

104TH CONGRESS
1ST SESSION

S. 571

To amend title 10, United States Code, to terminate entitlement of pay and allowances for members of the Armed Forces who are sentenced to confinement and a punitive discharge or dismissal, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 16, 1995

Mrs. BOXER (for herself, Mr. PRYOR, Mr. GRASSLEY, Mr. KOHL, Mr. BRADLEY, Mr. DORGAN, Mr. AKAKA, Mr. HOLLINGS, Mr. ROTH, Mr. HARKIN, Mr. REID, Mr. LIEBERMAN, Mr. BAUCUS, Mr. ABRAHAM, Mr. SIMON, and Mr. ROBB) 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 terminate entitlement of pay and allowances for members of the Armed Forces who are sentenced to confinement and a punitive discharge or dismissal, 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,*

1 **SECTION 1. PAY AND ALLOWANCES OF MEMBERS SEN-**
2 **TENCED BY A COURT-MARTIAL TO CONFINEMENT AND PUNITIVE DISCHARGE OR DIS-**
3 **MISSAL.**
4

5 (a) TERMINATION OF ENTITLEMENT.—(1) Chapter
6 47 of title 10, United States Code (the Uniform Code of
7 Military Justice), is amended by adding at the end of sub-
8 chapter VIII the following new section:

9 **“§ 858b. Art. 58b. Sentences to confinement and puni-**
10 **tive discharge or dismissal: termination**
11 **of pay and allowances**

12 “(a) TERMINATION OF ENTITLEMENT.—A member
13 of the armed forces sentenced by a court-martial to con-
14 finement and to a punishment named in subsection (c) is
15 not entitled to pay and allowances for any period after
16 the sentence is adjudged by the court-martial.

17 “(b) RESTORATION OF ENTITLEMENT.—If, in the
18 case of a member sentenced as described in subsection (a),
19 none of the punishments named in subsection (c) are in-
20 cluded in the sentence as finally approved, or the sentence
21 to such a punishment is set aside or disapproved, then,
22 effective upon such final approval or upon the setting
23 aside or disapproval of such punishment, as the case may
24 be, the termination of entitlement of the member to pay
25 and allowances under subsection (a) by reason of the sen-
26 tence adjudged in such case ceases to apply to the member

1 and the member is entitled to the pay and allowances that,
2 under subsection (a), were not paid to the member by rea-
3 son of that termination of entitlement.

4 “(c) COVERED PUNISHMENTS.—The punishments re-
5 ferred to in subsections (a) and (b) are as follows:

6 “(A) Dishonorable discharge.

7 “(B) Bad-conduct discharge.

8 “(C) Dismissal.”.

9 (2) The table of sections at the beginning of sub-
10 chapter VIII of chapter 47 of such title is amended by
11 inserting after the item relating to section 858a (article
12 58a) the following:

“858b. 58b. Sentences to confinement and punitive discharge or dismissal: ter-
mination of pay and allowances.”.

13 (b) CONFORMING AMENDMENTS.—(1) Section 857 of
14 title 10, United States Code (article 57 of the Uniform
15 Code of Military Justice), is amended by striking out “(a)
16 No” and inserting in lieu thereof “(a) Except as provided
17 in section 858b of this title (article 58b), no”.

18 (2)(A) Section 804 of title 37, United States Code,
19 is repealed.

20 (B) The table of sections at the beginning of chapter
21 15 of such title is amended by striking out the item relat-
22 ing to section 804.

1 **SEC. 2. TRANSITIONAL COMPENSATION FOR SPOUSES, DE-**
2 **PENDENT CHILDREN, AND FORMER SPOUSES**
3 **OF MEMBERS SENTENCED TO CONFINEMENT**
4 **AND PUNITIVE DISCHARGE OR DISMISSAL.**

5 (a) AUTHORITY TO PAY COMPENSATION.—Chapter
6 53 of title 10, United States Code, is amended by inserting
7 after section 1059 the following new section:

8 **“§ 1059a. Members sentenced to confinement and pu-**
9 **nitive discharge or dismissal: transitional**
10 **compensation for spouses, dependent**
11 **children, and former spouses**

12 “(a) AUTHORITY TO PAY COMPENSATION.—The Sec-
13 retary of the executive department concerned may estab-
14 lish a program to pay transitional compensation in accord-
15 ance with this section to any spouse, dependent child, or
16 former spouse of a member of the armed forces during
17 any period in which the member’s entitlement to pay and
18 allowances is terminated under section 858b of this title
19 (article 58b of the Uniform Code of Military Justice).

