

118TH CONGRESS  
1ST SESSION

# S. 216

To amend title 38, United States Code, to modify the family caregiver program of the Department of Veterans Affairs to include services related to mental health and neurological disorders, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2023

Mr. MORAN introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to modify the family caregiver program of the Department of Veterans Affairs to include services related to mental health and neurological disorders, 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 “Reinforcing Enhanced  
5 Support through Promoting Equity for Caregivers Act of  
6 2023” or the “RESPECT Act of 2023”.

1 **SEC. 2. MODIFICATION OF FAMILY CAREGIVER PROGRAM**  
2 **OF DEPARTMENT OF VETERANS AFFAIRS TO**  
3 **INCLUDE SERVICES RELATED TO MENTAL**  
4 **HEALTH AND NEUROLOGICAL DISORDERS.**

5 (a) IN GENERAL.—Section 1720G of title 38, United  
6 States Code, is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (2)(C)(ii), by striking  
9 “neurological” and inserting “a neurological  
10 disorder”;

11 (B) in paragraph (3)—

12 (i) in subparagraph (A)(ii)(II), by in-  
13 serting “, including through public or pri-  
14 vate entities” before the semicolon; and

15 (ii) in subparagraph (C), by adding at  
16 the end the following new clause:

17 “(v)(I) For purposes of determining the amount and  
18 degree of personal care services provided under clause (i)  
19 with respect to a veteran described in subclause (II), the  
20 Secretary shall take into account relevant documentation  
21 evidencing the provision of personal care services with re-  
22 spect to the veteran during the preceding three-year pe-  
23 riod.

24 “(II) A veteran described in this subclause is a vet-  
25 eran whose need for personal care services as described  
26 in paragraph (2)(C) is based in whole or in part on—

1           “(aa) a diagnosis of mental illness or history of  
2 suicidal ideation that puts the veteran at risk of self-  
3 harm; or

4           “(bb) a neurological disorder.”; and

5           (C) by adding at the end the following new  
6 paragraph:

7           “(14) The Secretary shall establish a process and re-  
8 quirements for clinicians of facilities of the Department—

9           “(A) to document incidents in which an eligible  
10 veteran participating in the program established  
11 under paragraph (1)—

12           “(i) presents at such a facility for treat-  
13 ment for an emergent or urgent mental health  
14 crisis; or

15           “(ii) is assessed by such a clinician to be  
16 at risk for suicide; and

17           “(B) to provide such documentation, including  
18 any safety plans developed and referrals made to a  
19 suicide prevention coordinator of the Department, to  
20 such program.”;

21           (2) in subsection (b)(2)(B), by striking “neuro-  
22 logical” and inserting “a neurological disorder”;

23           (3) in subsection (d)—

24           (A) by redesignating paragraph (4) as  
25 paragraph (5);

1 (B) by inserting after paragraph (3) the  
2 following new paragraph (4):

3 “(4) the term ‘neurological disorder’ means a  
4 disease of the brain, spinal cord, nerves, or neuro-  
5 muscular system.”; and

6 (C) in paragraph (5)(B), as redesignated  
7 by subparagraph (A), by striking “neurological”  
8 and inserting “a neurological disorder”.

9 (b) TIMING FOR ESTABLISHMENT OF REQUIRE-  
10 MENTS AND PROCESSES.—

11 (1) REPORT.—Not later than one year after the  
12 date of the enactment of this Act, the Secretary of  
13 Veterans Affairs shall—

14 (A) establish the process and requirements  
15 required under paragraph (14) of section  
16 1720G(a) of title 38, United States Code, as  
17 added by subsection (a)(1)(B); and

18 (B) submit to the Committee on Veterans’  
19 Affairs of the Senate and the Committee on  
20 Veterans’ Affairs of the House of Representa-  
21 tives a description of such process and require-  
22 ments.

23 (2) CERTIFICATION.—

24 (A) IN GENERAL.—Not later than one year  
25 after the date of the enactment of this Act, the

1 Secretary of Veterans Affairs shall require all  
2 clinicians of facilities of the Department to cer-  
3 tify to the Secretary that the clinician under-  
4 stands the process and requirements established  
5 under paragraph (1)(A).

