

many more policies to people who, in fact, do need that health coverage. Give it a little time. It is going to work. There will be a few twists and turns. We are not going to get rid of the politics because it is the nature of the beast these day, but give it a little time and it will all work out.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

(The remarks of Mr. COONS pertaining to the introduction of S. 1709 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COONS. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. GILLIBRAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COONS). Without objection, it is so ordered.

Mrs. GILLIBRAND. Mr. President, I ask unanimous consent to speak for such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILITARY JUSTICE IMPROVEMENT ACT

Mrs. GILLIBRAND. Mr. President, I rise today to talk about an amendment I plan to introduce to the National Defense Authorization Act next week. This is an amendment known as the bipartisan Military Justice Improvement Act.

I thank my colleagues on both sides of the aisle for their leadership in this effort. As we have said from the beginning, this is not a Democrat nor a Republican idea. It is good, plain old common sense. It is the right idea necessary to protect the men and women who fight for our country and our values in uniform every single day. So I thank the broad coalition of supporters for their leadership—former generals and commanders, veterans, advocates—who are making their voices heard so that they know these horrible crimes aren't going to happen to someone else; that the justice system we build is one of which they are deserving. They are urging Congress to use its responsibility of oversight and accountability, to use their role head-on, by finally creating an independent military justice system which gives survivors of these horrific acts of violence a fair shot at justice—a system free of inherent bias and conflicts of interest that currently exists within the chain of command, that will enable survivors to come forward and to hold their perpetrators accountable.

The strong and growing bipartisan coalition of Senators, survivors, veterans, retired generals, commanding officers, and advocates is showing this is not only free from partisan politics

and ideology, but it is a promilitary piece of legislation which actually strengthens our military readiness, strengthens unit cohesion, and strengthens good order and discipline.

This week began with all Americans saluting our veterans, honoring our solemn commitment to the brave men and women who join the Armed Services for all the right reasons: To serve our country, defend all that we hold sacred, and make America's military the best the world has ever known.

These men and women put everything on the line to defend our country. Each time they are called to serve, they answer that call. But too often these brave men and women find themselves in the fight of their lives—not on some foreign battlefield in another place against an unknown enemy but within their own ranks, on this soil, among men and women with whom they serve. They are victims of horrific acts of sexual violence.

Sexual assault in the military is not new, but it has been allowed to fester. It has been festering in the shadows for far too long, and when our commanders for the past 25 years have said there is zero tolerance for sexual assault in the military, what they really meant was there is zero accountability—and that is the problem we are facing—going back to the Secretary of Defense under Dick Cheney in 1992. He uttered those words: "Zero accountability." Every Secretary of Defense has since that time said "zero accountability." But our system of justice in the military is broken, and our commanders are the ones who hold all the cards about whether these cases can go forward.

There are those who argue that moving these decisions to independent military prosecutors will somehow undermine good order and discipline. If you had 26,000 cases of unwanted sexual contact, rape, and assault in the military last year alone, you do not have good order and discipline.

Our allies with whom we fight side by side in every conflict—Israel, the UK, Canada, Australia, the Netherlands, Germany—have all already made this decision to say serious crimes deserve the objective review of trained military prosecutors. They should not rest in the chain of command. They should not rest where bias is possible, where conflicts of interest are rampant. It should not be there because the scales of justice are blind. That is the whole point of the American justice system: Blind justice. Not tipped for the defendant, not tipped for the victim. Blind, objective.

We have a Defense Department panel that is actually taking up evidence on this issue. They had a hearing. They asked members from our allies to come and testify about when they made this change. When you took this decision-making out of the chain of command, what happened? Did you have a falling off of good order and discipline? They testified no. The director-general of the Australian Defense Force Legal

Service, Paul Cronin, said that Australia had faced the same set of arguments from their military leaders in the past.

It's a bit like when we opened up to gays in the military in the late 1980s. There was a lot of concern at the time that there would be issues, but not surprisingly there haven't been any.

There are those who argue that somehow our commanders would no longer be accountable. Let me be clear about this. There is nothing in this bill that takes commanders off the hook. They are still responsible, solely responsible, for maintaining good order and discipline, for setting the command climate, for saying these rapes are not going to happen on my watch and, if they do, victims can come forward and know they will be protected. They are responsible for making sure there is no retaliation.

But you know what. Last year alone, of those 3,000 brave survivors who did come forward and report what happened to them, 62 percent were retaliated against—62 percent. That means those command climates failed to protect victims telling their commanders I have been raped; I have been sexually assaulted; I have been brutalized, and justice has to be done.

