

5 “(A) systematic information sharing of re-  
6 ported sexual assault incidents and other safety  
7 incidents among officials of the Administration  
8 who have programmatic responsibility; and

9 “(B) a centralized reporting, tracking, and  
10 monitoring system for such incidents.

11 “(8) Consistent procedures and systems for law  
12 enforcement officials of the Department with respect  
13 to investigating, tracking, and closing reported sex-  
14 ual assault incidents and other safety incidents.

15 “(9) Clear and consistent guidance for the clin-  
16 ical management of the treatment of sexual assaults  
17 that are reported more than 72 hours after the as-  
18 sault.

19 “(c) UPDATES TO POLICY.—The Secretary shall re-  
20 view and revise the policy required by subsection (a) on  
21 a periodic basis as the Secretary considers appropriate and  
22 in accordance with best practices.

23 “(d) ANNUAL REPORT.—(1) Not later than 60 days  
24 after the date on which the Secretary develops the policy  
25 required by subsection (a), and by not later than October

1 1 of each year thereafter, the Secretary shall submit to  
2 the Committee on Veterans' Affairs of the House of Rep-  
3 resentatives and the Committee on Veterans' Affairs of  
4 the Senate a report on the implementation of the policy.

5 “(2) The report under paragraph (1) shall include—

6 “(A) the number and type of sexual assault in-  
7 cidents and other safety incidents reported by each  
8 medical facility of the Department;

9 “(B) a detailed description of the implementa-  
10 tion of the policy required by subsection (a), includ-  
11 ing any revisions made to such policy from the pre-  
12 vious year; and

13 “(C) the effectiveness of such policy on improv-  
14 ing the safety and security of the medical facilities  
15 of the Department, including the performance meas-  
16 ures used to evaluate such effectiveness.

17 “(e) REGULATIONS.—The Secretary shall prescribe  
18 regulations to carry out this section.”.

19 (b) CLERICAL AMENDMENT.—The table of sections  
20 at the beginning of such chapter is amended by adding  
21 after the item relating to section 1708 the following:

“1709. Comprehensive policy on reporting and tracking sexual assault incidents  
and other safety incidents.”.

22 (c) INTERIM REPORT.—Not later than 30 days after  
23 the date of the enactment of this Act, the Secretary of  
24 Veterans Affairs shall submit to the Committee on Vet-

1 erans' Affairs of the House of Representatives and the  
2 Committee on Veterans' Affairs of the Senate a report on  
3 the development of the performance measures described  
4 in section 1709(d)(2)(C) of title 38, United States Code,  
5 as added by subsection (a).

6 **SEC. 3. INCREASED FLEXIBILITY IN ESTABLISHING PAY-**  
7 **MENT RATES FOR NURSING HOME CARE PRO-**  
8 **VIDED BY STATE HOMES.**

9 (a) IN GENERAL.—

10 (1) CONTRACTS AND AGREEMENTS FOR NURS-  
11 ING HOME CARE.—Section 1745(a) of title 38,  
12 United States Code, is amended—

13 (A) in paragraph (1), by striking “The  
14 Secretary shall pay each State home for nursing  
15 home care at the rate determined under para-  
16 graph (2)” and inserting “The Secretary shall  
17 enter into a contract (or agreement under sec-  
18 tion 1720(c)(1) of this title) with each State  
19 home for payment by the Secretary for nursing  
20 home care provided in the home”; and

21 (B) by striking paragraph (2) and insert-  
22 ing the following new paragraph (2):

23 “(2) Payment under each contract (or agreement) be-  
24 tween the Secretary and a State home under paragraph  
25 (1) shall be based on a methodology, developed by the Sec-

1 retary in consultation with the State home, to adequately  
2 reimburse the State home for the care provided by the  
3 State home under the contract (or agreement).”.

4 (2) STATE NURSING HOMES.—Section  
5 1720(c)(1)(A) of such title is amended—

6 (A) in clause (i), by striking “; and” and  
7 inserting a semicolon;

8 (B) in clause (ii), by striking the period at  
9 the end and inserting “; and”; and

10 (C) by adding at the end the following new  
11 clause:

12 “(iii) a provider of services eligible to enter into  
13 a contract pursuant to section 1745(a) of this title  
14 who is not otherwise described in clause (i) or (ii).”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 subsection (a) shall apply to care provided on or after Jan-  
17 uary 1, 2012.