6 (B) FACILITIES OF THE DEPARTMENT DE-  
7 FINED.—In this paragraph, the term “facilities  
8 of the Department” has the meaning given that  
9 term in section 1701 of title 38, United States  
10 Code.

11 **SEC. 3. REQUIREMENTS RELATING TO EVALUATIONS, AS-**  
12 **SESSMENTS, AND REASSESSMENTS RELAT-**  
13 **ING TO ELIGIBILITY OF VETERANS AND**  
14 **CAREGIVERS FOR FAMILY CAREGIVER PRO-**  
15 **GRAM.**

16 (a) IN GENERAL.—Subsection (a) of section 1720G  
17 of title 38, United States Code, as amended by section  
18 2(a)(1), is further amended by adding at the end the fol-  
19 lowing new paragraphs:

20 “(15)(A) For purposes of conducting evalua-  
21 tions and assessments to determine eligibility of a  
22 veteran and caregiver for the program established  
23 under paragraph (1) or conducting reassessments to  
24 determine continued eligibility for such program, the  
25 Secretary shall—

1           “(i) take into account relevant documenta-  
2           tion and medical records generated by Depart-  
3           ment and non-Department health care pro-  
4           viders, including qualified mental health profes-  
5           sionals and neurological specialists;

6           “(ii) if the caregiver of the veteran claims  
7           that the serious injury or need for personal care  
8           services of the veteran as described in para-  
9           graph (2) is based in whole or in part on psy-  
10          chological trauma or another mental disorder,  
11          ensure—

12                   “(I) a qualified mental health profes-  
13                   sional that treats the veteran participates  
14                   in the evaluation process; and

15                   “(II) a qualified mental health profes-  
16                   sional participates in the assessment or re-  
17                   assessment process; and

18          “(iii) if the caregiver of the veteran claims  
19          that the serious injury or need for personal care  
20          services of the veteran as described in para-  
21          graph (2) is based in whole or in part on a neu-  
22          rological disorder, ensure—

23                   “(I) a neurological specialist that  
24                   treats the veteran participates in the eval-  
25                   uation process; and

1                   “(II) a neurological specialist partici-  
2                   pates in the assessment or reassessment  
3                   process.

4                   “(B)(i) The Secretary shall establish an appro-  
5                   priate time limit during a 24-hour period for the ac-  
6                   tive participation of a veteran in an evaluation, as-  
7                   sessment, or reassessment to determine eligibility of  
8                   the veteran for the program established under para-  
9                   graph (1).

10                  “(ii) In determining an appropriate time limit  
11                  for a veteran under clause (i), the Secretary shall—

12                         “(I) take into consideration necessary ac-  
13                         commodations for the veteran stemming from  
14                         the disability or medical condition of the vet-  
15                         eran; and

16                         “(II) consult with the primary care pro-  
17                         vider, neurological specialist, or qualified mental  
18                         health professional that is treating the veteran.

19                  “(C) The Secretary shall not require the pres-  
20                  ence of a veteran during portions of an evaluation,  
21                  assessment, or reassessment to determine eligibility  
22                  of the veteran for the program established under  
23                  paragraph (1) that only require the active participa-  
24                  tion of the caregiver.

1           “(D)(i) The Secretary shall make reasonable ef-  
2           forts to assist a caregiver and veteran in obtaining  
3           evidence necessary to substantiate the claims of the  
4           caregiver and veteran in the application process for  
5           evaluation, assessment, or reassessment for the pro-  
6           gram established under paragraph (1).

7           “(ii)(I) As part of the assistance provided to a  
8           caregiver or veteran under clause (i), the Secretary  
9           shall make reasonable efforts to obtain relevant pri-  
10          vate records that the caregiver or veteran adequately  
11          identifies to the Secretary.

