

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4112

To amend title 10, United States Code, to provide certain procedural and administrative safeguards for members of the Armed Forces making allegations of sexual harassment or unlawful discrimination.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 1994

Mr. DELLUMS (for himself, Mr. SPENCE, Mr. SKELTON, Mr. UNDERWOOD, Mr. KYL, Mr. BILBRAY, Mr. MONTGOMERY, Mrs. SCHROEDER, Mr. LANCASTER, Mr. HOCHBRUECKNER, Mrs. LLOYD, Ms. FURSE, Mr. MCHALE, Ms. HARMAN, Mr. MEEHAN, Mr. PETE GEREN of Texas, Mr. ANDREWS of Maine, Mr. ABERCROMBIE, Mr. DORNAN, Mr. SISISKY, Mr. MCCLOSKEY, Mr. TEJEDA, Mr. HANSEN, Mr. PICKETT, Mr. MCCURDY, and Mr. TORKILDSEN) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to provide certain procedural and administrative safeguards for members of the Armed Forces making allegations of sexual harassment or unlawful discrimination.

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. PROHIBITION OF RETALIATORY ACTIONS**  
2 **AGAINST MEMBERS OF THE ARMED FORCES**  
3 **MAKING ALLEGATIONS OF SEXUAL HARASS-**  
4 **MENT OR UNLAWFUL DISCRIMINATION.**

5 (a) IN GENERAL.—(1) Chapter 49 of title 10, United  
6 States Code, is amended by adding at the end the follow-  
7 ing new section:

8 **“§ 983. Retaliatory personnel actions prohibited**  
9 **against members alleging sexual harass-**  
10 **ment or unlawful discrimination**

11 “(a) PROHIBITION OF RETALIATORY PERSONNEL  
12 ACTIONS.—(1) No person may take (or threaten to take)  
13 an unfavorable personnel action, or withhold (or threaten  
14 to withhold) a favorable personnel action, as a reprisal  
15 against a member of the armed forces for making or pre-  
16 paring a communication described in paragraph (2) to a  
17 Member of Congress or an Inspector General (as defined  
18 in subsection (f)) or to any other person or organization  
19 pursuant to regulations or other established administra-  
20 tive procedures for such communications. Any action pro-  
21 hibited by the preceding sentence (including the threat to  
22 take any action and the withholding or threat to withhold  
23 any favorable action) shall be considered for the purposes  
24 of this section to be a personnel action prohibited by this  
25 subsection.

1       “(2) A communication described in this paragraph is  
2 a communication in which the member making (or prepar-  
3 ing) the communication alleges that the member has been  
4 the subject of sexual harassment or unlawful discrimina-  
5 tion.

6       “(b) INSPECTOR GENERAL INVESTIGATION OF ALLE-  
7 GATIONS OF PROHIBITED PERSONNEL ACTIONS.—(1) If  
8 a member of the armed forces submits to an Inspector  
9 General an allegation that a personnel action prohibited  
10 by subsection (a) has been taken (or threatened) against  
11 the member with respect to a communication described in  
12 paragraph (2), the Inspector General of the Department  
13 of Defense (or the Inspector General of the Department  
14 of Transportation, in the case of a member of the Coast  
15 Guard when the Coast Guard is not operating as a service  
16 in the Navy) shall expeditiously investigate the allegation.  
17 The Inspector General of the Department of Defense may  
18 not delegate or assign such investigation to any office or  
19 organization within a military department.

20       “(2) A communication described in this paragraph is  
21 a communication to a Member of Congress or an Inspector  
22 General or to any other person or organization pursuant  
23 to regulations or other established administrative proce-  
24 dures in which the member of the armed forces makes a  
25 complaint or discloses information that the member rea-

1 sonably believes constitutes evidence of sexual harassment  
2 or unlawful discrimination.

3 “(3) The Inspector General is not required to make  
4 an investigation under paragraph (1) in the case of an  
5 allegation made more than 90 days after the date on which  
6 the member becomes aware of the personnel action that  
7 is subject of the allegation.

8 “(c) INSPECTOR GENERAL INVESTIGATION OF ALLE-  
9 GATIONS OF SEXUAL HARASSMENT OR UNLAWFUL DIS-  
10 CRIMINATION.—If the Inspector General has not already  
11 done so, the Inspector General shall commence a separate  
12 investigation of the information that the member submit-  
13 ting the allegation under subsection (b) believes con-  
14 stitutes evidence of sexual harassment or unlawful dis-  
15 crimination.

16 “(d) REPORTS ON INVESTIGATIONS.—(1) Not later  
17 than 30 days after completion of an investigation under  
18 this section, the Inspector General shall submit a report  
19 on the results of the investigation to the Secretary of De-  
20 fense (or to the Secretary of Transportation in the case  
21 of a member of the Coast Guard when the Coast Guard  
22 is not operating as a service in the Navy) and the member  
23 of the armed forces who made the allegation.

24 “(2) If, in the course of an investigation of an allega-  
25 tion under this section, the Inspector General determines

1 that it is not possible to submit the report required by  
2 paragraph (1) within 90 days after the date of receipt of  
3 the allegation being investigated, the Inspector General  
4 shall provide to the Secretary of Defense (or to the Sec-  
5 retary of Transportation in the case of a member of the  
6 Coast Guard when the Coast Guard is not operating as  
7 a service in the Navy) and to the member making the alle-  
8 gation a notice—

9           “(A) of that determination (including the rea-  
10       sons why the report may not be submitted within  
11       that time); and

12           “(B) of the time when the report will be sub-  
13       mitted.

14       “(3) The report on the results of the investigation  
15 shall contain a thorough review of the facts and cir-  
16 cumstances relevant to the allegation and the complaint  
17 or disclosure and shall include documents acquired during  
18 the course of the investigation, including summaries of  
19 interviews conducted. The report may include a rec-  
20 ommendation as to the disposition of the complaint.

21       “(e) REGULATIONS.—The Secretary of Defense, and  
22 the Secretary of Transportation with respect to the Coast  
23 Guard when it is not operating as a service in the Navy,  
24 shall prescribe regulations to carry out this section.

25       “(f) DEFINITIONS.—In this section:

1           “(1) The term ‘unlawful discrimination’ means  
2 discrimination on the basis of race, color, religion,  
3 sex, or national origin.

4           “(2) The term ‘Member of Congress’ includes  
5 any Delegate or Resident Commissioner to Congress.

6           “(3) The term ‘Inspector General’ means—

7               “(A) an Inspector General appointed under  
8 the Inspector General Act of 1978; and

9               “(B) an officer of the armed forces as-  
10 signed or detailed under regulations of the Sec-  
11 retary concerned to serve as an Inspector Gen-  
12 eral at any command level in one of the armed  
13 forces.”.

14           (2) The table of sections at the beginning of such  
15 chapter is amended by adding at the end the following  
16 new item:

          “983. Retaliatory personnel actions prohibited against members alleging sexual  
          harassment or unlawful discrimination.”.

17           (b) DEADLINE FOR REGULATIONS.—The Secretary  
18 of Defense and the Secretary of Transportation shall pre-  
19 scribe the regulations required by subsection (e) of section  
20 983 of title 10, United States Code, as added by sub-  
21 section (a), not later than 120 days after the date of the  
22 enactment of this Act.

23           (c) EFFECTIVE DATE.—Section 983 of title 10, Unit-  
24 ed States Code, as added by subsection (a), shall apply

1 with respect to any personnel action taken (or threatened  
2 to be taken) on or after the date of the enactment of this  
3 Act as a reprisal prohibited by subsection (a) of that  
4 section.

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