

111TH CONGRESS
1ST SESSION

H. R. 1283

To amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as “Don’t Ask, Don’t Tell”, with a policy of nondiscrimination on the basis of sexual orientation.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2009

Mrs. TAUSCHER (for herself, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ANDREWS, Ms. BALDWIN, Ms. BERKLEY, Mr. BERMAN, Mr. BISHOP of New York, Mr. BLUMENAUER, Mr. BRADY of Pennsylvania, Mrs. CAPPS, Mr. CAPUANO, Mr. CARSON of Indiana, Ms. CASTOR of Florida, Mrs. CHRISTENSEN, Ms. CLARKE, Mr. CLAY, Mr. CLEAVER, Mr. COHEN, Mr. CONYERS, Mr. COURTNEY, Mr. CROWLEY, Mr. CUMMINGS, Mrs. DAVIS of California, Mr. DEFAZIO, Mr. DELAHUNT, Ms. DELAURO, Mr. DINGELL, Mr. DOYLE, Ms. EDWARDS of Maryland, Mr. ELLISON, Mr. ENGEL, Ms. ESHOO, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HALL of New York, Mr. HARE, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. HINCHEY, Ms. HIRONO, Mr. HOLT, Mr. HONDA, Mr. INSLEE, Mr. ISRAEL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Mr. KENNEDY, Mr. KUCINICH, Mr. LANGEVIN, Mr. LARSEN of Washington, Ms. LEE of California, Mr. LEWIS of Georgia, Mr. LOEBSACK, Ms. ZOE LOFGREN of California, Mrs. LOWEY, Mr. LYNCH, Mrs. MALONEY, Mr. MARKEY of Massachusetts, Ms. MATSUI, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. MICHAUD, Mr. GEORGE MILLER of California, Ms. MOORE of Wisconsin, Mr. MORAN of Virginia, Mr. MURPHY of Connecticut, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. NADLER of New York, Mrs. NAPOLITANO, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR of Arizona, Mr. PAYNE, Ms. PINGREE of Maine, Mr. POLIS of Colorado, Mr. PRICE of North Carolina, Ms. ROS-LEHTINEN, Mr. ROTHMAN of New Jersey, Ms. ROYBAL-ALLARD, Mr. RUSH, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SARBANES, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. SCHWARTZ, Mr. SERRANO, Mr. SESTAK, Ms. SHEA-PORTER, Mr. SHERMAN, Mr. SIRES, Ms. SLAUGHTER, Mr. SMITH of Washington, Ms. SPEIER, Mr. STARK, Ms. SUTTON, Mr. THOMPSON of California, Mr. TIERNEY, Mr. TOWNS, Ms. TSONGAS, Mr. VAN HOLLEN, Ms.

VELÁZQUEZ, Ms. WASSERMAN SCHULTZ, Ms. WATSON, Mr. WAXMAN, Mr. WEINER, Mr. WELCH, Mr. WEXLER, Ms. WOOLSEY, and Mr. WU) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as “Don’t Ask, Don’t Tell”, with a policy of nondiscrimination on the basis of sexual orientation.

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 “Military Readiness En-
5 hancement Act of 2009”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to institute in the Armed
8 Forces a policy of nondiscrimination based on sexual ori-
9 entation.

10 **SEC. 3. REPEAL OF 1993 POLICY CONCERNING HOMOSEX-**
11 **UALITY IN THE ARMED FORCES.**

12 The following provisions of law are repealed:

13 (1) Section 654 of title 10, United States Code.

14 (2) Subsections (b), (c), and (d) of section 571
15 of the National Defense Authorization Act for Fiscal
16 Year 1994 (10 U.S.C. 654 note).

1 **SEC. 4. ESTABLISHMENT OF POLICY OF NONDISCRIMINA-**
2 **TION BASED ON SEXUAL ORIENTATION IN**
3 **THE ARMED FORCES.**

4 (a) ESTABLISHMENT OF POLICY.—(1) Chapter 37 of
5 title 10, United States Code, is amended by adding at the
6 end the following new section:

7 **“§ 656. Policy of nondiscrimination based on sexual**
8 **orientation**

9 “(a) POLICY.—The Secretary of Defense, and the
10 Secretary of Homeland Security with respect to the Coast
11 Guard when it is not operating as a service in the Navy,
12 may not discriminate on the basis of sexual orientation
13 against any member of the Armed Forces or against any
14 person seeking to become a member of the Armed Forces.

15 “(b) DISCRIMINATION ON BASIS OF SEXUAL ORI-
16 ENTATION.—For purposes of this section, discrimination
17 on the basis of sexual orientation is—

18 “(1) in the case of a member of the Armed
19 Forces, the taking of any personnel or administra-
20 tive action (including any action relating to pro-
21 motion, demotion, evaluation, selection for an award,
22 selection for a duty assignment, transfer, or separa-
23 tion) in whole or in part on the basis of sexual ori-
24 entation; and

25 “(2) in the case of a person seeking to become
26 a member of the Armed Forces, denial of accession

1 into the Armed Forces in whole or in part on the
2 basis of sexual orientation.