12          “(II) Whenever the Secretary, after making  
13          reasonable efforts under subclause (I), is unable to  
14          obtain all of the relevant records sought, the Sec-  
15          retary shall notify the caregiver and veteran that the  
16          Secretary is unable to obtain records with respect to  
17          the claim, which shall include—

18                 “(aa) an identification of the records the  
19                 Secretary is unable to obtain;

20                 “(bb) a brief explanation of the efforts  
21                 that the Secretary made to obtain such records;  
22                 and

23                 “(cc) an explanation that the Secretary  
24                 will make a determination based on the evi-  
25                 dence of record and that this clause does not



1           prohibit the submission of records at a later  
2           date if such submission is otherwise allowed.

3           “(III) The Secretary shall make not fewer than  
4           two requests to a custodian of a private record in  
5           order for an effort to obtain such record to be treat-  
6           ed as reasonable under subclause (I), unless it is  
7           made evident by the first request that a second re-  
8           quest would be futile in obtaining such record.

9           “(iii) Under regulations prescribed by the Sec-  
10          retary, the Secretary—

11                 “(I) shall encourage a caregiver and vet-  
12                 eran to submit relevant private medical records  
13                 of the veteran to the Secretary to substantiate  
14                 the claims of the caregiver and veteran in the  
15                 application process for evaluation, assessment,  
16                 or reassessment for the program established  
17                 under paragraph (1) if such submission does  
18                 not burden the caregiver or veteran; and

19                 “(II) may require the caregiver or veteran  
20                 to authorize the Secretary to obtain such rel-  
21                 evant private medical records if such authoriza-  
22                 tion is required to comply with Federal, State,  
23                 or local law.

24           “(16)(A) The Secretary, in consultation with a  
25          health care provider, neurological specialist, or quali-

1       fied mental health professional that is treating a vet-  
2       eran, shall waive the reassessment requirement for  
3       the veteran for participation in the program estab-  
4       lished under paragraph (1) if—

5               “(i) the serious injury of the veteran under  
6               paragraph (2) is significantly caused by a de-  
7               generative or chronic condition; and

8               “(ii) such condition is unlikely to improve  
9               the dependency of the veteran for personal care  
10              services.

11             “(B) The Secretary shall require a health care  
12             provider, neurological specialist, or qualified mental  
13             health professional that is treating a veteran to cer-  
14             tify at appropriate intervals determined by the Sec-  
15             retary the clinical decision of the provider, specialist,  
16             or professional under subparagraph (A).

17             “(C) The Secretary may rescind a waiver under  
18             subparagraph (A) with respect to a veteran and re-  
19             quire a reassessment of the veteran if a health care  
20             provider, neurological specialist, or qualified mental  
21             health professional that is treating the veteran  
22             makes a clinical determination that the level of de-  
23             pendency of the veteran for personal care services  
24             has diminished since the last certification of the clin-

1 ical decision of the provider, specialist, or profes-  
2 sional under subparagraph (B).”.

3 (b) DEFINITIONS.—Subsection (d) of such section, as  
4 amended by section 2(a)(2), is further amended—

5 (1) by redesignating paragraph (5) as para-  
6 graph (6);

7 (2) by inserting after paragraph (4) the fol-  
8 lowing new paragraph (5):

9 “(5) The term ‘neurological specialist’ means a  
10 neurologist, neuropsychiatrist, physiatrist, geriatrici-  
11 cian, certified brain injury specialist, neurology  
12 nurse, neurology nurse practitioner, neurology physi-  
13 cian assistant, or such other licensed medical profes-  
14 sional as the Secretary considers appropriate.”; and

15 (3) by adding at the end the following new  
16 paragraph:

17 “(7) The term ‘qualified mental health profes-  
18 sional’ means a psychiatrist, psychologist, licensed  
19 clinical social worker, psychiatric nurse, licensed pro-  
20 fessional mental health counselor, or other licensed  
21 mental health professional as the Secretary considers  
22 appropriate.”.

