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1ST SESSION

S. 1766

To require the Secretary of Defense to submit a report on overdoses among members of the Armed Forces.

IN THE SENATE OF THE UNITED STATES

MAY 31 (legislative day, MAY 30), 2023

Mr. MARKEY (for himself, Ms. MURKOWSKI, Ms. WARREN, Mr. BRAUN, Mr. VAN HOLLEN, Mr. KING, Ms. BALDWIN, Mrs. CAPITO, and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To require the Secretary of Defense to submit a report on overdoses among members of the Armed Forces.

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 “Department of Defense
5 Overdose Data Act of 2023”.

6 **SEC. 2. ANNUAL REPORT ON MILITARY OVERDOSES.**

7 (a) IN GENERAL.—Not later than 1 year after the
8 date of the enactment of this Act, and annually thereafter,
9 the Secretary of Defense shall submit to the appropriate

1 congressional committees a report on the number of an-
2 nual overdoses among servicemembers.

3 (b) CONTENTS.—The report required by subsection
4 (a) shall include the following:

5 (1) The total number of servicemembers who
6 suffered a fatal overdose during the previous cal-
7 endar year, including—

8 (A) demographic information, including
9 gender, race, age, military department, military
10 rank, pay grade, station, number of previous
11 deployments, and whether such member was a
12 victim of military sexual assault;

13 (B) the location of the fatal overdose, in-
14 cluding whether the overdose was on a military
15 base; and

16 (C) a list of the substances involved in the
17 fatal overdose.

18 (2) Of the servicemembers identified in para-
19 graph (1)—

20 (A) the number of servicemembers who
21 previously had a non-fatal overdose;

22 (B) the number of servicemembers who re-
23 ceived mental health or substance use disorder
24 services prior to a fatal or non-fatal overdose,

1 including a description of whether such services
2 were received from a private sector provider;

3 (C) the number of servicemembers with co-
4 morbid mental health diagnoses;

5 (D) the number of servicemembers who
6 had been prescribed opioids, benzodiazepines, or
7 stimulants;

8 (E) the number of servicemembers who
9 were previously prescribed or provided naloxone;

10 (F) the number of servicemembers who
11 had a positive drug test prior to the fatal over-
12 dose, including any substance identified in such
13 test;

14 (G) the number of servicemembers re-
15 ferred, including by self-referral, to medical
16 treatment, including medication treatment for
17 opioid use disorder;

18 (H) with respect to each servicemember
19 identified in subparagraph (G), whether the
20 servicemember was referred after a positive
21 drug test and the source of such referral;

22 (I) of the servicemembers identified in sub-
23 paragraph (G), the number of servicemembers
24 who engaged in such medical treatment;

1 (J) the number of servicemembers who
2 suffered a fatal overdose in which a bystander
3 was present; and

4 (K) the number of fatal overdoses.

5 (3) The total number of servicemembers who
6 suffered a non-fatal overdose during the previous
7 calendar year, including—

8 (A) demographic information, including
9 gender, race, age, military department, military
10 rank, pay grade, station, number of previous
11 deployments, and whether such member was a
12 victim of military sexual assault;

13 (B) a list of the substances involved in the
14 non-fatal overdose; and

15 (C) a determination of whether the non-
16 fatal overdose was intentional.

17 (4) Of the servicemembers identified in para-
18 graph (3)—

19 (A) the number of servicemembers who
20 previously had a non-fatal overdose;

21 (B) the number of servicemembers who re-
22 ceived mental health or substance use disorder
23 services prior to a non-fatal overdose;

1 (C) the number of servicemembers with co-
2 morbid mental health diagnoses prior to a non-
3 fatal overdose;

4 (D) the number of servicemembers who
5 had been prescribed opioids, benzodiazepines, or
6 stimulants prior to a non-fatal overdose;

7 (E) the number of servicemembers who
8 had a positive drug test prior to the non-fatal
9 overdose, including any substance identified in
10 such test;

11 (F) the number of servicemembers who
12 suffered a non-fatal overdose in which a by-
13 stander was present;

14 (G) the number of servicemembers who
15 had been categorized as high risk and pre-
16 scribed or provided naloxone prior to a non-
17 fatal overdose;

