

111TH CONGRESS  
1ST SESSION

# H. R. 4180

To amend title 10, United States Code, to include the disclosure of sexual orientation by a member of the Armed Forces to a Member of Congress as a lawful and protected communication and to prohibit retaliatory personnel actions against members of the Armed Forces who make such a disclosure in a Congressional hearing or who testify, for or against, the policy concerning homosexuality in the Armed Forces.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 2, 2009

Mr. HASTINGS of Florida (for himself, Mr. MORAN of Virginia, Mrs. CAPPS, Ms. BERKLEY, Ms. NORTON, Mr. STARK, Ms. WATSON, Ms. EDWARDS of Maryland, Mr. GRIJALVA, Mr. GRAYSON, Ms. CHU, Mr. MEEKS of New York, Mr. CUMMINGS, Mr. HALL of New York, Mr. ACKERMAN, Ms. SPEIER, Ms. LORETTA SANCHEZ of California, Mr. ELLISON, Mr. DINGELL, Mr. BLUMENAUER, Ms. WOOLSEY, Ms. KILPATRICK of Michigan, Ms. CLARKE, Ms. PINGREE of Maine, Ms. HIRONO, Mr. FILNER, Mr. ABERCROMBIE, and Mr. WALZ) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to include the disclosure of sexual orientation by a member of the Armed Forces to a Member of Congress as a lawful and protected communication and to prohibit retaliatory personnel actions against members of the Armed Forces who make such a disclosure in a Congressional hearing or who testify, for or against, the policy concerning homosexuality in the Armed Forces.

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 “Honest and Open Tes-  
 5 timony Act”.

6 **SEC. 2. PROHIBITION OF RETALIATORY PERSONNEL AC-**  
 7 **TIONS AGAINST MEMBERS OF THE ARMED**  
 8 **FORCES WHO TESTIFY HONESTLY AND OPEN-**  
 9 **LY ABOUT THEIR SEXUAL ORIENTATION IN A**  
 10 **CONGRESSIONAL HEARING OR WHO TESTIFY**  
 11 **REGARDING THE POLICY CONCERNING HO-**  
 12 **MOSEXUALITY IN THE ARMED FORCES.**

13 (a) PROTECTED COMMUNICATION.—Subsection (a)  
 14 of section 1034 of title 10, United States Code, is amend-  
 15 ed by adding at the end the following new paragraph:

16 “(3) Protected communication with a Member of  
 17 Congress covered by paragraph (1) includes testimony by  
 18 a member of the armed forces in a Congressional hearing  
 19 regarding the policies set forth in subsection 654(b) of this  
 20 title, including testimony by the member that discloses or  
 21 affirms that the member is homosexual, bisexual, or  
 22 transgender. Such communication is lawful and may not  
 23 be restricted.”.

24 (b) PROHIBITION OF RETALIATORY PERSONNEL AC-  
 25 TIONS IN RESPONSE TO PROTECTED COMMUNICATION.—

1 Subsection (b) of such title is amended by adding at the  
2 end the following new paragraph:

3       “(3) In the case of a member of the armed forces  
4 who makes a protected communication described in sub-  
5 section (a)(3), any application of the policies set forth in  
6 subsection 654(b) of this title (or threat to apply the poli-  
7 cies) to the member shall be considered to be an unfavor-  
8 able personnel action prohibited by paragraph (1).”.

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