1 **SEC. 4. AUTHORITY FOR SECRETARY OF VETERANS AF-**  
2 **FAIRS TO AWARD GRANTS TO ENTITIES TO**  
3 **IMPROVE PROVISION OF MENTAL HEALTH**  
4 **SUPPORT TO FAMILY CAREGIVERS OF VET-**  
5 **ERANS.**

6 (a) IN GENERAL.—Subchapter II of chapter 17 of  
7 title 38, United States Code, is amended by adding at the  
8 end the following new section:

9 **“§ 1720K. Grants to provide mental health support to**  
10 **family caregivers of veterans**

11 “(a) PURPOSE.—It is the purpose of this section to  
12 provide for assistance by the Secretary to entities to carry  
13 out programs that improve the provision of mental health  
14 support to the family caregivers of veterans participating  
15 in the family caregiver program.

16 “(b) AUTHORITY.—The Secretary may award grants  
17 to carry out, coordinate, improve, or otherwise enhance  
18 mental health counseling, treatment, or support to the  
19 family caregivers of veterans participating in the family  
20 caregiver program.

21 “(c) APPLICATION.—(1) To be eligible for a grant  
22 under this section, an entity shall submit to the Secretary  
23 an application therefor at such time, in such manner, and  
24 containing such information as the Secretary may require.

25 “(2) Each application submitted under paragraph (1)  
26 shall include the following:

1           “(A) A detailed plan for the use of the grant.

2           “(B) A description of the programs or efforts  
3 through which the entity will meet the outcome  
4 measures developed by the Secretary under sub-  
5 section (g).

6           “(C) A description of how the entity will dis-  
7 tribute grant amounts equitably among areas with  
8 varying levels of urbanization.

9           “(D) A plan for how the grant will be used to  
10 meet the unique needs of veterans residing in rural  
11 areas, American Indian or Alaska Native veterans,  
12 elderly veterans, women veterans, and veterans from  
13 other underserved communities.

14          “(d) DISTRIBUTION.—The Secretary shall seek to en-  
15 sure that grants awarded under this section are equitably  
16 distributed among entities located in States with varying  
17 levels of urbanization.

18          “(e) PRIORITY.—The Secretary shall prioritize  
19 awarding grants under this section that will serve the fol-  
20 lowing areas:

21           “(1) Areas with high rates of veterans enrolled  
22 in the family caregiver program.

23           “(2) Areas with high rates of—

24               “(A) suicide among veterans; or

25               “(B) referrals to the Veterans Crisis Line.

1       “(f) REQUIRED ACTIVITIES.—Any grant awarded  
2 under this section shall be used—

3           “(1) to expand existing programs, activities,  
4 and services;

5           “(2) to establish new or additional programs,  
6 activities, and services; or

7           “(3) for travel and transportation to facilitate  
8 carrying out paragraph (1) or (2).

9       “(g) OUTCOME MEASURES.—(1) The Secretary shall  
10 develop and provide to each entity that receives a grant  
11 under this section written guidance on the following:

12           “(A) Outcome measures.

13           “(B) Policies of the Department.

14       “(2) In developing outcome measures under para-  
15 graph (1), the Secretary shall consider the following goals:

16           “(A) Increasing the utilization of mental health  
17 services among family caregivers of veterans partici-  
18 pating in the family caregiver program.

19           “(B) Reducing barriers to mental health serv-  
20 ices among family caregivers of veterans partici-  
21 pating in such program.

22       “(h) TRACKING REQUIREMENTS.—(1) The Secretary  
23 shall establish appropriate tracking requirements with re-  
24 spect to the entities receiving a grant under this section.

1       “(2) Not less frequently than annually, the Secretary  
2 shall submit to Congress a report on such tracking re-  
3 quirements.

4       “(i) PERFORMANCE REVIEW.—The Secretary shall—  
5           “(1) review the performance of each entity that  
6 receives a grant under this section; and

7           “(2) make information regarding such perform-  
8 ance publicly available.

9       “(j) REMEDIATION PLAN.—(1) In the case of an enti-  
10 ty that receives a grant under this section and does not  
11 meet the outcome measures developed by the Secretary  
12 under subsection (g), the Secretary shall require the entity  
13 to submit to the Secretary a remediation plan under which  
14 the entity shall describe how and when it plans to meet  
15 such outcome measures.

