

116TH CONGRESS
2D SESSION

S. 4287

To amend title 38, United States Code, to establish presumptions of service-connection for members of the Armed Forces who contract Coronavirus Disease 2019 under certain circumstances, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2020

Mr. MORAN (for himself, Mr. TESTER, Mr. TILLIS, Mr. BLUMENTHAL, and Mr. ROUNDS) 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 establish presumptions of service-connection for members of the Armed Forces who contract Coronavirus Disease 2019 under certain circumstances, 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 “COVID–19 Benefits
5 for Active Duty Servicemembers, the Reserve Compo-
6 nents, and their Survivors Act of 2020”.

1 **SEC. 2. PRESUMPTIONS OF SERVICE-CONNECTION FOR**
2 **MEMBERS OF ARMED FORCES WHO CON-**
3 **TRACT CORONAVIRUS DISEASE 2019 UNDER**
4 **CERTAIN CIRCUMSTANCES.**

5 (a) IN GENERAL.—Subchapter VI of chapter 11 of
6 title 38, United States Code, is amended by adding at the
7 end the following new section:

8 **“§ 1164. Presumptions of service-connection for**
9 **Coronavirus Disease 2019**

10 “(a) PRESUMPTIONS GENERALLY.—(1) For purposes
11 of laws administered by the Secretary and subject to sec-
12 tion 1113 of this title, if symptoms of Coronavirus Disease
13 2019 (in this section referred to as ‘COVID–19’) de-
14 scribed in subsection (d) manifest within one of the mani-
15 festation periods described in paragraph (2) in an indi-
16 vidual who served in a qualifying period of duty described
17 in subsection (b)—

18 “(A) infection with severe acute respiratory
19 syndrome coronavirus 2 (in this section referred to
20 as ‘SARS–CoV–2’) shall be presumed to have oc-
21 curred during the qualifying period of duty;

22 “(B) COVID–19 shall be presumed to have
23 been incurred during the qualifying period of duty;
24 and

25 “(C) if the individual becomes disabled or dies
26 as a result of COVID–19, it shall be presumed that

1 the individual became disabled or died during the
2 qualifying period of duty for purposes of establishing
3 that the individual served in the active military,
4 naval, or air service.

5 “(2)(A) The manifestation periods described in this
6 paragraph are the following:

7 “(i) During a qualifying period of duty de-
8 scribed in subsection (b), if that period of duty was
9 more than 48 continuous hours in duration.

10 “(ii) Within 14 days after the individual’s com-
11 pletion of a qualifying period of duty described in
12 subsection (b).

13 “(iii) An additional period prescribed under
14 subparagraph (B).

15 “(B)(i) If the Secretary determines that a manifesta-
16 tion period of more than 14 days after completion of a
17 qualifying period of service is appropriate for the presump-
18 tions under paragraph (1), the Secretary may prescribe
19 that additional period by regulation.

20 “(ii) A determination under clause (i) shall be made
21 in consultation with the Director of the Centers for Dis-
22 ease Control and Prevention.

23 “(b) QUALIFYING PERIOD OF DUTY DESCRIBED.—
24 A qualifying period of duty described in this subsection
25 is a period of—

1 “(1) active duty; or

2 “(2) the following duty or training not covered
3 by paragraph (1) performed under orders issued on
4 or after March 13, 2020, during the national emer-
5 gency declared by the President under the National
6 Emergencies Act (50 U.S.C. 1601 et seq.):

7 “(A) Training duty under title 10.

8 “(B) Full-time National Guard duty (as
9 defined in section 101 of title 10).

10 “(c) APPLICATION OF PRESUMPTIONS FOR TRAINING
11 DUTY.—When, pursuant to subsection (a), COVID–19 is
12 presumed to have been incurred during a qualifying period
13 of duty described in subsection (b)(2)—

14 “(1) COVID–19 shall be deemed to have been
15 incurred in the line of duty during a period of active
16 military, naval, or air service; and

17 “(2) where entitlement to benefits under this
18 title is predicated on the individual who was disabled
19 or died being a veteran, benefits for disability or
20 death resulting from COVID–19 as described in sub-
21 section (a) shall be paid or furnished as if the indi-
22 vidual was a veteran, without regard to whether the
23 period of duty would constitute active military,
24 naval, or air service under section 101 of this title.

1 “(d) SYMPTOMS OF COVID-19.—For purposes of
2 subsection (a), symptoms of COVID-19 are those symp-
3 toms that competent medical evidence demonstrates are
4 experienced by an individual affected and directly related
5 to COVID-19.

6 “(e) MEDICAL EXAMINATIONS AND OPINIONS.—If
7 there is a question of whether the symptoms experienced
8 by an individual described in paragraph (1) of subsection
9 (a) during a manifestation period described in paragraph
10 (2) of such subsection are attributable to COVID-19 re-
11 sulting from infection with SARS-CoV-2 during the
12 qualifying period of duty, in determining whether a med-
13 ical examination or medical opinion is necessary to make
14 a decision on the claim within the meaning of section
15 5103A(d) of this title, a qualifying period of duty de-
16 scribed in subsection (b) of this section shall be treated
17 as if it were active military, naval, or air service for pur-
18 poses of section 5103A(d)(2)(B) of this title.”.

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

“1164. Presumptions of service-connection for Coronavirus Disease 2019.”.

22 (c) EMERGENCY DESIGNATIONS.—

23 (1) IN GENERAL.—This section is designated as
24 an emergency requirement pursuant to section 4(g)

1 of the Statutory Pay-As-You-Go Act of 2010 (2
2 U.S.C. 933(g)).

3 (2) DESIGNATION IN SENATE.—In the Senate,
4 this section is designated as an emergency require-
5 ment pursuant to section 4112(a) of H. Con. Res.
6 71 (115th Congress), the concurrent resolution on
7 the budget for fiscal year 2018.

8 (3) TERMINATION OF DESIGNATIONS.—The
9 designations under paragraphs (1) and (2) shall ter-
10minate on the earlier of—

11 (A) the date of the end of the national
12 emergency declared by the President under the
13 National Emergencies Act (50 U.S.C. 1601 et
14 seq.); and

15 (B) the date that is three years after the
16 date of the enactment of this Act.

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