

103^D CONGRESS
1ST SESSION

S. 953

To provide a right for a member of the Armed Services to be voluntarily separated from military service if the existing policy concerning military service by homosexuals is changed so that homosexuality is no longer incompatible with military service and if such member has religious, moral, or personal morale objections to such a change in policy, to provide separation benefits for certain such members, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13 (legislative day, APRIL 19), 1993

Mr. WARNER introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To provide a right for a member of the Armed Services to be voluntarily separated from military service if the existing policy concerning military service by homosexuals is changed so that homosexuality is no longer incompatible with military service and if such member has religious, moral, or personal morale objections to such a change in policy, to provide separation benefits for certain such members, 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 That chapter 59 of title 10, United States Code, is

1 amended by adding at the end thereof the following new
2 section:

3 **“SEC. XX. VOLUNTARY SEPARATION FOR REASON OF OB-**
4 **JECTION TO MILITARY POLICY ON HOMO-**
5 **SEXUALS.**

6 “(a) **GENERALLY.**—A member of the armed forces
7 may request separation from the armed forces under this
8 section and, if found eligible for separation under this sec-
9 tion by the Secretary of the military department con-
10 cerned, such member shall be separated from military
11 service as provided for in this section.

12 “(b) **ELIGIBILITY.**—A member is eligible for separa-
13 tion under this section if such member—

14 “(1) became a member of the armed forces on
15 or before the date on which the policy of the Depart-
16 ment of Defense that was in effect on May 11,
17 1993, that homosexuality is incompatible with mili-
18 tary service, was changed to a policy under which
19 homosexuality is not incompatible with military serv-
20 ice;

21 “(2) has not incurred or accepted any new or
22 additional military service obligation on or after the
23 date of such change in such policy;

24 “(3) is not eligible to retire from the armed
25 forces;

1 “(4) has not previously been approved for sepa-
2 ration from the armed forces under any other sec-
3 tion of law; and

4 “(5) has religious, moral, or personal morale
5 objections to such change in such policy, and has
6 filed within one year after the date of such change
7 in such policy a written request to the Secretary
8 concerned with voluntary separation under this sec-
9 tion because of such religious, moral, or personal
10 morale objections to such change in such policy.

11 “(c) ADMINISTRATION.—The Secretary concerned
12 shall determine, under such regulations as are deemed ap-
13 propriate by such Secretary, if a member who requests
14 separation under this section is eligible for separation
15 under this section. In determining if such a member has
16 met the requirements of subsection (b)(5), a written re-
17 quest for voluntary separation by such member that as-
18 serts the request is made because the member has reli-
19 gious, moral, or personal morale objections to such change
20 in such policy will generally be sufficient to establish that
21 such member has met the requirements of that subsection.
22 However, the Secretary may consider such other informa-
23 tion as he deems appropriate in determining if such mem-
24 ber’s request for separation is because of such objections,
25 including any information that such member previously

1 has sought separation or relief from any military service
2 obligation for any other reason, information concerning
3 whether such member has previously expressed any opin-
4 ion about such member's religious, moral, or personal mo-
5 rale objections to such change in such policy, or any infor-
6 mation that such member has expressed a desire or intent
7 to be separated or relieved from any military service obli-
8 gation for any other reason.

9 “(d)(1) ACTIVE DUTY BENEFITS.—A member who is
10 separated under this section and who—

11 “(A) has served on active duty for more than
12 six years on the date of the policy change described
13 in subsection (b)(1);

14 “(B) has served on active duty for not more
15 than twenty years on the date of such separation;

16 “(C) has served at least five years of continuous
17 active duty immediately preceding the date of such
18 separation; and

19 “(D) if a Reserve, is on an active duty list,
20 shall be entitled to the benefits payable to either a member
21 voluntarily separated under section 1174a(b) or a member
22 voluntarily separated under section 1175, at the discretion
23 of the member being separated under this section.

24 “(2) RESERVE BENEFITS.—A member of the Se-
25 lected Reserve, as defined in section 4412 of the National

1 Defense Authorization Act for Fiscal Year 1993 (Public
2 Law 102-484), who is separated from the armed forces
3 under this section and who has completed at least six
4 years of service computed under section 1332 on the date
5 of the policy change described in subsection (b)(1) shall
6 be entitled to either—

7 “(A) the benefits provided to member involun-
8 tarily discharged or transferred under section 4418
9 of the National Defense Authorization Act for Fiscal
10 Year 1993 (Public Law 102-484); or

11 “(B) if such member also has completed at
12 least fifteen years of service computed under section
13 1332, to the rights and benefits provided to mem-
14 bers found eligible for such rights and benefits
15 under section 1331a of title 10, United States Code,
16 at the discretion of the member being separated under this
17 section.

18 “(3) ELECTION OF BENEFITS.—A member separated
19 under this section may not receive benefits under both
20 paragraphs (1) and (2) of this subsection. If such a mem-
21 ber is eligible for benefits under both paragraphs (1) and
22 (2) of this subsection, such member will elect which bene-
23 fits he shall receive.

24 “(e)(1) DATE OF SEPARATION GENERALLY.—The
25 Secretary concerned may determine the date upon which

1 a member entitled to be separated under this section is
2 to be separated. However, except as provided in para-
3 graphs (2) and (3), such date of separation shall not be
4 later than one hundred and eighty days after receipt by
5 the Secretary concerned of such member's request to be
6 separated under this section.

7 “(2) REQUIREMENT FOR REIMBURSEMENT.—Not-
8 withstanding the one hundred and eighty-day period es-
9 tablished by paragraph (1), the date of separation for a
10 member entitled to be separated under this section who
11 has any military service obligation for which, because of
12 contract, agreement, or law, such member is liable for re-
13 imbursement to the United States if such military service
14 obligation is not fully served, may not be prior to the
15 earlier of—

16 “(A) the date on which the member fully reim-
17 burses the United States for any such military serv-
18 ice obligation as required by such contract, agree-
19 ment, or law; or

20 “(B) the date on which the member completes
21 such military service obligation.

22 “(3) READINESS EXTENSION.—Notwithstanding the
23 one hundred and eighty-day period established by para-
24 graph (1), the Secretary concerned may delay the date of
25 separation of an individual member entitled to be sepa-

1 rated under this section if the Secretary determines that
2 the separation of such member within that one hundred
3 and eighty-day period would create a direct and serious
4 negative impact on the readiness of the military depart-
5 ment concerned. However, a delay under this paragraph
6 may not extend a date of separation more than two years
7 beyond that which would otherwise be required by para-
8 graph (1).”.

9 SEC. 2. EFFECTIVE DATE.—This section shall take
10 effect only if that policy of the Department of Defense
11 that was in effect on May 11, 1993, that homosexuality
12 is incompatible with military service is changed to a policy
13 under which homosexuality is not incompatible with mili-
14 tary service, but shall be effective on the date of any such
15 change in such policy.

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