16       “(2) The Secretary may not award a subsequent  
17 grant under this section to an entity described in para-  
18 graph (1) unless the Secretary approves the remediation  
19 plan submitted by the entity under such paragraph.

20       “(k) MAXIMUM AMOUNT.—The amount of a grant  
21 awarded under this section may not exceed 10 percent of  
22 amounts made available for grants under this section for  
23 the fiscal year in which the grant is awarded.

24       “(l) SUPPLEMENT, NOT SUPPLANT.—Any grant  
25 awarded under this section shall be used to supplement

1 and not supplant funding that is otherwise available  
2 through the Department to provide mental health support  
3 among family caregivers of veterans participating in the  
4 family caregiver program.

5 “(m) FUNDING.—(1) Amounts for the activities of  
6 the Department under this section shall be budgeted and  
7 appropriated through a separate appropriation account.

8 “(2) In the budget justification materials submitted  
9 to Congress in support of the budget of the Department  
10 for any fiscal year (as submitted with the budget of the  
11 President under section 1105(a) of title 31), the Secretary  
12 shall include a separate statement of the amount re-  
13 quested to be appropriated for that fiscal year for the ac-  
14 count specified in paragraph (1).

15 “(n) AUTHORIZATION OF APPROPRIATIONS.—There  
16 is authorized to be appropriated to the Secretary for each  
17 of fiscal years 2023 through 2025 \$50,000,000 to carry  
18 out this section.

19 “(o) DEFINITIONS.—In this section:

20 “(1) The terms ‘caregiver’ and ‘family care-  
21 giver’ have the meanings given those terms in sec-  
22 tion 1720G(d) of this title.

23 “(2) The term ‘family caregiver program’  
24 means the program of comprehensive assistance for



1 family caregivers under section 1720G(a) of this  
2 title.

3 “(3) The term ‘Veterans Crisis Line’ means the  
4 toll-free hotline for veterans established under sec-  
5 tion 1720F(h) of this title.”.

6 (b) CLERICAL AMENDMENT.—The table of sections  
7 at the beginning of such subchapter is amended by adding  
8 at the end the following new item:

“1720K. Grants to provide mental health support to family caregivers of veterans.”.

9 **SEC. 5. COMPTROLLER GENERAL REPORT ON MENTAL**  
10 **HEALTH SUPPORT FOR CAREGIVERS.**

11 (a) REPORT REQUIRED.—Not later than one year  
12 after the date of the enactment of this Act, the Comp-  
13 troller General of the United States shall submit to the  
14 Committee on Veterans’ Affairs of the Senate and the  
15 Committee on Veterans’ Affairs of the House of Rep-  
16 resentatives a report on the provision of mental health  
17 support to caregivers of veterans.

18 (b) CONTENTS.—The report submitted under sub-  
19 section (a) shall include the following:

20 (1) An assessment of the need for mental  
21 health support among caregivers participating in the  
22 caregiver programs.

23 (2) An assessment of options for mental health  
24 support in facilities of the Department of Veterans

1       Affairs and in the community for caregivers partici-  
2       pating in the caregiver programs.

3               (3) An assessment of the availability and acces-  
4       sibility of mental health support in facilities of the  
5       Department and in the community for caregivers  
6       participating in the caregiver programs.

7               (4) An assessment of the awareness among  
8       caregivers of the availability of mental health sup-  
9       port in facilities of the Department and in the com-  
10      munity for caregivers participating in the caregiver  
11      programs.

12              (5) An assessment of barriers to mental health  
13      support in facilities of the Department and in the  
14      community for caregivers participating in the care-  
15      giver programs.

16      (c) DEFINITIONS.—In this section:

17              (1) CAREGIVER.—The term “caregiver” has the  
18      meaning given that term in section 1720G(d) of title  
19      38, United States Code.

20              (2) CAREGIVER PROGRAMS.—The term “care-  
21      giver programs” means—

22                      (A) the program of comprehensive assist-  
23                      ance for family caregivers under subsection (a)  
24                      of section 1720G of title 38, United States  
25                      Code; and

1 (B) the program of support services for  
2 caregivers under subsection (b) of such section.

○