

116TH CONGRESS  
2D SESSION

# H. R. 8268

To amend title 38, United States Code, 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, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 2020

Ms. ESCOBAR introduced the following bill; which was referred to the  
Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, 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, 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 “Honor Our Commit-  
5 ment Act of 2020”.

1 **SEC. 2. ACCESS TO DEPARTMENT OF VETERANS AFFAIRS**  
2 **MENTAL AND BEHAVIORAL HEALTH CARE**  
3 **FOR CERTAIN INDIVIDUALS DISCHARGED OR**  
4 **RELEASED FROM THE ACTIVE MILITARY,**  
5 **NAVAL, OR AIR SERVICE UNDER CONDITIONS**  
6 **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 or an area at a time during which hos-

1           tilities are occurring in that area for a period  
2           of more 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 or an area at a time during which hos-  
15                 tilities are occurring in that area for a period  
16                 of more than 30 days during such service;

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

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

24                         “(i) the date of the enactment of the  
25                         Honor Our Commitment Act of 2020; or

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

3                   “(D) submits to the Secretary—

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

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

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

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

23                  “(2) If the Secretary does not make a determination  
24                  under paragraph (1) with respect to a mental or behav-  
25                  ioral health condition of an individual before the end of

1 the 90-day period beginning on the date of the submittal  
2 of the information described in subsection (b)(2)(D), the  
3 condition is deemed to be a mental or behavioral health  
4 condition that contributed to the commission of the of-  
5 fense until such time as the Secretary makes the deter-  
6 mination.

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

11 “(A) five years after the date of the enactment  
12 of the Honor Our Commitment Act of 2020; or

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

16 “(2) Individuals described in this paragraph are the  
17 following:

18 “(A) Eligible individuals described in subsection  
19 (b)(1).

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

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

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

6           “(1) 180 days after the date of the enactment  
7 of the Honor Our Commitment Act of 2020; or

8           “(2) 180 days after the date on which the indi-  
9 vidual was discharged or released from the active  
10 military, naval, or air service.

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

17           “(1) The number of eligible individuals who  
18 were furnished covered mental and behavioral health  
19 care under this section.

20           “(2) The number of individuals who the Sec-  
21 retary determined under subsection (c) did not have  
22 a mental or behavioral health condition at the time  
23 of committing a covered offense that contributed to  
24 the commission of the offense.

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

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

7           “(g) DEFINITIONS.—In this section:

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

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

18          “(3) The term ‘qualified mental health care  
19          provider’ means a licensed or certified health care  
20          provider whose scope of practice includes diagnosing  
21          mental or behavioral health conditions and includes  
22          physicians, psychologists, psychiatric nurse practi-  
23          tioners, physician assistants, clinical social workers,  
24          and licensed professional counselors.”.

1           (b) CLERICAL AMENDMENT.—The table of sections  
2 at the beginning of chapter 17 of such title is amended  
3 by inserting after the item relating to section 1712C the  
4 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.”.

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

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