18 (H) the number of servicemembers who
19 suffered a non-fatal overdose in which naloxone
20 was administered;

21 (I) the number of servicemembers referred
22 to medical treatment, including medication
23 treatment for opioid use disorder, following a
24 non-fatal overdose;

1 (J) of the servicemembers identified in
2 subparagraph (I), the number of
3 servicemembers who engaged in such medical
4 treatment;

5 (K) the number of servicemembers re-
6 ferred, including by self-referral, to medical
7 treatment, including medication treatment for
8 opioid use disorder;

9 (L) with respect to each servicemember
10 identified in subparagraph (K), whether the
11 servicemember was referred after a positive
12 drug test and the source of such referral;

13 (M) of the servicemembers identified in
14 subparagraph (K), the number of
15 servicemembers who engaged in such medical
16 treatment; and

17 (N) the number of intentional overdoses.

18 (5) An analysis of discernable patterns in fatal
19 and non-fatal overdoses of servicemembers, and ex-
20 isting or anticipated responses to such patterns by
21 the Secretary of Defense.

22 (6) A description of existing or anticipated re-
23 sponse efforts to fatal and non-fatal overdoses at
24 military bases that have rates of fatal overdoses that

1 exceed the average rate of fatal overdoses in the
2 United States.

3 (7) The number of servicemembers who are in
4 recovery or currently taking a prescription medica-
5 tion for opioid use disorder.

6 (8) The number of military family members of
7 servicemembers who receive substance use disorder
8 treatment at a medical facility of the Department of
9 Defense.

10 (9) An assessment of the availability of sub-
11 stance use disorder treatment for servicemembers
12 who—

13 (A) transferred military bases; or

14 (B) returned to the United States fol-
15 lowing an overseas tour.

16 (10) The number of medical facilities of, or af-
17 filiated with, the Department of Defense that have
18 opioid treatment programs.

19 (11) A description of punitive measures taken
20 by the Secretary of Defense in response to substance
21 misuse, substance use disorder, or overdose by
22 servicemembers.

23 (12) The number of military family members
24 who live on a military base who suffered a fatal or

1 non-fatal overdose during the previous calendar year,
2 including—

3 (A) demographic information, including
4 gender, race, age, and relationship to a service-
5 member;

6 (B) the location of the overdose;

7 (C) a list of the substances involved in the
8 overdose; and

9 (D) a determination of whether the over-
10 dose was intentional.

11 (13) Of the military family members identified
12 in paragraph (12)—

13 (A) of military family members who suf-
14 fered a fatal overdose, the numbers of military
15 family members who had a previous non-fatal
16 overdose;

17 (B) the number of military family mem-
18 bers who received mental health services prior
19 to an overdose;

20 (C) the number of military family members
21 who have co-morbid mental health diagnoses;

22 (D) the number of military family mem-
23 bers who had been prescribed opioids,
24 benzodiazepines, or stimulants prior to an over-
25 dose;

1 (E) the number of military family mem-
2 bers who suffered an overdose in which a by-
3 stander was present;

4 (F) the number of military family members
5 who suffered an overdose in which naloxone was
6 administered; and

7 (G) the number of intentional overdoses.

8 (c) REPORTING ON FEWER THAN 5
9 SERVICEMEMBERS.—If the number of servicemembers or
10 military family members identified under any paragraph
11 or subparagraph of subsection (b) is fewer than 5, the Sec-
12 retary of Defense shall for such paragraph or subpara-
13 graph—

14 (1) not report the exact number of
15 servicemembers or military family members identi-
16 fied; and

17 (2) report that fewer than 5 servicemembers or
18 military family members were identified.

19 (d) PRIVACY.—

20 (1) IN GENERAL.—Nothing in this section shall
21 be construed to authorize the disclosure by the Sec-
22 retary of Defense of personally identifiable informa-
23 tion of servicemembers or military family members,
24 including anonymized personal information that

1 could be used to re-identify servicemembers or mili-
2 tary family members.