What does retaliation look like? Commanders saying things such as: It is your own fault; you are to blame; you are the problem. If you report this crime, I am going to write you up on drinking or adultery. Do you really want your military career to end?

For so many victims, that is what happened; they are forced out of the military. All they want to do is serve our country, some of our best and brightest. We are losing them because justice is impossible for them.

Some opponents say this reform will cost too much money. One estimate is that if you had enough lawyers to do all this legal work, it might cost you \$113 million, \$4,000 a victim. That is an absurd argument. Are you really telling me it costs too much to prosecute rapists in the military? Are you really telling me it costs too much to have enough lawyers to take these cases to trial? Are you really telling me it costs too much to have a criminal justice system that honors the men and women who serve in this military? You cannot possibly be saying that. You cannot possibly be saying that.

It is also an argument that makes no sense. Do you know how much it costs our military to have 26,000 sexual assaults, rapes, and unwanted sexual contacts every year in our military? Do you know what that costs? The RAND Corporation actually did an estimate. They said having this kind of rampant sexual assault, rape in our military, cost the military—because they lose so many of these good men and women there have to be new people retrained—\$3.6 billion last year alone. That is the cost. That is a cost we should not be willing to pay.

Last argument. Our opponents say that commanders will actually move

more cases forward that prosecutors wouldn't. That is not true because, again, if you have 23,000 cases that are not being reported and you create an objective criminal justice system, you are going to have more reporting. With more reporting, you are going to have more cases going to trial, many more cases than any argument that there might be an aggressive commander here or there. Many more cases will go to trial and end in conviction if you create an objective system.

Every single year the DOD does estimates; they estimate what is actually the incident rate of sexual assault in the military. Last year they had confidential surveys men and women filled out. Based on that confidential survey, they estimated there were 26,000 cases last year alone, sexual assault, rape, unwanted sexual contact. Of that number, only 2,558—that is the 1 in 10—sought justice by filing unrestricted reports. Of those 2,500 cases, 300 went to trial. So you are really talking about 1 in 100 cases end in justice. That is an abysmal record. We owe so much more to the men and women who serve in our military, so much more to those who will even die for this country. A chain of command oriented system that produces only 302 convictions of 2,558 actionable reports is simply not holding enough alleged assailants accountable under any standard. One in one hundred cases ending in conviction is not good enough under any standard.

Further, an independent system will protect not just the rights of the victim but an accused who may well be innocent, because when a commander is the only decisionmaker and they may know the victim and they may know the perpetrator or the accused and they have a reason to deal with this case in a way that is reflective of his or her bias, what you are creating is an unjust system. Justice must be blind.

I have not come to this conclusion for this fundamentally needed reform lightly. But if you listen to the survivors, if you listen to what happened to them, where the breach in the system is, where the failure of trust occurred, there is no possible reform that does not include taking it out of the chain of command.

What I would like to do, as my colleague Senator GRASSLEY has just joined me on the floor—Senator GRASSLEY is one of our greatest champions on this bill. He has looked at this problem from the perspective of common sense. He has looked at this problem and said you cannot possibly have a system rife with bias and conflicts of interest and expect justice will be done. I am going to yield to my colleague when he is ready. He wants to address another issue.

I yield to my colleague.

The PRESIDING OFFICER. The Senator from Iowa.

HEALTH CARE

Mr. GRASSLEY. Mr. President, Webster's dictionary defines the word success as "the correct or desired result of

an attempt." I want to discuss the definition of the word success as we consider the Affordable Care Act.

On the day the bill was signed into law, President Obama said the following:

Today we are affirming that essential truth, a truth every generation is called to discover for itself, that we are not a nation that scales back its aspirations.

Such grand words for where we are today on that piece of legislation. Today the success of the law that now bears his name, ObamaCare, is defined in much more meager terms. Today success is when the folks at Health and Human Services got up this morning, ObamaCare had not shut down, and when the folks at HHS go to sleep tonight, their day will have been a success if ObamaCare did not have to shut down.

Think of all that, think of all that we have been through to this point after 4 years, the fight over the bill and the extreme legislative means used to pass it through Congress. Then think about the 2010 and 2012 elections. Think about the Supreme Court decision that effectively repealed half of the law's coverage. Think of all the changes made to the law through regulation to make sure ObamaCare launched. Think of the postponing of the employer mandate. Think of the postponing of lifetime limits. Think of the impact this law has had on our economy. It has had quite an impact on the economy—people losing jobs, people losing health insurance they currently have, because if you like what you have you may not be able to keep it. Let's talk about that issue for a minute.

"If you like what you have, you can keep it" was the promise the President made to the American people on at least 36 separate occasions. It is a great sound bite. It is easy to say. It rolls easily off the tongue.

