

107TH CONGRESS
2^D SESSION

H. R. 5447

To express the remorse of Congress for the policy of the Department of Defense in effect until 1976 providing for involuntary separation of female members of the Armed Forces who became pregnant while in service and to take certain steps to make amends for the effects of that policy.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2002

Ms. MCKINNEY introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To express the remorse of Congress for the policy of the Department of Defense in effect until 1976 providing for involuntary separation of female members of the Armed Forces who became pregnant while in service and to take certain steps to make amends for the effects of that policy.

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 “Women Discharged
3 From the Military Due to Pregnancy Relief Act of 2002”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) In June 1948, Congress enacted the Wom-
7 en’s Armed Services Integration Act of 1948, which
8 formally authorized the appointment and enlistment
9 of women in the regular components of the United
10 States Armed Forces.

11 (2) With the expansion of the Armed Forces to
12 include women, the possibility arose for the first
13 time that members of the Armed Forces could be-
14 come pregnant.

15 (3) The response to such possibilities and actu-
16 alities was Executive Order 10240, signed by Presi-
17 dent Harry S. Truman in 1951, which granted the
18 Armed Forces the authority to involuntarily dis-
19 charge a woman if she became pregnant, gave birth
20 to a child, or became a parent by adoption or a step-
21 parent.

22 (4) The Armed Forces responded to the Execu-
23 tive Order by systematically discharging any woman
24 in the Armed Forces who became pregnant, regard-
25 less of whether the pregnancy was intentional, unin-
26 tentional, or the result of sexual abuse.

1 (5) Although the Armed Forces were required
2 to offer women who were involuntarily discharged
3 due to pregnancy the opportunity to request reten-
4 tion in the military, many of the women who were
5 involuntarily discharged were not offered such op-
6 portunity.

7 (6) The Armed Forces did not provide required
8 separation benefits, counseling, or assistance to the
9 service women who were discharged due to preg-
10 nancy.

11 (7) It is documented that as many as 7,000
12 service women were involuntarily discharged from
13 the Armed Forces as a result of pregnancy.

14 (8) There are reports that the practice of the
15 Armed Forces to systematically discharge pregnant
16 women from the service caused some women to seek
17 abortions (illegal at the time) or to put their chil-
18 dren up for adoption, and that, in some cases, some
19 women committed suicide as a result of their invol-
20 untary discharge from the Armed Forces.

21 (9) Such involuntary discharge from the Armed
22 Forces on the basis of pregnancy was challenged in
23 Federal district court by Stephanie Crawford in
24 1975, whose legal argument stated that the practice

1 of this type of discharge violated her constitutional
2 right to due process of law.

3 (10) The United States Court of Appeals for
4 the Second Circuit ruled in Stephanie Crawford's
5 favor in 1976 and found that the Executive Order
6 and any regulations within the Armed Forces that
7 made discharge from the military services manda-
8 tory due to pregnancy were unconstitutional.

9 (11) By 1976, all regulations that permitted
10 discharge of a servicewoman from the Armed Forces
11 because of pregnancy or any form of parenthood had
12 been rescinded.

13 **SEC. 3. EXPRESSION OF CONGRESSIONAL REMORSE FOR**
14 **POLICY OF INVOLUNTARY DISCHARGES DUE**
15 **TO PREGNANCY.**

16 (a) SENSE OF CONGRESS.—It is the sense of Con-
17 gress that the women who served in the United States
18 Armed Forces before February 23, 1976, and who were
19 involuntarily discharged due to pregnancy should not have
20 been involuntarily discharged due to the physical status
21 of pregnancy.

22 (b) EXPRESSION OF REMORSE.—Congress hereby ex-
23 presses deep remorse for the women who patriotically
24 served in the Armed Forces, but were forced, by official
25 United States policy, to endure unnecessary and discrimi-

1 natory actions, including the violation of their constitu-
2 tional right to due process of law, simply because they be-
3 came pregnant while a member of the Armed Forces.

4 **SEC. 4. PAYMENT OF PAY AND ALLOWANCES NOT PAID BY**
5 **REASON OF INVOLUNTARY DISCHARGE DUE**
6 **TO PREGNANCY.**

7 (a) DETERMINATION OF ELIGIBLE PERSONS.—The
8 Secretary of Defense shall identify each woman who was
9 involuntarily discharged or separated from the Armed
10 Forces due to pregnancy during the period beginning on
11 June 12, 1948 (the date of the enactment of the Women’s
12 Armed Services Integration Act of 1948), and ending on
13 February 23, 1976.

14 (b) PAYMENT OF MISSED PAY AND ALLOWANCES.—

15 (1) ENLISTED MEMBERS.—The Secretary of
16 Defense shall pay to each woman identified under
17 subsection (a) (or to the estate of such woman, if
18 deceased) who was an enlisted member of the Armed
19 Forces at the time of her involuntary discharge an
20 amount equal to the total amount of pay and allow-
21 ances that the Secretary estimates would have been
22 paid to the woman during the remainder of her term
23 of enlistment or period of obligated service (if any)
24 had she not been involuntarily discharged due to
25 pregnancy.