3 (2) APPLICATION OF HIPAA.—In carrying out
4 this section, the Secretary of Defense shall take
5 steps to protect the privacy of servicemembers and
6 military family members pursuant to regulations
7 promulgated under section 264(c) of the Health In-
8 surance Portability and Accountability Act of 1996
9 (42 U.S.C. 1320d–2 note; Public Law 104–191).

10 **SEC. 3. REPORT ON IMPROVED ACCESS TO DATA, TREAT-**
11 **MENT, AND OVERDOSE PREVENTION.**

12 Not later than 1 year after the date of the enactment
13 of this Act, the Secretary of Defense shall contract with
14 a federally funded research and development center to pre-
15 pare a report that includes—

16 (1) an assessment of current barriers to deter-
17 mining the information required under section 2 and
18 recommendations for improved tracking and report-
19 ing of substance misuse, substance use disorders,
20 overdoses, and treatment within the Department of
21 Defense;

22 (2) recommendations for—

23 (A) legislative and administrative actions
24 to increase access to mental and behavioral
25 health care for servicemembers who—

1 (i) are at risk of overdose or sub-
2 stance use disorder;

3 (ii) have experienced a non-fatal over-
4 dose; or

5 (iii) have been diagnosed with a sub-
6 stance use disorder;

7 (B) expanding non-opioid pain manage-
8 ment treatment and physical therapy at medical
9 facilities of the Department of Defense;

10 (C) organizing interagency coordination—

11 (i) to address overdoses and substance
12 use disorders among veterans
13 servicemembers; and

14 (ii) to reduce stigma associated with
15 substance use disorders and treatment ac-
16 cess among servicemembers and their mili-
17 tary family members;

18 (D) addressing concerns among
19 servicemembers regarding the consequences of
20 seeking or receiving care for a substance use
21 disorder or overdose;

22 (E) educating servicemembers on preven-
23 tion strategies, tools to reduce or prevent over-
24 dose or substance use disorder, available mental
25 and behavioral healthcare and substance use

1 disorder care, including medication treatment
2 for opioid use disorder, recovery support serv-
3 ices, psychotherapy, inpatient rehabilitation
4 services, and family support services;

5 (F) potential supports for servicemembers
6 in recovery;

7 (G) improving continuity of care for sub-
8 stance use disorders from during the transition
9 to veteran status; and

10 (H) improving access to death investiga-
11 tion occurring outside the jurisdiction of the
12 Armed Forces Medical Examiner System;

13 (3) an identification of causes of fatal and non-
14 fatal overdoses that are unique to servicemembers;

15 (4) an identification of the barriers to care for
16 substance use disorders for military family members
17 of servicemembers and suggestions for additional
18 data elements for the annual report required under
19 section 2;

20 (5) any other information that the Comptroller
21 General of the United States considers appropriate
22 with respect to the reduction of overdoses among
23 servicemembers; and

24 (6) qualitative data from servicemembers.

1 **SEC. 4. STANDARDS FOR THE USE OF MATERIALS TO PRE-**
2 **VENT OVERDOSE AND SUBSTANCE USE DIS-**
3 **ORDER.**

4 Not later than 1 year after the date of the enactment
5 of this Act, the Secretary of Defense shall establish stand-
6 ards for the distribution of, and training for the use of,
7 naloxone or other medication for overdose reversal, opioid
8 disposal materials, fentanyl test strips, and other mate-
9 rials to prevent or reverse overdoses, substance use dis-
10 order, or impacts related to substance misuse.

11 **SEC. 5. DEFINITIONS.**

12 In this Act:

13 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
14 **TEES.**—The term “appropriate congressional com-
15 mittees” means—

16 (A) the congressional defense committees;

17 (B) the Committee on Health, Education,
18 Labor, and Pensions of the Senate; and

19 (C) the Committee on Energy and Com-
20 merce of the House of Representatives.

21 (2) **MILITARY FAMILY MEMBER.**—The term
22 “military family member” means a family member
23 of a servicemember, including the spouse, parent, de-
24 pendent, or child of a servicemember, or anyone who
25 has legal responsibility for the child of a service-
26 member.

1 (3) SERVICEMEMBER.—The term “servicemem-
2 ber” means—

3 (A) a member of the Armed Forces; or

4 (B) a member of the National Guard.

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