18 **SEC. 4. REHABILITATIVE SERVICES FOR VETERANS WITH**  
19 **TRAUMATIC BRAIN INJURY.**

20 (a) REHABILITATION PLANS AND SERVICES.—Sec-  
21 tion 1710C of title 38, United States Code, is amended—

22 (1) in subsection (a)(1), by inserting before the  
23 semicolon the following: “with the goal of maxi-  
24 mizing the individual’s independence”;

25 (2) in subsection (b)—



1 (A) in paragraph (1)—

2 (i) by inserting “(and sustaining im-  
3 provement in)” after “improving”;

4 (ii) by inserting “behavioral,” after  
5 “cognitive”;

6 (B) in paragraph (2), by inserting “reha-  
7 bilitative services and” before “rehabilitative  
8 components”; and

9 (C) in paragraph (3)—

10 (i) by striking “treatments” the first  
11 place it appears and inserting “services”;  
12 and

13 (ii) by striking “treatments and” the  
14 second place it appears; and

15 (3) by adding at the end the following new sub-  
16 section:

17 “(h) REHABILITATIVE SERVICES DEFINED.—For  
18 purposes of this section, and sections 1710D and 1710E  
19 of this title, the term ‘rehabilitative services’ includes—

20 “(1) rehabilitative services, as defined in section  
21 1701 of this title;

22 “(2) treatment and services (which may be of  
23 ongoing duration) to sustain, and prevent loss of,  
24 functional gains that have been achieved; and

1           “(3) any other rehabilitative services or sup-  
2           ports that may contribute to maximizing an individ-  
3           ual’s independence.”.

4           (b) REHABILITATION SERVICES IN COMPREHENSIVE  
5 PROGRAM FOR LONG-TERM REHABILITATION.—Section  
6 1710D(a) of title 38, United States Code, is amended—

7           (1) by inserting “and rehabilitative services (as  
8           defined in section 1710C of this title)” after “long-  
9           term care”; and

10          (2) by striking “treatment”.

11          (c) REHABILITATION SERVICES IN AUTHORITY FOR  
12 COOPERATIVE AGREEMENTS FOR USE OF NON-DEPART-  
13 MENT FACILITIES FOR REHABILITATION.—Section  
14 1710E(a) of title 38, United States Code, is amended by  
15 inserting “, including rehabilitative services (as defined in  
16 section 1710C of this title),” after “medical services”.

17          (d) TECHNICAL AMENDMENT.—Section  
18 1710C(c)(2)(S) of title 38, United States Code, is amend-  
19 ed by striking “ophthamologist” and inserting “ophthalmol-  
20 ogist”.

21 **SEC. 5. USE OF SERVICE DOGS ON PROPERTY OF THE DE-**  
22 **PARTMENT OF VETERANS AFFAIRS.**

23          Section 901 of title 38, United States Code, is  
24 amended by adding at the end the following new sub-  
25 section:

1       “(f) The Secretary may not prohibit the use of service  
2 dogs in any facility or on any property of the Department  
3 or in any facility or on any property that receives funding  
4 from the Secretary.”.

5 **SEC. 6. DEPARTMENT OF VETERANS AFFAIRS PILOT PRO-**  
6 **GRAM ON DOG TRAINING THERAPY.**

7       (a) IN GENERAL.—Commencing not later than 120  
8 days after the date of the enactment of this Act, the Sec-  
9 retary of Veterans Affairs shall implement a three-year  
10 pilot program for the purpose of assessing the effective-  
11 ness of using dog training activities as a component of  
12 integrated post-deployment mental health and post-trau-  
13 matic stress disorder rehabilitation programs at Depart-  
14 ment of Veterans Affairs medical centers to positively af-  
15 fect veterans with post-deployment mental health condi-  
16 tions and post-traumatic stress disorder symptoms and,  
17 through such activities, to produce specially trained dogs  
18 that meet criteria for becoming service dogs for veterans  
19 with disabilities.

