

110TH CONGRESS
1ST SESSION

S. 2471

To amend title 38, United States Code, to improve the enforcement of the Uniformed Services Employment and Reemployment Rights Act of 1994, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2007

Mr. KENNEDY (for himself, Mr. AKAKA, and Mr. OBAMA) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to improve the enforcement of the Uniformed Services Employment and Reemployment Rights Act of 1994, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “USERRA Enforce-
5 ment Improvement Act of 2007”.

1 **SEC. 2. REFORM OF USERRA COMPLAINT PROCESS.**

2 (a) NOTIFICATION OF RIGHTS WITH RESPECT TO
3 COMPLAINTS.—Subsection (c) of section 4322 of title 38,
4 United States Code, is amended to read as follows:

5 “(c)(1) Not later than 5 days after the Secretary re-
6 ceives a complaint submitted by a person under subsection
7 (a), the Secretary shall notify such person of his or her
8 rights with respect to such complaint under this section
9 and section 4223 or 4224, as the case may be.

10 “(2) The Secretary shall, upon request, provide tech-
11 nical assistance to a potential claimant with respect to a
12 complaint under this subsection, and when appropriate, to
13 such claimant’s employer.”.

14 (b) EXPEDITION OF ATTEMPTS TO INVESTIGATE
15 AND RESOLVE COMPLAINTS.—Section 4322 of such title
16 is amended—

17 (1) by redesignating subsection (f) as sub-
18 section (g); and

19 (2) by inserting after subsection (e) the fol-
20 lowing new subsection (f):

21 “(f) Any action required by subsections (d) and (e)
22 with respect to a complaint submitted by a person to the
23 Secretary under subsection (a) shall be completed by the
24 Secretary not later than 90 days after receipt of such com-
25 plaint.”.

26 (c) EXPEDITION OF REFERRALS.—

1 (1) EXPEDITION OF REFERRALS TO ATTORNEY
 2 GENERAL.—Section 4323(a)(1) of such title is
 3 amended by inserting “Not later than 15 days after
 4 the Secretary receives such a request with respect to
 5 a complaint, the Secretary shall refer the complaint
 6 to the Attorney General.” after “to the Attorney
 7 General.”.

8 (2) EXPEDITION OF REFERRALS TO SPECIAL
 9 COUNSEL.—Section 4324(a)(1) of such title is
 10 amended by striking “The Secretary shall refer” and
 11 inserting “Not later than 15 days after the date the
 12 Secretary receives such a request, the Secretary
 13 shall refer”.

14 (d) NOTIFICATION OF REPRESENTATION.—

15 (1) NOTIFICATION BY ATTORNEY GENERAL.—
 16 Section 4323(a) of such title is amended—

17 (A) by redesignating paragraph (2) as
 18 paragraph (3); and

19 (B) by inserting after paragraph (1) the
 20 following new paragraph (2):

21 “(2) Not later than 45 days after the date the Attor-
 22 ney General receives a referral under paragraph (1), the
 23 Attorney General shall—

1 “(A) make a decision whether to appear on be-
 2 half of, and act as attorney for, the person on whose
 3 behalf the complaint is submitted; and

4 “(B) notify such person of such decision.”.

5 (2) NOTIFICATION BY SPECIAL COUNSEL.—Sec-
 6 tion 4324(a)(2)(B) of such title is amended to read
 7 as follows:

8 “(B) Not later than 45 days after the date the Spe-
 9 cial Counsel receives a referral under paragraph (1), the
 10 Special Counsel shall—

11 “(i) make a decision whether to initiate an ac-
 12 tion and represent a person before the Merit Sys-
 13 tems Protection Board under subparagraph (A); and

14 “(ii) notify such person of such decision.”.

