

As created by COST of War Act

38 U.S.C. § 1119. Presumptions of toxic exposure

(a) PRESUMPTION OF TOXIC EXPOSURE.—Except as provided in section 1120 of this title, if a veteran submits to the Secretary a claim for compensation for a service-connected disability under section 1110 of this title with indication of a toxic exposure that occurred during active military, naval, or air service, the Secretary shall presume that the veteran was subject to such toxic exposure—

(1) if the Individual Longitudinal Exposure Record of the veteran includes evidence of the toxic exposure; or

(2) in a case in which the Individual Longitudinal Exposure Record of the veteran does not indicate that the veteran was subject to the claimed toxic exposure during active military, naval, or air service, if credible evidence of the facts, places, and circumstances of the veteran in the active military, naval, or air service, including evidence of the veteran’s unit assignments, military specialty, or date and location of service, shows the veteran was subject to the claimed toxic exposure during such service.

(b) ROLE OF LAY STATEMENTS.—In a case described in subsection (a)(2), the Secretary shall accept as credible evidence under such subsection a lay statement by the veteran or another that is consistent with the other credible evidence of the facts, places, and circumstances of the veteran’s service in the active military, naval, or air service.

ADDITIONALLY, RELATED TO ILER:

COST of War Act—SEC. 702. INDEPENDENT STUDY ON INDIVIDUAL LONGITUDINAL EXPOSURE RECORD.

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall enter into a contract with an independent research entity described in subsection (b) to carry out a comprehensive study of the development of the Individual Longitudinal Exposure Record to evaluate—

(1) the quality of the location data, occupational and environmental exposure data, and health surveillance data; and

(2) whether a member of the Armed Forces can be reasonably assured that any toxic exposure experienced by the member during service in the Armed Forces will be accurately reflected in the Individual Longitudinal Exposure Record of the member.

(b) INDEPENDENT RESEARCH ENTITY DESCRIBED.—An independent research entity described in this subsection that is a federally funded research and development center with appropriate expertise and analytical capability to carry out the study required under subsection (a).

(c) TOXIC EXPOSURE DEFINED.—In this section, the term “toxic exposure” has the meaning given that term in section 101(37) of title 38, United States Code, as added by section 101(b).

COST of War Act—SEC. 703. BIENNIAL REPORT ON INDIVIDUAL LONGITUDINAL EXPOSURE RECORD.

(a) IN GENERAL.—Not later than one year after the date on which the Individual Longitudinal Exposure Record achieves full operation capability, as determined by the Secretary of Defense, and every 180 days thereafter, the Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, submit to the appropriate committees of Congress a report on the data quality of the databases of the Department of Defense that provide the information presented in the Individual Longitudinal Exposure Record and the usefulness of the Individual Longitudinal Exposure Record in supporting members of the Armed Forces and veterans in receiving health care and benefits from the Department of Defense and the Department of Veterans Affairs.

(b) ELEMENTS.—Each report required by subsection (a) shall include, for the period covered by the report, the following:

(1) An identification of toxic exposures that may not be fully captured by the current systems of the Department of Defense for environmental and occupational health monitoring, and recommendations for how to improve those systems.

(2) An analysis of the quality of the location data used by the Department of Defense in determining toxic exposures of members of the Armed Forces and veterans, and recommendations for how to improve the quality of that location data.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(A) the Committee on Armed Services and the Committee on Veterans’ Affairs of the Senate; and

(B) the Committee on Armed Services and the Committee on Veterans’ Affairs of the House of Representatives.

COST of War Act—SEC. 704. CORRECTION OF TOXIC EXPOSURE RECORDS.

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall provide a means for members of the Armed Forces and veterans to update their records as necessary to reflect a toxic exposure by such member or veteran in the Individual Longitudinal Exposure Record.

(b) EVIDENCE.—

(1) IN GENERAL.—To update a record under subsection (a), a member of the Armed Forces or veteran, as the case may be, must provide such evidence as the Secretary of Defense and the Secretary of Veterans Affairs jointly consider sufficient.

(2) REGULATIONS.—The Secretary of Veterans Affairs shall prescribe by regulation the evidence 16 considered sufficient under paragraph (1).