

106TH CONGRESS  
2D SESSION

# S. 2544

To amend title 38, United States Code, to provide compensation and benefits to children of female Vietnam veterans who were born with certain birth defects, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 11, 2000

Mr. ROCKEFELLER (for himself, Mrs. MURRAY, and Mr. DASCHLE) 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 provide compensation and benefits to children of female Vietnam veterans who were born with certain birth defects, 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 “Children of Women  
5 Vietnam Veterans’ Benefits Act of 2000”.

1 **SEC. 2. BENEFITS FOR THE CHILDREN OF FEMALE VIET-**  
2 **NAM VETERANS WHO SUFFER FROM CERTAIN**  
3 **BIRTH DEFECTS.**

4 (a) IN GENERAL.—Chapter 18 of title 38, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing new subchapter:

7 “SUBCHAPTER II—CHILDREN OF FEMALE  
8 VIETNAM VETERANS BORN WITH CERTAIN  
9 BIRTH DEFECTS

10 “§ 1811. Definitions

11 “In this subchapter:

12 “(1) The term ‘child’, with respect to a female  
13 Vietnam veteran, means a natural child of the fe-  
14 male Vietnam veteran, regardless of age or marital  
15 status, who was conceived after the date on which  
16 the female Vietnam veteran first entered the Repub-  
17 lic of Vietnam during the Vietnam era (as specified  
18 in section 101(29)(A) of this title).

19 “(2) The term ‘covered birth defect’ means each  
20 birth defect identified by the Secretary under section  
21 1812 of this title.

22 “(3) The term ‘female Vietnam veteran’ means  
23 any female individual who performed active military,  
24 naval, or air service in the Republic of Vietnam dur-  
25 ing the Vietnam era (as so specified), without regard  
26 to the characterization of the individual’s service.

1 **“§ 1812. Birth defects covered**

2 “(a) IDENTIFICATION.—Subject to subsection (b),  
3 the Secretary shall identify the birth defects of children  
4 of female Vietnam veterans that—

5 “(1) are associated with the service of female  
6 Vietnam veterans in the Republic of Vietnam during  
7 the Vietnam era (as specified in section 101(29)(A)  
8 of this title); and

9 “(2) result in the permanent physical or mental  
10 disability of such children.

11 “(b) LIMITATIONS.—(1) The birth defects identified  
12 under subsection (a) may not include birth defects result-  
13 ing from the following:

14 “(A) A familial disorder.

15 “(B) A birth-related injury.

16 “(C) A fetal or neonatal infirmity with well-es-  
17 tablished causes.

18 “(2) The birth defects identified under subsection (a)  
19 may not include spina bifida.

20 “(c) LIST.—The Secretary shall prescribe in regula-  
21 tions a list of the birth defects identified under subsection  
22 (a).

23 **“§ 1813. Benefits and assistance**

24 “(a) HEALTH CARE.—(1) The Secretary shall pro-  
25 vide a child of a female Vietnam veteran who was born  
26 with a covered birth defect such health care as the Sec-

1 retary determines is needed by the child for such birth  
2 defect or any disability that is associated with such birth  
3 defect.

4 “(2) The Secretary may provide health care under  
5 this subsection directly or by contract or other arrange-  
6 ment with a health care provider.

7 “(3) For purposes of this subsection, the definitions  
8 in section 1803(c) of this title shall apply with respect to  
9 the provision of health care under this subsection, except  
10 that for such purposes—

11 “(A) the reference to ‘specialized spina bifida  
12 clinic’ in paragraph (2) of such section 1803(c) shall  
13 be treated as a reference to a specialized clinic treat-  
14 ing the birth defect concerned under this subsection;  
15 and

16 “(B) the reference to ‘vocational training under  
17 section 1804 of this title’ in paragraph (8) of such  
18 section 1803(c) shall be treated as a reference to vo-  
19 cational training under subsection (b).

