

112TH CONGRESS
2D SESSION

S. 2885

To amend title 10, United States Code, to provide for the award of the Purple Heart to members of the Armed Forces who are killed or wounded in a terrorist attack perpetrated within the United States.

IN THE SENATE OF THE UNITED STATES

MAY 8, 2012

Mr. LIEBERMAN (for himself, Mrs. HUTCHISON, Mr. CORNYN, Mr. PRYOR, and Mr. BOOZMAN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to provide for the award of the Purple Heart to members of the Armed Forces who are killed or wounded in a terrorist attack perpetrated within the United States.

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. AWARD OF PURPLE HEART TO MEMBERS OF**
4 **THE ARMED FORCES KILLED OR WOUNDED**
5 **IN TERRORIST ATTACKS WITHIN THE UNITED**
6 **STATES.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) The Final Report of the National Commis-
2 sion on Terrorist Attacks Upon the United States
3 (commonly known as the “9/11 Commission Re-
4 port”) recognizes that there is a certain ideology
5 that gives rise to terrorism.

6 (2) This ideology that gives rise to terrorism
7 can even influence citizens and residents of the
8 United States to perpetrate attacks within the
9 United States against members of the Armed
10 Forces.

11 (3) Two such attacks have already occurred
12 within the United States, one at a recruiting station
13 in Little Rock, Arkansas, on June 1, 2009, and one
14 at Fort Hood, Texas, on November 5, 2009.

15 (4) According to investigative reports released
16 by the Committee on Homeland Security of the
17 House of Representatives and the Committee on
18 Homeland Security and Governmental Affairs of the
19 Senate at least 33 threats, plots, and strikes related
20 to domestic terrorism against United States military
21 communities have been uncovered since September
22 11, 2001.

23 (5) These threats, plots, and strikes dem-
24 onstrate that members of the Armed Forces are at
25 risk of terrorist attack not only when deployed over-

1 seas, but also while stationed within the United
2 States.

3 (6) The Department of Defense has recognized
4 the threat posed by terrorist attacks, including those
5 perpetrated by a member of the Armed Forces, by
6 issuing revised regulations, including Army Regula-
7 tion 381–12 regarding the Military Intelligence
8 Threat Awareness and Reporting Program, to re-
9 quire reporting of potential terrorist insider threat
10 activity, including when a member of the Armed
11 Forces is “advocating the use of unlawful violence or
12 force to achieve goals that are political, religious, or
13 ideological in nature”.

14 (b) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that the Secretary of Defense (and the Secretary of
16 Homeland Security with respect to the Coast Guard)
17 should duly honor those members of the Armed Forces
18 who are killed or wounded in terrorist attacks within the
19 United States that are inspired by the ideology that gives
20 rise to terrorism, as defined by the Final Report of the
21 National Commission on Terrorist Attacks Upon the
22 United States (commonly known as the “9/11 Commission
23 Report”).

24 (c) AWARD OF PURPLE HEART.—

1 (1) AWARD REQUIRED.—Chapter 57 of title 10,
2 United States Code, is amended by inserting after
3 section 1129 the following new section:

4 **“§ 1129a. Purple Heart: members killed or wounded**
5 **by terrorist attacks perpetrated within**
6 **the United States**

7 “(a) For purposes of the award of the Purple Heart,
8 the Secretary concerned shall treat a member of the armed
9 forces described in subsection (b) in the same manner as
10 a member who is killed or wounded in action as the result
11 of an act of the enemy of the United States.

12 “(b)(1) A member of the armed forces described in
13 this subsection is a member who the Secretary concerned
14 determines was killed or wounded in a terrorist attack
15 within the United States perpetrated by an individual or
16 individuals expressing a political, religious, or ideological
17 obligation to engage in unlawful violence directed against
18 United States military operations or foreign policy, as de-
19 scribed in Army Regulation 318–12 of October 2010 re-
20 garding the Military Intelligence Threat Awareness and
21 Reporting Program.

22 “(2) In this subsection, the term ‘terrorist attack’
23 means the calculated use of violence or threat of violence
24 to inculcate fear intended to coerce or to intimidate gov-
25 ernments or societies in the pursuit of goals that are gen-

erally political, religious, or ideological, as described in the
Army Regulation referred to in paragraph (1).

“(3) In implementing this section, the Secretary concerned shall make no distinction between ‘international terrorism’ and ‘domestic terrorism’, as those terms are defined in section 2331 of title 18.

“(4) If a terrorist attack referred to in paragraph (1) includes, as victims, members of more than one armed force, the determination required by such paragraph shall be made jointly by the Secretaries of the armed forces concerned.

“(c) Subsection (a) shall not apply to a member of the armed forces whose death or wound is the result of the willful misconduct of the member.

“(d) Nothing in this section shall be interpreted—

“(1) to affect the designation of any individual alleged to have perpetrated an attack referred to in subsection (b)(1) as an enemy combatant for any purposes under law; or

“(2) to preempt or otherwise affect any legal proceedings relating to such an attack.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 57 of such title is amended by inserting after the item relating of section 1129 the following new item:

“1129a. Purple Heart: members killed or wounded by terrorist attacks perpetrated within the United States.”.

1 (3) RETROACTIVE EFFECTIVE DATE AND APPLI-
2 CATION.—

3 (A) EFFECTIVE DATE.—The amendments
4 made by this subsection shall take effect as of
5 January 1, 2009.

6 (B) REVIEW OF CERTAIN PREVIOUS INCI-
7 DENTS.—The Secretaries of the military de-
8 partments (and the Secretary of Homeland Se-
9 curity with respect to the Coast Guard) shall
10 undertake a review of each death or wounding
11 of a member of the Armed Forces that occurred
12 within the United States between January 1,
13 2009, and the date of the enactment of this Act
14 under circumstances that could qualify the
15 death or wounding as being the result of a ter-
16 rorist attack within the United States to deter-
17 mine whether the death or wounding does qual-
18 ify as a death or wounding resulting from a ter-
19 rorist attack within the United States for pur-
20 poses of section 1129a of title 10, United
21 States Code, as added by this subsection.

22 (C) ACTIONS FOLLOWING REVIEW.—If the
23 death or wounding of a member of the Armed
24 Forces reviewed under subparagraph (B) is de-

1 terminated to qualify as a death or wounding re-
2 sulting from a terrorist attack within the
3 United States for purposes of such section
4 1129a, the Secretary of the military department
5 concerned (or the Secretary of Homeland Secu-
6 rity with respect to a member of the Coast
7 Guard) shall take appropriate action under
8 such section to award the Purple Heart to the
9 member.

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