

Calendar No. 688

111TH CONGRESS
2D SESSION

S. 4023

To provide for the repeal of the Department of Defense policy concerning homosexuality in the Armed Forces known as “Don’t Ask, Don’t Tell”.

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2010

Mr. LIEBERMAN (for himself, Mr. UDALL of Colorado, Mrs. GILLIBRAND, Ms. COLLINS, Mrs. LINCOLN, Mrs. FEINSTEIN, Mr. LEAHY, Mr. REID, Mr. FRANKEN, Mr. BINGAMAN, Mrs. MURRAY, Mr. LAUTENBERG, Mr. COONS, Mr. KERRY, Mr. DODD, Mr. AKAKA, Mr. CARDIN, Mr. WHITEHOUSE, Mrs. BOXER, Mr. UDALL of New Mexico, Mr. BENNET, Mr. HARKIN, Mr. MENENDEZ, Mr. LEVIN, Mr. MERKLEY, Mr. DURBIN, Mr. WYDEN, Mr. BROWN of Ohio, Mrs. HAGAN, Mr. SCHUMER, Ms. MIKULSKI, Ms. CANTWELL, Mr. CASEY, Mr. SANDERS, Mr. FEINGOLD, Ms. LANDRIEU, Ms. STABENOW, Ms. KLOBUCHAR, Mrs. SHAHEEN, Mr. SPECTER, Mr. KOHL, and Mr. DORGAN) introduced the following bill; which was read the first time

DECEMBER 13, 2010

Read the second time and placed on the calendar

A BILL

To provide for the repeal of the Department of Defense policy concerning homosexuality in the Armed Forces known as “Don’t Ask, Don’t Tell”.

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. SHORT TITLE.**

2 This Act may be cited as the “Don’t Ask, Don’t Tell
3 Repeal Act of 2010”.

4 **SEC. 2. DEPARTMENT OF DEFENSE POLICY CONCERNING**
5 **HOMOSEXUALITY IN THE ARMED FORCES.**

6 (a) **COMPREHENSIVE REVIEW ON THE IMPLEMENTA-**
7 **TION OF A REPEAL OF 10 U.S.C. 654.—**

8 (1) **IN GENERAL.—**On March 2, 2010, the Sec-
9 retary of Defense issued a memorandum directing
10 the Comprehensive Review on the Implementation of
11 a Repeal of 10 U.S.C. 654 (section 654 of title 10,
12 United States Code).

13 (2) **OBJECTIVES AND SCOPE OF REVIEW.—**The
14 Terms of Reference accompanying the Secretary’s
15 memorandum established the following objectives
16 and scope of the ordered review:

17 (A) Determine any impacts to military
18 readiness, military effectiveness and unit cohe-
19 sion, recruiting/retention, and family readiness
20 that may result from repeal of the law and rec-
21 ommend any actions that should be taken in
22 light of such impacts.

23 (B) Determine leadership, guidance, and
24 training on standards of conduct and new poli-
25 cies.

1 (C) Determine appropriate changes to ex-
2isting policies and regulations, including but not
3limited to issues regarding personnel manage-
4ment, leadership and training, facilities, inves-
5tigations, and benefits.

6 (D) Recommend appropriate changes (if
7any) to the Uniform Code of Military Justice.

8 (E) Monitor and evaluate existing legisla-
9tive proposals to repeal 10 U.S.C. 654 and pro-
10posals that may be introduced in the Congress
11during the period of the review.

12 (F) Assure appropriate ways to monitor
13the workforce climate and military effectiveness
14that support successful follow-through on imple-
15mentation.

16 (G) Evaluate the issues raised in ongoing
17litigation involving 10 U.S.C. 654.

18 (b) EFFECTIVE DATE.—The amendments made by
19 subsection (f) shall take effect 60 days after the date on
20 which the last of the following occurs:

21 (1) The Secretary of Defense has received the
22 report required by the memorandum of the Sec-
23retary referred to in subsection (a).

24 (2) The President transmits to the congres-
25sional defense committees a written certification,

1 signed by the President, the Secretary of Defense,
2 and the Chairman of the Joint Chiefs of Staff, stat-
3 ing each of the following:

4 (A) That the President, the Secretary of
5 Defense, and the Chairman of the Joint Chiefs
6 of Staff have considered the recommendations
7 contained in the report and the report's pro-
8 posed plan of action.

9 (B) That the Department of Defense has
10 prepared the necessary policies and regulations
11 to exercise the discretion provided by the
12 amendments made by subsection (f).

13 (C) That the implementation of necessary
14 policies and regulations pursuant to the discre-
15 tion provided by the amendments made by sub-
16 section (f) is consistent with the standards of
17 military readiness, military effectiveness, unit
18 cohesion, and recruiting and retention of the
19 Armed Forces.

20 (c) NO IMMEDIATE EFFECT ON CURRENT POLICY.—

21 Section 654 of title 10, United States Code, shall remain
22 in effect until such time that all of the requirements and
23 certifications required by subsection (b) are met. If these
24 requirements and certifications are not met, section 654
25 of title 10, United States Code, shall remain in effect.

1 (d) BENEFITS.—Nothing in this section, or the
2 amendments made by this section, shall be construed to
3 require the furnishing of benefits in violation of section
4 7 of title 1, United States Code (relating to the definitions
5 of “marriage” and “spouse” and referred to as the “De-
6 fense of Marriage Act”).

7 (e) NO PRIVATE CAUSE OF ACTION.—Nothing in this
8 section, or the amendments made by this section, shall be
9 construed to create a private cause of action.

10 (f) TREATMENT OF 1993 POLICY.—

11 (1) TITLE 10.—Upon the effective date estab-
12 lished by subsection (b), chapter 37 of title 10,
13 United States Code, is amended—

14 (A) by striking section 654; and

15 (B) in the table of sections at the begin-
16 ning of such chapter, by striking the item relat-
17 ing to section 654.

18 (2) CONFORMING AMENDMENT.—Upon the ef-
19 fective date established by subsection (b), section
20 571 of the National Defense Authorization Act for
21 Fiscal Year 1994 (10 U.S.C. 654 note) is amended
22 by striking subsections (b), (c), and (d).

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