20 “(b) VOCATIONAL TRAINING.—(1) The Secretary  
21 may provide a program of vocational training to a child  
22 of a female Vietnam veteran who was born with a covered  
23 birth defect if the Secretary determines that the achieve-  
24 ment of a vocational goal by the child is reasonably fea-  
25 sible.

1       “(2) Subsections (b) through (e) of section 1804 of  
2 this title shall apply with respect to any program of voca-  
3 tional training provided under paragraph (1).

4       “(c) MONETARY ALLOWANCE.—(1) The Secretary  
5 shall pay a monthly allowance to any child of a female  
6 Vietnam veteran who was born with a covered birth defect  
7 for any disability resulting from such birth defect.

8       “(2) The amount of the monthly allowance paid  
9 under this subsection shall be based on the degree of dis-  
10 ability suffered by the child concerned, as determined in  
11 accordance with a schedule for rating disabilities resulting  
12 from covered birth defects that is prescribed by the Sec-  
13 retary.

14       “(3) In prescribing a schedule for rating disabilities  
15 under paragraph (2), the Secretary shall establish four  
16 levels of disability upon which the amount of the monthly  
17 allowance under this subsection shall be based.

18       “(4) The amount of the monthly allowance paid  
19 under this subsection shall be as follows:

20               “(A) In the case of a child suffering from the  
21 lowest level of disability prescribed in the schedule  
22 for rating disabilities under this subsection, \$100.

23               “(B) In the case of a child suffering from the  
24 lower intermediate level of disability prescribed in

1 the schedule for rating disabilities under this sub-  
2 section, the greater of—

3 “(i) \$214; or

4 “(ii) the monthly amount payable under  
5 section 1805(b)(3) of this title for the lowest  
6 level of disability prescribed for purposes of  
7 that section.

8 “(C) In the case of a child suffering from the  
9 higher intermediate level of disability prescribed in  
10 the schedule for rating disabilities under this sub-  
11 section, the greater of—

12 “(i) \$743; or

13 “(ii) the monthly amount payable under  
14 section 1805(b)(3) of this title for the inter-  
15 mediate level of disability prescribed for pur-  
16 poses of that section.

17 “(D) In the case of a child suffering from the  
18 highest level of disability prescribed in the schedule  
19 for rating disabilities under this subsection, the  
20 greater of—

21 “(i) \$1,272; or

22 “(ii) the monthly amount payable under  
23 section 1805(b)(3) of this title for the highest  
24 level of disability prescribed for purposes of  
25 that section.

1       “(5) Amounts under subparagraphs (A), (B)(i),  
2 (C)(i), and (D)(i) of paragraph (4) shall be subject to ad-  
3 justment from time to time under section 5312 of this  
4 title.

5       “(6) Subsections (c) and (d) of section 1805 of this  
6 title shall apply with respect to any monthly allowance  
7 paid under this subsection.

8       “(d) GENERAL LIMITATIONS ON AVAILABILITY OF  
9 BENEFITS AND ASSISTANCE.—(1) No individual receiving  
10 benefits or assistance under this section may receive any  
11 benefits or assistance under subchapter I of this chapter.

12       “(2) In any case where affirmative evidence estab-  
13 lishes that the covered birth defect of a child results from  
14 a cause other than the active military, naval, or air service  
15 in the Republic of Vietnam of the female Vietnam veteran  
16 who is the mother of the child, no benefits or assistance  
17 may be provided the child under this section.

18       “(e) REGULATIONS.—The Secretary shall prescribe  
19 regulations for purposes of the administration of the provi-  
20 sions of this section.”.

21       (b) ADMINISTRATIVE PROVISIONS.—That chapter is  
22 further amended by inserting after subchapter II, as  
23 added by subsection (a) of this section, the following new  
24 subchapter:

1 “SUBCHAPTER III—ADMINISTRATIVE MATTERS  
2 **“§ 1821. Applicability of certain administrative provi-**  
3 **sions**

4 “The provisions of sections 5101(c), 5110(a), (b)(2),  
5 (g), and (i), 5111, and 5112(a), (b)(1), (b)(6), (b)(9), and  
6 (b)(10) of this title shall apply with respect to benefits  
7 and assistance under this chapter in the same manner as  
8 such provisions apply to veterans’ disability compensation.