1 (2) OFFICERS.—The Secretary of Defense shall
2 pay to each woman identified under subsection (a)
3 (or to the estate of such woman, if deceased) who
4 was an officer in the Armed Forces at the time of
5 her involuntary separation an amount equal to the
6 total amount of pay and allowances that the Sec-
7 retary estimates would have been paid to the woman
8 during a period of active duty beginning on the date
9 of her involuntary separation and ending on the ear-
10 lier of the following:

11 (A) The completion of five additional years
12 of service on active duty.

13 (B) The date on which she would have
14 completed a period of active duty equal to her
15 service in the Armed Forces before her involun-
16 tary separataion.

17 (3) ADJUSTMENT.—Each amount determined
18 under this subsection shall be adjusted for inflation,
19 as determined by the Secretary of the Treasury, to
20 the date of the payment.

21 **SEC. 5. LOAN FORGIVENESS FOR CERTAIN STUDENT**
22 **LOANS.**

23 (a) DEFINITIONS.—For purposes of this section:

24 (1) ELIGIBLE OFFSPRING.—The term “eligible
25 offspring” means any child of an eligible person

1 under section 4(a) that is determined, in accordance
2 with regulations prescribed by the Secretary, to be
3 the offspring of such person from the pregnancy
4 that was the cause of such person's discharge or
5 separation from the Armed Forces. For purposes of
6 this definition, it does not matter whether the child
7 was raised by the eligible person or adopted and
8 raised by another person.

9 (2) SECRETARY.—The term “Secretary” means
10 the Secretary of Education.

11 (3) FEDERAL STUDENT LOAN.—The term
12 “Federal student loan” means any loan made, in-
13 sured, or guaranteed under part B, D, or E of title
14 IV of the Higher Education Act of 1965, regardless
15 of whether the loan was made, insured, or guaran-
16 teed under such part before the date of the enact-
17 ment of this Act or is made, insured, or guaranteed
18 under such part on or after such date.

19 (b) IN GENERAL.—The Secretary shall provide for
20 the discharge or cancellation of the Federal student loan
21 indebtedness of an eligible offspring in the same manner
22 as is required by sections 437(a), 455(a)(1), and
23 464(c)(1)(F) of the Higher Education Act of 1965 (20
24 U.S.C. 1087(a), 1087e(a)(1), 1087dd(c)(1)(F)), as the
25 case may be.

1 (c) FACILITATION OF CLAIMS.—The Secretary
2 shall—

3 (1) by regulation, establish procedures for the
4 filing of applications for discharge or cancellation
5 under this section, which regulations shall be pre-
6 scribed and published within 30 days after the date
7 of enactment of this Act and without regard to the
8 requirements of section 553 of title 5, United States
9 Code; and

10 (2) take such actions as may be necessary to
11 publicize the availability of discharge or cancellation
12 of Federal student loan indebtedness for eligible off-
13 spring under this section.

14 (d) AVAILABILITY OF FUNDS FOR PAYMENTS.—
15 Funds available for the purposes of making payments to
16 lenders in accordance with section 437(a) for the dis-
17 charge of indebtedness of individuals described in sub-
18 section (a)(1) of this section shall be available for making
19 payments under section 437(a) as required by this section.

20 (e) NO DELAY IN REGULATIONS.—Sections 482(c)
21 and 492 of the Higher Education Act of 1965 (20 U.S.C.
22 1089(c), 1098a) shall not apply to the regulations re-
23 quired by this section.

1 **SEC. 6. HEALTH BENEFITS.**

2 Health benefits shall be available under section 1086
3 of title 10, United States Code, to eligible persons de-
4 scribed in section 4(a) and eligible offspring as defined
5 by section 5(a) in the same manner as health benefits are
6 available under such section 1086 for persons covered by
7 subsection (c) of that section.

8 **SEC. 7. STANDARD FORM OF DISCHARGE FOR WOMEN VET-**
9 **ERANS INVOLUNTARILY DISCHARGED DUE**
10 **TO PREGNANCY.**

11 The Secretary of Defense shall establish a standard
12 discharge code (including a discharge “cause” reenlist-
13 ment code and other related information) for women vet-
14 erans who were involuntarily discharged from the Armed
15 Forces due to pregnancy between 1951 and 1976. Such
16 discharge code shall provide a single, uniform discharge
17 code, applicable to each of the Armed Forces, indicating
18 that the discharge was an involuntary discharge due to
19 pregnancy. The Secretary shall develop a means by which
20 each such involuntarily discharged female veteran may
21 apply to the Secretary to have that veteran’s discharge
22 documents revised to reflect the new standard discharge
23 code. The Secretary shall promptly issue revised discharge
24 documents to each female veteran submitting such an ap-
25 plication who the Secretary determines is eligible for such
26 revised documents.

1 **SEC. 8. SENSE OF CONGRESS CONCERNING CONTINUED**
2 **SERVICE TO THE NATION.**

3 It is the sense of Congress that the Secretary of De-
4 fense should establish policies to encourage women vet-
5 erans who before 1976 were involuntarily discharged from
6 the Armed Forces due to pregnancy to continue to serve
7 the Nation.

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