It is also not true. It was never true. It was obviously not true when the law was written. It was obviously not true when the first proposed regulation came out. This is what I said on the Senate floor September 2010. Quoting myself:

Only in the District of Columbia could you get away with telling the people if you like what you have you can keep it, and then pass regulations 6 months later that do just the opposite and figure that people are going to ignore it.

It is not that I have some magic crystal ball. Simple—we all knew it. The administration certainly knew the day would come when millions of people would receive cancellation notices of their insurance policy. Now my constituents clearly know it. I have heard from many Iowans who found out the hard way that the President made a bunch of pie-in-the-sky promises that he knew he couldn't keep, constituents such as this one from Perry, IA, saying:

My husband and I are farmers. For 9 years now we have bought our own policy. To keep the costs affordable our plan is a major medical plan with a very high deductible. We re-

cently received our letters that the plan was going away.

Effective January 1, 2014, it will be updated to comply with the mandates of ObamaCare. To manage the risk of much higher premiums, our insurance company is asking us to cancel our current policy and sign on to a higher rate effective December 1, 2013 or we could go to the government exchange.

We did not keep our current policy. We did not get to keep our lower rates. I now have to pay for coverage that I do not want or will never use. We are not low-income people that might qualify for assistance. We are the small business owner that is trying to live the American dream. I do not believe in large government that wants to run my life.

Or a constituent living in Mason City, IA:

My wife and I are both 60 years old and I have been covered by an excellent Wellmark Blue Cross/Blue Shield policy for several years. It is not through my employer. We selected the plan because it had the features we wanted and needed . . . our choice. And because we are healthy we have a preferred premium rate. Yesterday we got a call from our agent explaining that since our plan is not grandfathered, it will need to be replaced at the end of 2014. The current plan has a \$5,000 deductible and the premium is \$511 per month. The best option going forward for us from Wellmark would cost \$955 per month—a modest 87 percent increase—and have a \$10,000 deductible.

And because we have been diligent and responsible in saving for our upcoming retirement, we do not qualify for any taxpayer-funded subsidies.

These are just two of many letters, emails, and phone calls I have received from Iowans. Thousands have contacted me asking what can be done now that we clearly see that what the President sold the American people was a bag of Washington's best gift-wrapped hot air.

I ask the President, I ask my colleagues here in the Senate, to look at all we have been through as a country, all the grandiose talk about the importance of this statute, and what we ultimately have is an optional Medicaid expansion with a glorified high-risk pool and a government portal that makes the DMV look efficient.

Americans deserve better. They voted for better. But this administration will somehow trudge ahead; keep the doors open; thousands of people enrolled instead of millions. They just released a number this week for the 36 States using the malfunctioning Federal exchange: fewer than 27,000 people. Including people who have not actually committed to purchase the plans—those who have put it in their shopping cart—less than 27,000 people. That is about 19 people per day per State. So the administration will limp along with this pitiful signup process hoping to get people properly assigned to health plans.

If the assignment of individuals to plans fails miserably on January 1, the administration will dig in and sort it out. If the risk pools are a disaster, the administration will use extraregulatory—by any means necessary—tools to keep this program afloat. Because for all the talk of this

bill being—as we saw and heard the Vice President on TV—a big expletive deal, success is not defined in the desires of 2010 but in making sure ObamaCare exists in some form or fashion on January 20, 2017.

We saw more of this digging in and sorting out on this very day when the President spoke. Insurance companies sent 4 million cancellation notices to comply with the President's law. They did it to comply with the law. Let's be clear about it. In other words, these insurers read the law, and then do you know what they did. They did what every company ought to do: Follow the law. Unfortunately for them, the President did what he has been doing for 3 years: He has taken out his pencil and eraser and rewritten or delayed his law on the fly when it is not working.

So what does it now mean for insurers who were simply trying to follow the law as written, as you would expect them to follow the law? Let me tell you what one insurance company had to say:

This means that the insurance companies have 32 days to reprogram their computer system for policies, rates, and eligibility, send notices to policyholders via US Mail, send a very complex letter that describes just what the differences are between specific policies and ObamaCare compliant plans, ask the consumer for their decision—and give them a reasonable time to make that decision—and then enter those decisions back into their system without creating massive billing, claim payments, and provider eligibility list mistakes.

That was a quote from the consultant who was commenting on what the President did today by delaying or by making sure you could keep your program.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY. Mr. President, I ask unanimous consent for 4 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. So the only thing the President has accomplished with his announcement today is that he is delaying his broken promise for another year. I have to wonder: What will it take for him to admit his law is not working and at least call for a full delay?

