AMENDMENT TO RULES COMMITTEE PRINT 118–10
OFFERED BY MS. ESCOBAR OF TEXAS

At the end of subtitle C of title XVIII, insert the following:

SEC. 18. ACCESS TO DEPARTMENT OF VETERANS AFFAIRS MENTAL AND BEHAVIORAL HEALTH CARE FOR CERTAIN INDIVIDUALS DISCHARGED OR RELEASED FROM THE ACTIVE MILITARY, NAVAL, OR AIR SERVICE UNDER CONDITIONS OTHER THAN HONORABLE.

(a) IN GENERAL.—Subchapter II of chapter 17 of title 38, United States Code, is amended by inserting after section 1712C the following new section:

§ 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

“(a) IN GENERAL.—Notwithstanding section 5303(a) of this title and subject to subsection (e), the Secretary shall furnish to an eligible individual covered mental and behavioral health care.
“(b) ELIGIBLE INDIVIDUALS.—For purposes of this section, an eligible individual is any of the following:

“(1) An individual who—

“(A) served in the active military, naval, or air service for a period of more than 180 days and was deployed in a theater of combat operations or an area at a time during which hostilities are occurring in that area for a period of more than 30 days during such service;

“(B) was discharged or released from such service by reason of committing a covered offense; and

“(C) was diagnosed by a qualified mental health care provider with a mental or behavioral health condition before committing the covered offense.

“(2) An individual who—

“(A) served in the active military, naval, or air service for a period of more than 180 days and was deployed in a theater of combat operations or an area at a time during which hostilities are occurring in that area for a period of more than 30 days during such service;
“(B) was discharged or released from such service by reason of committing a covered offense;

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

“(i) the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024; or

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

“(D) submits to the Secretary—

“(i) a certification from a qualified mental health care provider that the provider believes such condition may have led the individual to commit such offense; and

“(ii) the Certificate of Release or Discharge from Active Duty (DD Form 214) of the individual; and

“(E) is determined by the Secretary pursuant to subsection (c) to have had a mental or behavioral health condition at the time the individual committed the covered offense that contributed to the commission of the offense.
“(c) Determination by Secretary.—(1) Not later than 90 days after receiving the information submitted under subsection (b)(2)(D) with respect to an individual, the Secretary shall determine whether, at the time of committing the covered offense, the individual had a mental or behavioral health condition that contributed to the commission of the offense.

“(2) If the Secretary does not make a determination under paragraph (1) with respect to a mental or behavioral health condition of an individual before the end of the 90-day period beginning on the date of the submittal of the information described in subsection (b)(2)(D), the condition is deemed to be a mental or behavioral health condition that contributed to the commission of the offense until such time as the Secretary makes the determination.

“(d) Initial Mental Health Screening.—(1) The Secretary may furnish to each individual described in paragraph (2) an initial mental health screening not later than the later of—

“(A) five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024; or
“(B) five years after the date on which the individual was discharged or released from the active military, naval, or air service.

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

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

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

“(3) The mental health screening provided to an individual under paragraph (1) shall be at no cost to the individual.

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

“(1) 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024; or

“(2) 180 days after the date on which the individual was discharged or released from the active military, naval, or air service.

“(f) ANNUAL REPORT.—Not less frequently than annually, the Secretary shall submit to the Committee on...
Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report that includes, with respect to the year preceding the submital of the report, the following:

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

“(2) The number of individuals who the Secretary determined under subsection (c) did not have a mental or behavioral health condition at the time of committing a covered offense that contributed to the commission of the offense.

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

“(4) The number of individuals who were furnished an initial mental health screening under subsection (d).

“(g) DEFINITIONS.—In this section:

“(1) The term ‘covered mental and behavioral health care’ means the same types of medical services furnished by the Department to individuals with service-connected mental or behavioral health conditions to treat such conditions.
“(2) The term ‘covered offense’ means an offense for which an individual is discharged or separated from the active military, naval, or air service under conditions other than honorable but not a dishonorable discharge or a discharge by court-martial.

“(3) The term ‘qualified mental health care provider’ means a licensed or certified health care provider whose scope of practice includes diagnosing mental or behavioral health conditions and includes physicians, psychologists, psychiatric nurse practitioners, physician assistants, clinical social workers, and licensed professional counselors.”.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1712C the 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.”.

(e) Effective Date.—Section 1712D of title 38, United States Code, as added by subsection (a), shall take effect on the date that is 120 days after the date of the enactment of this Act.