

118TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend title 38, United States Code, to authorize an individual who is awarded the Purple Heart for service in the Armed Forces to transfer unused Post-9/11 Educational Assistance to a family member, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mrs. MURRAY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend title 38, United States Code, to authorize an individual who is awarded the Purple Heart for service in the Armed Forces to transfer unused Post-9/11 Educational Assistance to a family member, 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. AUTHORITY FOR INDIVIDUALS AWARDED PUR-**  
2 **PLE HEART TO TRANSFER UNUSED POST-9/11**  
3 **EDUCATIONAL ASSISTANCE TO A FAMILY**  
4 **MEMBER.**

5 (a) IN GENERAL.—Subchapter II of chapter 33 of  
6 title 38, United States Code, is amended by inserting after  
7 section 3319 the following new section:

8 **“§ 3319A. Authority for recipients of Purple Heart to**  
9 **transfer unused Post-9/11 Educational As-**  
10 **sistance to a family member**

11 “(a) IN GENERAL.—The Secretary shall permit an  
12 individual described in subsection (b) who is entitled to  
13 educational assistance under this chapter to elect to trans-  
14 fer to one or more of the dependents specified in sub-  
15 section (c) a portion of such individual’s entitlement to  
16 such assistance, subject to the limitation under subsection  
17 (d).

18 “(b) ELIGIBLE INDIVIDUALS.—An individual re-  
19 ferred to in subsection (a) is any veteran who is awarded,  
20 after being discharged or release from service in the active  
21 military, naval, air, or space service, the Purple Heart for  
22 service in the Armed Forces occurring on or after Sep-  
23 tember 11, 2001.

24 “(c) ELIGIBLE DEPENDENTS.—

25 “(1) TRANSFER.—An individual approved to  
26 transfer an entitlement to educational assistance

1 under this section may transfer the individual's enti-  
2 tlement to an eligible dependent or a combination of  
3 eligible dependents.

4 “(2) DEFINITION OF ELIGIBLE DEPENDENT.—  
5 For purposes of this subsection, the term ‘eligible  
6 dependent’ has the meaning given the term ‘depend-  
7 ent’ under subparagraphs (A), (D), and (I) of sec-  
8 tion 1072(2) of title 10.

9 “(d) LIMITATION ON MONTHS OF TRANSFER.—The  
10 total number of months of entitlement transferred by an  
11 individual under this section may not exceed 36 months.

12 “(e) DESIGNATION OF TRANSFEREE.—An individual  
13 transferring an entitlement to educational assistance  
14 under this section shall—

15 “(1) designate the dependent or dependents to  
16 whom such entitlement is being transferred; and

17 “(2) designate the number of months of such  
18 entitlement to be transferred to each such depend-  
19 ent.

20 “(f) REVOCATION AND MODIFICATION.—

21 “(1) MODIFICATION OR REVOCATION.—

22 “(A) IN GENERAL.—An individual trans-  
23 ferring entitlement under this section may mod-  
24 ify or revoke at any time the transfer of any

1 unused portion of the entitlement so trans-  
2 ferred.

3 “(B) NOTICE.—The modification or rev-  
4 ocation of the transfer of entitlement under this  
5 paragraph shall be made by the submittal of  
6 written notice of the action to the Secretary of  
7 Veterans Affairs and the Secretary of Defense.

8 “(2) PROHIBITION ON TREATMENT OF TRANS-  
9 FERRED ENTITLEMENT AS MARITAL PROPERTY.—  
10 Entitlement transferred under this section may not  
11 be treated as marital property, or the asset of a  
12 marital estate, subject to division in a divorce or  
13 other civil proceeding.

14 “(g) COMMENCEMENT OF USE.—A dependent to  
15 whom entitlement to educational assistance is transferred  
16 under this section may not commence the use of the trans-  
17 ferred entitlement, in the case of entitlement transferred  
18 to a child, until either—

19 “(1) the completion by the child of the require-  
20 ments of a secondary school diploma (or equivalency  
21 certificate); or

22 “(2) the attainment by the child of 18 years of  
23 age.

24 “(h) ADDITIONAL ADMINISTRATIVE MATTERS.—

1           “(1) USE.—The use of any entitlement to edu-  
2           cational assistance transferred under this section  
3           shall be charged against the entitlement of the indi-  
4           vidual making the transfer at the rate of one month  
5           for each month of transferred entitlement that is  
6           used.

7           “(2) NATURE OF TRANSFERRED ENTITLE-  
8           MENT.—Except as provided under subsection (e)(2)  
9           and subject to paragraphs (5) and (6), the recipient  
10          of entitlement transferred under this section is enti-  
11          tled to educational assistance under this chapter in  
12          the same manner as the individual from whom the  
13          entitlement was transferred.

14          “(3) RATE OF PAYMENT.—The monthly rate of  
15          educational assistance payable to a dependent to  
16          whom entitlement referred to in paragraph (2) is  
17          transferred under this section shall be payable at the  
18          same rate as such entitlement would otherwise be  
19          payable under this chapter to the individual making  
20          the transfer.

21          “(4) DEATH OF TRANSFEROR.—

22                 “(A) IN GENERAL.—The death of an indi-  
23                 vidual transferring an entitlement under this  
24                 section shall not affect the use of the entitle-

1           ment by the dependent to whom the entitlement  
2           is transferred.

