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.
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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Military Readiness Enhancement Act of 2009”.

SEC. 2. PURPOSE.

The purpose of this Act is to institute in the Armed Forces a policy of nondiscrimination based on sexual orientation.

SEC. 3. REPEAL OF 1993 POLICY CONCERNING HOMOSEXUALITY IN THE ARMED FORCES.

The following provisions of law are repealed:

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

(2) Subsections (b), (c), and (d) of section 571 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 654 note).
SEC. 4. ESTABLISHMENT OF POLICY OF NONDISCRIMINATION BASED ON SEXUAL ORIENTATION IN THE ARMED FORCES.

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

“§ 656. Policy of nondiscrimination based on sexual orientation

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

“(b) DISCRIMINATION ON BASIS OF SEXUAL ORIENTATION.—For purposes of this section, discrimination on the basis of sexual orientation is—

“(1) in the case of a member of the Armed Forces, the taking of any personnel or administrative action (including any action relating to promotion, demotion, evaluation, selection for an award, selection for a duty assignment, transfer, or separation) in whole or in part on the basis of sexual orientation; and

“(2) in the case of a person seeking to become a member of the Armed Forces, denial of accession
into the Armed Forces in whole or in part on the
basis of sexual orientation.

“(c) Personnel and Administrative Policies
and Action.—The Secretary of Defense, and the Sec-
retary of Homeland Security with respect to the Coast
Guard when it is not operating as a service in the Navy,
may not establish, implement, or apply any personnel or
administrative policy, or take any personnel or administra-
tive action (including any policy or action relating to pro-
motions, demotions, evaluations, selections for awards, se-
lections for duty assignments, transfers, or separations)
in whole or in part on the basis of sexual orientation.

“(d) Rules and Policies Regarding Conduct.—
Nothing in this section prohibits the Secretary of Defense,
and the Secretary of Homeland Security with respect to
the Coast Guard when it is not operating as a service in
the Navy, from prescribing or enforcing regulations gov-
erning the conduct of members of the Armed Forces if
the regulations are designed and applied without regard
to sexual orientation.

“(e) Re-Accession of Otherwise Qualified
Persons Permitted.—Any person separated from the
Armed Forces for homosexuality, bisexuality, or homo-
sexual conduct in accordance with laws and regulations
in effect before the date of the enactment of this section,
if otherwise qualified for re-accession into the Armed Forces, shall not be prohibited from re-accession into the Armed Forces on the sole basis of such separation.

“(f) SEXUAL ORIENTATION.—In this section, the term ‘sexual orientation’ means heterosexuality, homosexuality, or bisexuality, whether the orientation is real or perceived, and includes statements and consensual sexual conduct manifesting heterosexuality, homosexuality, or bisexuality.”.

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

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

and

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

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

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

(1) Section 481 is amended—

(A) In subsection (a)(2), by inserting “, including sexual orientation discrimination,” after “discrimination” in subparagraphs (C) and (D); and
(B) in subsection (c), by inserting “and
sexual orientation-based” after “gender-based”
both places it appears.

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

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

SEC. 5. BENEFITS.

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

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

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

SEC. 7. REGULATIONS.

(a) IN GENERAL.—Not later than 90 days after the
date of the enactment of this Act, the Secretary of Defense
shall revise Department of Defense regulations, and shall
issue such new regulations as may be necessary, to imple-
ment section 656 of title 10, United States Code, as added
by section 4(a). The Secretary of Defense shall further
direct the Secretary of each military department to revise
regulations of that military department in accordance with
section 656 of title 10, United States Code, as added by
section 4(a), not later than 180 days after the date of the
enactment of this Act. Such revisions shall include the fol-
lowing:

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

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

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

(b) REGULATION OF CONDUCT.—The Secretary of
Defense, and the Secretary of Homeland Security with re-
spect to the Coast Guard when it is not operating as a service in the Navy, shall ensure that regulations governing the personal conduct of members of the Armed Forces shall be written and enforced without regard to sexual orientation.

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