

106TH CONGRESS
1ST SESSION

S. 1810

To amend title 38, United States Code, to clarify and improve veterans' claims and appellate procedures.

IN THE SENATE OF THE UNITED STATES

OCTOBER 27, 1999

Mrs. MURRAY (for herself, Mr. JEFFORDS, Mr. CONRAD, Mr. KERREY, Mr. DORGAN, Mr. BINGAMAN, and Mr. SARBANES) 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 clarify and improve veterans' claims and appellate procedures.

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 “Veterans Claims and
5 Appeals Procedures Clarification and Improvement Act”.

6 **SEC. 2. CLARIFICATION OF DEPARTMENT OF VETERANS**

7 **AFFAIRS DUTY TO ASSIST CLAIMANTS.**

8 (a) IN GENERAL.—Section 5107 of title 38, United
9 States Code, is amended—

1 (1) in subsection (a), by striking the second and
2 third sentences; and

3 (2) by adding at the end the following new sub-
4 section:

5 “(c) The Secretary shall assist a claimant, who under
6 subsection (a) has the burden of proof, in developing all
7 facts pertinent to the claim. Such assistance shall include
8 requesting information as described in section 5106 of this
9 title.”.

10 (b) CLERICAL AND CONFORMING AMENDMENTS.—

11 (1) The section heading of such section is amended by in-
12 serting “; **assistance to claimants**” after “**benefit**
13 **of the doubt**”.

14 (2) The table of sections at the beginning of chapter
15 51 of such title is amended in the item relating to section
16 5107 by inserting “; assistance to claimants” after “ben-
17 efit of the doubt”.

18 **SEC. 3. EXCLUSIVE NATURE OF ADJUDICATION AND HEAR-**

19 **ING PROCEDURES.**

20 (a) IN GENERAL.—Chapter 1 of title 38, United
21 States Code, is amended by adding at the end the fol-
22 lowing new section:

1 **“§ 116. Exclusivity of adjudication and hearing proce-**
 2 **dures**

3 “Notwithstanding chapter 72 of this title, section
 4 554(a) of title 5, or any other provision of law, the adju-
 5 dication and hearing procedures set forth in this title and
 6 in the regulations prescribed by the Secretary under this
 7 title for purposes of administering veterans benefits shall
 8 be exclusive with respect to hearings, investigations, and
 9 other proceedings in connection with the consideration of
 10 a claim for benefits under the laws administered by the
 11 Secretary.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
 13 at the beginning of chapter 1 of such title is amended by
 14 adding at the end the following new item:

“116. Exclusivity of adjudication and hearing procedures.”.

15 **SEC. 4. PRECLUSION OF CERTAIN APPEALS BY SECRETARY**
 16 **OF VETERANS AFFAIRS.**

17 Section 7252(a) of title 38, United States Code, is
 18 amended by inserting “, nor may the Court entertain any
 19 allegation of error by the Secretary in such decision not
 20 raised by the appellant or the Court” after “such deci-
 21 sion”.

22 **SEC. 5. REVIEW OF FINDINGS OF FACT BY UNITED STATES**
 23 **COURT OF APPEALS FOR VETERANS CLAIMS.**

24 Section 7261(a)(4) of title 38, United States Code,
 25 is amended by striking “such finding if the finding is

- 1 clearly erroneous” and inserting “a finding adverse to a
- 2 veteran or other claimant for benefits if the finding is not
- 3 reasonably supported by a preponderance of the evidence”.

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