15 **SEC. 3. EXPANSION OF REPORTING REQUIREMENTS WITH**
 16 **RESPECT TO ENFORCEMENT OF USERRA.**

17 (a) MODIFICATION OF ANNUAL REPORT BY SEC-
 18 RETARY.—Section 4332 of title 38, United States Code,
 19 is amended—

20 (1) by striking “The Secretary shall” and in-
 21 serting “(a) ANNUAL REPORT BY SECRETARY.—The
 22 Secretary shall”;

23 (2) by redesignating paragraphs (4) through
 24 (6) as paragraphs (7) through (9), respectively, and

1 inserting after paragraph (3) the following new
2 paragraphs (4), (5), and (6):

3 “(4) The number of cases reviewed by the Sec-
4 retary of Defense through the National Committee
5 for Employer Support of the Guard and Reserve of
6 the Department of Defense during such fiscal year.

7 “(5) The number of cases reviewed by the Sec-
8 retary and the Secretary of Defense through the Na-
9 tional Committee for Employer Support of the
10 Guard and Reserve of the Department of Defense
11 that involve the same person seeking employment or
12 reemployment.

13 “(6) With respect to the cases reported on pur-
14 suant to paragraphs (1), (2), (3), (4), and (5)—

15 “(A) the number of such cases that involve
16 a disability-related issue;

17 “(B) the number of such cases not de-
18 scribed by subparagraph (A) that involve a per-
19 son seeking employment or reemployment who
20 has a disability; and

21 “(C) with respect to subparagraphs (A)
22 and (B) separately, the number of each type of
23 such disabilities.”;

1 (3) in paragraph (7), as so redesignated, by
2 striking “or (3)” and inserting “(3), (4), or (5)”;
3 and

4 (4) in subsection (a), as designated by para-
5 graph (1), by striking “transmit to the Congress”
6 and inserting “submit to Congress, the Secretary of
7 Defense, the Secretary of Veterans Affairs, the At-
8 torney General, and the Special Counsel,”.

9 (b) QUARTERLY REPORT BY COMPTROLLER GEN-
10 ERAL.—Such section 4332 is further amended by adding
11 at the end the following new subsection:

12 “(b) QUARTERLY REPORT BY COMPTROLLER GEN-
13 ERAL.—The Comptroller General of the United States
14 shall submit each quarter to Congress, the Secretary of
15 Defense, the Secretary of Veterans Affairs, the Attorney
16 General, and the Special Counsel a report setting forth,
17 for the previous full quarter, the following:

18 “(1) The number of cases for which the Sec-
19 retary did not meet the requirements of section
20 4322(f) of this title.

21 “(2) The number of cases for which the Sec-
22 retary received a request for a referral under para-
23 graph (1) of section 4323(a) of this title but did not
24 make such referral within the time period required
25 by such paragraph.

1 “(3) The number of cases for which the Sec-
 2 retary received a request for a referral under para-
 3 graph (1) of section 4324(a) of this title but did not
 4 make such referral within the time period required
 5 by such paragraph.

6 “(4) The number of cases for which the Attor-
 7 ney General received a referral under paragraph (1)
 8 of section 4323(a) of this title but did not meet the
 9 requirements of paragraph (2) of such section
 10 4323(a) for such referral.

11 “(5) The number of cases for which the Special
 12 Counsel received a referral under paragraph (1) of
 13 section 4324(a) of this title but did not meet the re-
 14 quirements of paragraph (2)(B) of such section
 15 4324(a) for such referral.”.

16 (c) UNIFORM CATEGORIZATION OF DATA.—Such sec-
 17 tion 4332 is further amended by adding at the end the
 18 following new subsection:

19 “(c) UNIFORM CATEGORIZATION OF DATA.—The
 20 Secretary shall coordinate with the Secretary of Defense,
 21 the Secretary of Veterans Affairs, the Attorney General,
 22 and the Special Counsel to ensure that—

23 “(1) the information in the reports required by
 24 this section is categorized in a uniform way; and

1 “(2) the Secretary, the Secretary of Defense,
2 the Secretary of Veterans Affairs, the Attorney Gen-
3 eral, and the Special Counsel each have electronic
4 access to the case files reviewed under this chapter
5 by the Secretary, the Secretary of Defense, the At-
6 torney General, and the Special Counsel.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply with respect to each report re-
9 quired under such section 4332 after the date of the enact-
10 ment of this Act.

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