3                   “(B) DEATH PRIOR TO TRANSFER TO DES-  
4           IGNATED TRANSFEREES.—(i) In the case of an  
5           eligible individual whom the Secretary, in con-  
6           sultation with the Secretary of Defense, has ap-  
7           proved to transfer the individual’s entitlement  
8           under this section who, at the time of death, is  
9           entitled to educational assistance under this  
10          chapter and has designated a transferee or  
11          transferees under subsection (e) but has not  
12          transferred all of such entitlement to such  
13          transferee or transferees, the Secretary shall  
14          transfer the entitlement of the individual under  
15          this section by evenly distributing the amount  
16          of such entitlement between all such transferees  
17          who would not be precluded from using some or  
18          all of the transferred benefits due to the expira-  
19          tion of time limitations found in paragraph (5)  
20          of this subsection or section 3321 of this title,  
21          notwithstanding the limitations under sub-  
22          section (f).

23                   “(ii) If a transferee cannot use all of the  
24          transferred benefits under clause (i) because of  
25          expiration of a time limitation, the unused ben-

1           efits will be distributed among the other des-  
2           ignated transferees who would not be precluded  
3           from using some or all of the transferred bene-  
4           fits due to expiration of time limitations found  
5           in paragraph (5) of this subsection or section  
6           3321 of this title, unless or until there are no  
7           transferees who would not be precluded from  
8           using the transferred benefits because of expira-  
9           tion of a time limitation.

10           “(5) LIMITATION ON AGE OF USE BY CHILD  
11           TRANSFEREES.—

12                   “(A) IN GENERAL.—A child to whom enti-  
13           tlement is transferred under this section may  
14           use the benefits transferred without regard to  
15           the 15-year delimiting date specified in section  
16           3321, but may not, except as provided in sub-  
17           paragraph (B) or (C), use any benefits so  
18           transferred after attaining the age of 26 years.

19                   “(B) PRIMARY CAREGIVERS OF SERIOUSLY  
20           INJURED MEMBERS OF THE ARMED FORCES  
21           AND VETERANS.—

22                           “(i) IN GENERAL.—Subject to clause  
23                   (ii), in the case of a child who, before at-  
24                   taining the age of 26 years, is prevented  
25                   from pursuing a chosen program of edu-

1 cation by reason of acting as the primary  
2 provider of personal care services for a vet-  
3 eran or member of the Armed Forces  
4 under section 1720G(a), the child may use  
5 the benefits beginning on the date specified  
6 in clause (iii) for a period whose length is  
7 specified in clause (iv).

8 “(ii) INAPPLICABILITY FOR REVOCATION.—Clause (i) shall not apply with re-  
9 spect to the period of an individual as a  
10 primary provider of personal care services  
11 if the period concludes with the revocation  
12 of the individual’s designation as such a  
13 primary provider under section  
14 1720G(a)(7)(D).  
15

16 “(iii) DATE FOR COMMENCEMENT OF  
17 USE.—The date specified in this clause for  
18 the beginning of the use of benefits by a  
19 child under clause (i) is the later of—

20 “(I) the date on which the child  
21 ceases acting as the primary provider  
22 of personal care services for the vet-  
23 eran or member concerned as de-  
24 scribed in clause (i);







1           “(7) ADDITIONAL ADMINISTRATIVE PROVI-  
2           SIONS.—The administrative provisions of this chap-  
3           ter shall apply to the use of entitlement transferred  
4           under this section, except that the dependent to  
5           whom the entitlement is transferred shall be treated  
6           as the eligible individual for purposes of such provi-  
7           sions.

8           “(i) OVERPAYMENT.—In the event of an overpayment  
9           of educational assistance with respect to a dependent to  
10          whom entitlement is transferred under this section, the de-  
11          pendent and the individual making the transfer shall be  
12          jointly and severally liable to the United States for the  
13          amount of the overpayment for purposes of section 3685.

14          “(j) REGULATIONS.—(1) The Secretary shall, in con-  
15          sultation with the Secretary of Defense, prescribe regula-  
16          tions for purposes of this section.

17          “(2) Such regulations shall specify—

18                 “(A) the manner of authorizing the transfer of  
19                 entitlements under this section;

20                 “(B) the eligibility criteria in accordance with  
21                 subsection (b); and

22                 “(C) the manner and effect of an election to  
23                 modify or revoke a transfer of entitlement under  
24                 subsection (f)(2).

1           “(k) TRANSFER BY DEPENDENT.—In the case of an  
2 individual who transfers entitlement to educational assist-  
3 ance under this section who dies before the dependent to  
4 whom entitlement to educational assistance is so trans-  
5 ferred has used all of such entitlement, such dependent  
6 may transfer such entitlement to another eligible depend-  
7 ent in accordance with the provisions of this section.

8           “(l) COORDINATION.—The Secretary of Veterans Af-  
9 fairs and the Secretary of Defense shall coordinate with  
10 each other to facilitate the transfer of entitlement under  
11 this section.”.

12           (b) CLERICAL AMENDMENT.—The table of sections  
13 at the beginning of such chapter is amended by inserting  
14 after the item relating to section 3319 the following new  
15 item:

“3319A. Authority for recipients of Purple Heart to transfer unused Post-9/11  
Educational Assistance to a family member.”.