20       (b) LOCATION OF PILOT PROGRAM.—The pilot pro-  
21 gram shall be carried out at one Department of Veterans  
22 Affairs medical center selected by the Secretary for such  
23 purpose at a location other than in the Department of Vet-  
24 erans Affairs Palo Alto health care system in Palo Alto,

1 California. In selecting a medical center for the pilot pro-  
2 gram, the Secretary shall—

3 (1) ensure that the medical center selected—

4 (A) has an established mental health reha-  
5 bilitation program that includes a clinical focus  
6 on rehabilitation treatment of post-deployment  
7 mental health conditions and post-traumatic  
8 stress disorder; and

9 (B) has a demonstrated capability and ca-  
10 pacity to incorporate service dog training activi-  
11 ties into the rehabilitation program; and

12 (2) shall review and consider using rec-  
13 ommendations published by Assistance Dogs Inter-  
14 national, International Guide Dog Federation, or  
15 comparably recognized experts in the art and science  
16 of basic dog training with regard to space, equip-  
17 ments, and methodologies.

18 (c) DESIGN OF PILOT PROGRAM.—In carrying out  
19 the pilot program, the Secretary shall—

20 (1) administer the program through the De-  
21 partment of Veterans Affairs Patient Care Services  
22 Office as a collaborative effort between the Rehabili-  
23 tation Office and the Office of Mental Health Serv-  
24 ices;

1           (2) ensure that the national pilot program lead  
2 of the Patient Care Services Office has sufficient ad-  
3 ministrative experience to oversee the pilot program;

4           (3) establish partnerships through memoran-  
5 dums of understanding with Assistance Dogs Inter-  
6 national organizations, International Guide Dog  
7 Federation organizations, academic affiliates, or or-  
8 ganizations with equivalent credentials with experi-  
9 ence in teaching others to train service dogs for the  
10 purpose of advising the Department of Veterans Af-  
11 fairs regarding the design, development, and imple-  
12 mentation of pilot program;

13           (4) ensure that the pilot program site has a  
14 service dog training instructor;

15           (5) ensure that dogs selected for use in the pro-  
16 gram meet all health clearance, age, and tempera-  
17 ment criteria as outlined by Assistance Dogs Inter-  
18 national, International Guide Dog Federation, or an  
19 organization with equivalent credentials and the  
20 Centers for Disease Control and Prevention;

21           (6) consider dogs residing in animal shelters or  
22 foster homes for participation in the program if such  
23 dogs meet the selection criteria under this sub-  
24 section; and

1           (7) ensure that each dog selected for the pro-  
2           gram is taught all basic commands and behaviors es-  
3           sential to being accepted by an accredited service  
4           dog training organization to be partnered with a dis-  
5           abled veteran for final individualized service dog  
6           training tailored to meet the needs of the veteran.

7           (d) VETERAN PARTICIPATION.—A veteran who is en-  
8           rolled in the health care system established under section  
9           1705(a) of title 38, United States Code, and is diagnosed  
10          with post-traumatic stress disorder or another post-de-  
11          ployment mental health condition may volunteer to partici-  
12          pate in the pilot program required by subsection (a) of  
13          this section and may participate in the program if the Sec-  
14          retary determines that adequate program resources are  
15          available for such veteran to participate at the pilot pro-  
16          gram site.

17          (e) HIRING PREFERENCE.—In hiring service dog  
18          training instructors for the pilot program required by sub-  
19          section (a), the Secretary shall give a preference to vet-  
20          erans in accordance with section 2108 and 3309 of title  
21          5, United States Code.

22          (f) COLLECTION OF DATA.—The Secretary shall col-  
23          lect data on the pilot program required by subsection (a)  
24          to determine the effectiveness of the program in positively  
25          affecting veterans with post-traumatic stress disorder or

1 other post-deployment mental health condition symptoms  
2 and the potential for expanding the program to additional  
3 Department of Veterans Affairs medical centers. Such  
4 data shall be collected and analyzed using valid and reli-  
5 able methodologies and instruments.

6 (g) REPORTS TO CONGRESS.—

7 (1) ANNUAL REPORTS.—Not later than one  
8 year after the date of the commencement of the pilot  
9 program, and annually thereafter for the duration of  
10 the pilot program, the Secretary shall submit to  
11 Congress a report on the pilot program. Each such  
12 report shall include—

13 (A) the number of veterans participating in  
14 the pilot program;

15 (B) a description of the services carried  
16 out by the Secretary under the pilot program;  
17 and

18 (C) the effects that participating in the  
19 pilot program has on veterans with post-trau-  
20 matic stress disorder and post-deployment men-  
21 tal health conditions.

22 (2) FINAL REPORT.—At the conclusion of pilot  
23 program, the Secretary shall submit to Congress a  
24 final report that includes recommendations with re-