20 “(b) NEED REQUIRED.—(1) A person may be paid
21 transitional compensation under this section only if the
22 person demonstrates a need to receive such compensation,
23 as determined under regulations prescribed pursuant to
24 subsection (f).

25 “(2) Section 1059(g)(1) of this title shall apply to
26 eligibility for transitional compensation under this section.

1 “(c) AMOUNT OF COMPENSATION.—(1) The amount
2 of the transitional compensation payable to a person under
3 a program established pursuant to this section shall be
4 determined under regulations prescribed pursuant to sub-
5 section (f).

6 “(2) The total amount of the transitional compensa-
7 tion paid under this section in the case of a member may
8 not exceed the total amount of the pay and allowances
9 which, except for section 858b of this title (article 58b
10 of the Uniform Code of Military Justice), such member
11 would be entitled to receive during the one-year period be-
12 ginning on the date of the termination of such member’s
13 entitlement to pay and allowances under such section.

14 “(d) RECIPIENTS OF PAYMENTS.—Transitional com-
15 pensation payable to a person under this section shall be
16 paid directly to that person or to the legal guardian of
17 the person, if any.

18 “(e) COORDINATION OF BENEFITS.—Transitional
19 compensation in the case of a member of the armed forces
20 may not be paid under this section to a person who is
21 entitled to transitional compensation under section 1059
22 or 1408(h) of this title by reason of being a spouse, de-
23 pendent child, or former spouse of such member.

24 “(f) EMERGENCY TRANSITIONAL ASSISTANCE.—
25 Under a program established pursuant to this section, the

1 Secretary of the executive department concerned may pay
2 emergency transitional assistance to a person referred to
3 in subsection (a) for not more than 45 days while the per-
4 son's application for transitional assistance under the pro-
5 gram is pending approval. Subsections (b) and (d) do not
6 apply to payment of emergency transitional assistance.

7 “(g) REGULATIONS.—The Secretary of the executive
8 department concerned shall prescribe regulations for car-
9 rying out any program established by the Secretary under
10 this section.

11 “(h) DEFINITIONS.—In this section:

12 “(1) The term ‘Secretary of the executive de-
13 partment concerned’ means—

14 “(A) the Secretary of Defense, with respect
15 to the armed forces, other than the Coast
16 Guard when it is not operating as a service in
17 the Navy; and

18 “(B) the Secretary of Transportation, with
19 respect to the Coast Guard when it is not oper-
20 ating as a service in the Navy.

21 “(2) The term ‘dependent child’ has the mean-
22 ing given that term in section 1059(l) of this title.”.

23 “(b) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of chapter 53 of title 10, United States

1 Code, is amended by inserting after the item relating to
2 section 1059 the following:

“1059a. Members sentenced to confinement and punitive discharge or dismissal:
transitional compensation for spouses, dependent children, and
former spouses.”.

3 **SEC. 3. EFFECTIVE DATE AND APPLICABILITY.**

4 (a) PROSPECTIVE APPLICABILITY.—Subject to sub-
5 section (b), the amendments made by this Act shall take
6 effect on the date of the enactment of this Act and shall
7 apply with respect to pay and allowances for periods after
8 such date.

9 (b) SAVINGS PROVISION.—(1) If it is held unconstitu-
10 tional to apply section 858b of title 10, United States
11 Code (article 58b of the Uniform Code of Military Jus-
12 tice), as added by section 1(a), with respect to an act pun-
13 ishable under the Uniform Code of Military Justice that
14 was committed before the date of the enactment of this
15 Act, then—

16 (A) with respect to acts punishable under the
17 Uniform Code of Military Justice that were commit-
18 ted before that date, the amendments made by this
19 Act shall be deemed not to have been made; and

20 (B) the amendments made by this Act shall
21 apply with respect to acts punishable under the Uni-
22 form Code of Military Justice that are committed on
23 or after the date of the enactment of this Act.

1 (2) For purposes of paragraph (1), the term “Uni-
2 form Code of Military Justice” means the provisions of
3 chapter 47 of title 10, United States Code.

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