Remember how all these big health insurance companies back in 2009 got behind the President's program for nationalizing our health insurance program. They put up a lot of money to sell it. Their lobbyists lobbied for it. What they ought to do is tell the American people what a big mistake they made because they are getting stuck with it right now—as I just quoted from this consultant from an insurance company.

It is time for us to admit that ObamaCare has not achieved the correct or desired results of an attempt—in other words, the definition of success as I stated earlier in my remarks. It has not been a success by any measure, unless, of course, you lower your standard to the point that the mere act

of keeping the doors open is a success. How sad is it that after all we have been through—and we have been through a lot. Maybe, just maybe, it is time to admit that the massive restructuring has failed. It may be that partisanship has failed. Perhaps it is time to sit down and consider common-sense, bipartisan steps we could take to lower costs and improve quality. Perhaps we could enact alternative reforms aimed at solving America's biggest health care problems, such as revising the Tax Code to help individuals who buy their own health insurance; allowing people to purchase health coverage across State lines and form risk pools in the individual markets; expanding tax-free health savings accounts; making health care price and quality information more transparent; cracking down on frivolous medical malpractice lawsuits; using high-risk pools to insure people with preexisting conditions; giving States more freedom to improve Medicaid, such as Rhode Island got a few years ago and which seems to be a success; and using provider competition, consumer choice to bring down costs in Medicare, throughout the health care delivery system. The American people need to know this failed program is not the only answer. I yield the floor.

I thank the Senator from New York for yielding to me. I forgot to say that earlier.

The PRESIDING OFFICER. The Senator from Connecticut.

MILITARY JUSTICE IMPROVEMENT ACT

Mr. BLUMENTHAL. Mr. President, my purpose in being here today is to support the Military Justice Improvement Act and the very urgent need to include its worthwhile and comprehensive provisions in the National Defense Authorization Act for Fiscal Year 2014, either by way of amendment or whatever measure may be appropriate, and to support the very eloquent remarks made by the Senator from New York. She has been a steadfast and strong advocate of necessary changes in the Military Code of Justice and has acted as chairman of the Subcommittee on Personnel of the Senate Armed Services Committee to approach this issue—a very difficult issue—in strengthening the system of justice for our men and women in uniform with care and caution as well as vigor and bravery.

I know how different the views may be in this body among our colleagues, and I have listened to people on both sides of this argument very carefully before reaching my own conclusion.

One statistic that strikes me as perhaps paramount in importance is the gap between the number of victims, which is estimated to be close to 30,000, or perhaps more. We don't have a precise number, but the estimates from the military indicate that there are tens of thousands, and very likely more

than 30,000. The number of reported cases is around 3,000, or perhaps 2,500, who have sought justice for sexual assault in the military. By the way, only about 300 go to trial every year. At least that was the number for last year.

My view is that we must remove any concerns about undue command influence on the process so that more victims will seek justice. The only way to deter this heinous, horrific crime is to encourage more reporting so there can be more prosecution and enable more deterrents through strong and swift justice. The goal is justice. The goal is not necessarily punishment for its own sake but justice.

I have listened to my colleagues who feel that the act as written or as amended should keep prosecuting authority with the commander. I have listened carefully to them, and I believe their sincerity and respect for victims is unquestionable. This is not about who respects victims or cares for them the most, it is about what system will best seek justice and deter the epidemic—the spreading numbers of these horrific crimes.

I have also listened to military professionals who have come before Senator GILLIBRAND's subcommittee, as well as the committee as a whole. I have questioned them repeatedly in public and in private, and I am convinced beyond any doubt that they are as outraged and find this crime as abhorrent and antithetical to their profession as anyone in this body. Yet, for years and years, we have heard that the military has zero tolerance. Their renewed vigor is welcomed but in my view has to be matched by reforms in the process which will make sure that that commitment is real and realized in real life.

Most importantly, I have listened to the victims who have come, both publicly and privately, to the Armed Services Committee, where I serve, and have told their stories. They have told their stories also in writing and in documentaries, such as "The Invisible War"—a very powerful and compelling argument for reform.

I have listened to them as they have expressed to me that what matters to them is the fear of retaliation and adverse effect on their careers from the present structure of prosecuting authority. I believe that prosecuting authority should be made the responsibility of an independent, experienced, objective, and trained professional.

I recognize and I understand that there is immense power in the present system given to any commander who sends men and women under his power potentially to give their lives for their country. Their argument and feeling is that they should hold the same power over punishment for crimes that those men and women may commit under their command.

Good order and discipline, I recognize, is a profoundly important goal, and a paramount, irreplaceable, and