3 “(c) PERSONNEL AND ADMINISTRATIVE POLICIES
4 AND ACTION.—The Secretary of Defense, and the Sec-
5 retary of Homeland Security with respect to the Coast
6 Guard when it is not operating as a service in the Navy,
7 may not establish, implement, or apply any personnel or
8 administrative policy, or take any personnel or administra-
9 tive action (including any policy or action relating to pro-
10 motions, demotions, evaluations, selections for awards, se-
11 lections for duty assignments, transfers, or separations)
12 in whole or in part on the basis of sexual orientation.

13 “(d) RULES AND POLICIES REGARDING CONDUCT.—
14 Nothing in this section prohibits the Secretary of Defense,
15 and the Secretary of Homeland Security with respect to
16 the Coast Guard when it is not operating as a service in
17 the Navy, from prescribing or enforcing regulations gov-
18 erning the conduct of members of the Armed Forces if
19 the regulations are designed and applied without regard
20 to sexual orientation.

21 “(e) RE-ACCESSION OF OTHERWISE QUALIFIED
22 PERSONS PERMITTED.—Any person separated from the
23 Armed Forces for homosexuality, bisexuality, or homo-
24 sexual conduct in accordance with laws and regulations
25 in effect before the date of the enactment of this section,

1 if otherwise qualified for re-accession into the Armed
2 Forces, shall not be prohibited from re-accession into the
3 Armed Forces on the sole basis of such separation.

4 “(f) SEXUAL ORIENTATION.—In this section, the
5 term ‘sexual orientation’ means heterosexuality, homosex-
6 uality, or bisexuality, whether the orientation is real or
7 perceived, and includes statements and consensual sexual
8 conduct manifesting heterosexuality, homosexuality, or bi-
9 sexuality.”.

10 (2) The table of sections at the beginning of such
11 chapter is amended—

12 (A) by striking the item relating to section 654;

13 and

14 (B) by adding at the end the following new
15 item:

“656. Policy of nondiscrimination based on sexual orientation in the Armed
Forces.”.

16 (b) CONFORMING AMENDMENTS.—Title 10, United
17 States Code, is amended as follows:

18 (1) Section 481 is amended—

19 (A) In subsection (a)(2), by inserting “, in-
20 cluding sexual orientation discrimination,” after
21 “discrimination” in subparagraphs (C) and (D);
22 and

1 (B) in subsection (c), by inserting “and
2 sexual orientation-based” after “gender-based”
3 both places it appears.

4 (2) Section 983(a)(1) is amended by striking
5 “(in accordance with section 654 of this title and
6 other applicable Federal laws)”.

7 (3) Section 1034(i)(3) is amended by inserting
8 “sexual orientation,” after “sex,”.

9 **SEC. 5. BENEFITS.**

10 Nothing in this Act, or the amendments made by this
11 Act, shall be construed to require the furnishing of de-
12 pendent benefits in violation of section 7 of title 1, United
13 States Code (relating to the definitions of “marriage” and
14 “spouse” and referred to as the “Defense of Marriage
15 Act”).

16 **SEC. 6. NO PRIVATE CAUSE OF ACTION FOR DAMAGES.**

17 Nothing in this Act, or the amendments made by this
18 Act, shall be construed to create a private cause of action
19 for damages.

20 **SEC. 7. REGULATIONS.**

21 (a) IN GENERAL.—Not later than 90 days after the
22 date of the enactment of this Act, the Secretary of Defense
23 shall revise Department of Defense regulations, and shall
24 issue such new regulations as may be necessary, to imple-
25 ment section 656 of title 10, United States Code, as added

1 by section 4(a). The Secretary of Defense shall further
2 direct the Secretary of each military department to revise
3 regulations of that military department in accordance with
4 section 656 of title 10, United States Code, as added by
5 section 4(a), not later than 180 days after the date of the
6 enactment of this Act. Such revisions shall include the fol-
7 lowing:

8 (1) Revision of all equal opportunity and
9 human relations regulations, directives, and instruc-
10 tions to add sexual orientation nondiscrimination to
11 the Department of Defense Equal Opportunity pol-
12 icy and to related human relations training pro-
13 grams.

14 (2) Revision of Department of Defense and
15 military department personnel regulations to elimi-
16 nate procedures for involuntary discharges based on
17 sexual orientation.

18 (3) Revision of Department of Defense and
19 military department regulations governing victims'
20 advocacy programs to include sexual orientation dis-
21 crimination among the forms of discrimination for
22 which members of the Armed Forces and their fami-
23 lies may seek assistance.

24 (b) REGULATION OF CONDUCT.—The Secretary of
25 Defense, and the Secretary of Homeland Security with re-

1 spect to the Coast Guard when it is not operating as a
2 service in the Navy, shall ensure that regulations gov-
3 erning the personal conduct of members of the Armed
4 Forces shall be written and enforced without regard to
5 sexual orientation.

6 (c) DEFINITION.—In this section, the term “sexual
7 orientation” has the meaning given that term in section
8 656(f) of title 10, United States Code, as added by section
9 4(a).

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