

108TH CONGRESS  
2D SESSION

# H. R. 4621

To amend title 38, United States Code, to provide that an injury or death sustained as a result of participation in a medical research program of the Department of Veterans Affairs shall be treated for purpose of benefits under laws administered by the Secretary of Veterans Affairs in the same manner as if the injury were incurred as a result of military service, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 2004

Mr. RENZI (for himself, Mr. BROWN of Ohio, Mr. STRICKLAND, Mr. FLAKE, Ms. KAPTUR, Mr. KUCINICH, and Mr. SMITH of New Jersey) 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 provide that an injury or death sustained as a result of participation in a medical research program of the Department of Veterans Affairs shall be treated for purpose of benefits under laws administered by the Secretary of Veterans Affairs in the same manner as if the injury were incurred as a result of military service, 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,*

1 **SECTION 1. INJURIES AND DEATHS SUSTAINED AS A RE-**  
2 **SULT OF PARTICIPATION IN A MEDICAL RE-**  
3 **SEARCH PROGRAM OF THE DEPARTMENT OF**  
4 **VETERANS AFFAIRS TO BE TREATED IN THE**  
5 **SAME MANNER AS IF INCURRED AS A RESULT**  
6 **OF MILITARY SERVICE.**

7 Section 1151 of title 38, United States Code, is  
8 amended by adding at the end the following new sub-  
9 section:

10 “(c) In the case of an individual who after January  
11 1, 1980, participated in a medical research program con-  
12 ducted by the Department under section 7303 of this title,  
13 a subsequent disability, or the death, of the individual  
14 shall be treated for the purposes of the first sentence of  
15 subsection (a) in the same manner as if the disability or  
16 death were a qualifying additional disability or qualifying  
17 death, and the individual (if not a veteran) shall be treated  
18 for the purposes of that sentence in the same manner as  
19 if the individual were a veteran, if—

20 “(1) the disability or death was caused by that  
21 individual’s participation in that research program;

22 “(2) the disability or death was not the result  
23 of the individual’s willful misconduct; and

24 “(3) the proximate cause of the disability or  
25 death was—

1           “(A) carelessness, negligence, lack of prop-  
2           er skill, error in judgment, or similar instance  
3           of fault on the part of the Department in the  
4           conduct of the research program; or

5           “(B) an event not reasonably foreseeable.”.

6 **SEC. 2. INDEPENDENT STUDY OF ADJUDICATIONS UNDER**  
7           **SECTION 1151.**

8           (a) **STUDY REQUIRED.**— The Secretary of Veterans  
9           Affairs shall provide, by contract, for an independent  
10          study to be conducted on the experience of the Depart-  
11          ment of Veterans Affairs in adjudicating claims under sec-  
12          tion 1151 of title 38, United States Code.

13          (b) **MATTER TO BE STUDIED.**—The entity selected  
14          to perform the study under subsection (a) shall evaluate  
15          the resolution of a representative sample of claims under  
16          section 1151 of title 38, United States Code, selected from  
17          the period of 1998 through 2002 and shall make a deter-  
18          mination, for each claim selected for such purpose, as to  
19          whether the resolution of the claim was in accordance with  
20          the standard specified in that section, as in effect at the  
21          time of the resolution of the claim.

22          (c) **REPORT.**—The contract under subsection (a)  
23          shall provide for a report on the results of the study to  
24          be submitted to the Secretary of Veterans Affairs and the  
25          Committees on Veterans’ Affairs of the Senate and House

1 of Representatives not later than one year after the date  
2 of the enactment of this Act. The report shall include—

3           (1) the results of the review conducted pursuant  
4           to the contract; and

5           (2) such recommendations for administrative  
6           and legislative changes as would, in the opinion of  
7           the entity conducting the study, improve the resolu-  
8           tion of claims under that section or provide for a  
9           more appropriate standard for the resolution of  
10          claims under that section.

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