9 **“§ 1822. Treatment of receipt of monetary allowance**  
10 **on other benefits**

11 “(a) Notwithstanding any other provision of law, re-  
12 ceipt by an individual of a monetary allowance under this  
13 chapter shall not impair, infringe, or otherwise affect the  
14 right of the individual to receive any other benefit to which  
15 the individual is otherwise entitled under any law adminis-  
16 tered by the Secretary.

17 “(b) Notwithstanding any other provision of law, re-  
18 ceipt by an individual of a monetary allowance under this  
19 chapter shall not impair, infringe, or otherwise affect the  
20 right of any other individual to receive any benefit to  
21 which such other individual is entitled under any law ad-  
22 ministered by the Secretary based on the relationship of  
23 such other individual to the individual who receives such  
24 monetary allowance.



1       “(c) Notwithstanding any other provision of law, a  
2 monetary allowance paid an individual under this chapter  
3 shall not be considered as income or resources in deter-  
4 mining eligibility for or the amount of benefits under any  
5 Federal or Federally-assisted program.”.

6       (c) REPEAL OF SUPERSEDED MATTER.—Section  
7 1806 of title 38, United States Code, is repealed.

8       (d) REDESIGNATION OF EXISTING MATTER.—Chap-  
9 ter 18 of that title is further amended by inserting before  
10 section 1801 the following:

11       “SUBCHAPTER I—CHILDREN OF VIETNAM  
12       VETERANS BORN WITH SPINA BIFIDA”.

13       (e) CONFORMING AMENDMENTS.—(1) Sections 1801  
14 and 1802 of that title are each amended by striking “this  
15 chapter” and inserting “this subchapter”.

16       (2) Section 1805(a) of such title is amended by strik-  
17 ing “this chapter” and inserting “this section”.

18       (f) CLERICAL AMENDMENTS.—(1)(A) The chapter  
19 heading of chapter 18 of that title is amended to read as  
20 follows:

21       **“CHAPTER 18—BENEFITS FOR CHILDREN**  
22       **OF VIETNAM VETERANS”.**

23       (1) The tables of chapters at beginning of that title,  
24 and at the beginning of part II of that title, are each

1 amended by striking the item relating to chapter 18 and  
2 inserting the following new item:

**“18. Benefits for Children of Vietnam Veterans ..... 1801”.**

3 (2) The table of sections at the beginning of chapter  
4 18 of that title is amended—

5 (A) by inserting after the chapter heading the  
6 following:

“SUBCHAPTER I—CHILDREN OF VIETNAM VETERANS BORN  
WITH SPINA BIFIDA”;

7 (B) by striking the item relating to section  
8 1806; and

9 (C) by adding at the end the following:

“SUBCHAPTER II—CHILDREN OF FEMALE VIETNAM VETERANS  
BORN WITH CERTAIN BIRTH DEFECTS

- “1811. Definitions.
- “1812. Birth defects covered.
- “1813. Benefits and assistance.

“SUBCHAPTER III—ADMINISTRATIVE MATTERS

- “1821. Applicability of certain administrative provisions.
- “1822. Treatment of receipt of monetary allowance on other benefits.”.

10 (g) APPLICABILITY.—(1) Except as provided in para-  
11 graph (2), the amendments made by this section shall take  
12 effect on the first day of the first month beginning more  
13 than one year after the date of the enactment of this Act.

14 (2) The Secretary of Veterans Affairs shall identify  
15 birth defects under section 1822 of title 38, United States  
16 Code (as added by subsection (a) of this section), and shall  
17 prescribe the regulations required by subchapter II of that

1 title (as so added), not later than the effective date speci-  
2 fied in paragraph (1).

3 (3) No benefit or assistance may be provided under  
4 subchapter II of chapter 18 of title 38, United States Code  
5 (as so added), for any period before the effective date spec-  
6 ified in paragraph (1) by reason of the amendments made  
7 by this section.

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