

110TH CONGRESS
2D SESSION

H. R. 6093

To amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2008

Mr. HINCHEY (for himself, Mr. FILNER, and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care 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 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Carmelo Rodriguez
5 Military Medical Accountability Act of 2008”.

1 **SEC. 2. ALLOWANCE OF CLAIMS BY MEMBERS OF THE**
2 **ARMED FORCES AGAINST THE UNITED**
3 **STATES FOR CERTAIN INJURIES CAUSED BY**
4 **IMPROPER MEDICAL CARE.**

5 (a) IN GENERAL.—Chapter 171 of title 28, United
6 States Code, is amended by adding at the end thereof the
7 following new section:

8 **“§ 2681. Certain claims by members of the Armed**
9 **Forces of the United States**

10 “(a) Claims may be brought under this chapter for
11 damages against the United States for the personal injury
12 or death of a member of the Armed Forces of the United
13 States arising out of a negligent or wrongful act or omis-
14 sion in the performance of medical, dental, or related
15 health care functions (including clinical studies and inves-
16 tigation) that takes place other than in the context of
17 combat and is provided by persons acting within the scope
18 of their office or employment by or at the direction of the
19 Armed Forces of the United States, whether inside or out-
20 side the United States.

21 “(b) The payment of any claim of a member of the
22 Armed Forces under this section shall be reduced by the
23 present value of other benefits received by the member and
24 the member’s estate, survivors, and beneficiaries, under
25 title 10, title 37, or title 38, United States Code, that are

1 attributable to the physical injury or death from which the
2 claim arose.

3 “(c) For purposes of claims brought under this sec-
4 tion—

5 “(1) section 2680(k) does not apply; and

6 “(2) in the case of an act or omission occurring
7 outside the United States, the ‘law of the place
8 where the act or omission occurred’ shall be deemed
9 to be the law of the place of domicile of the plaintiff.

10 “(d) As used in this section, the term ‘a negligent
11 or wrongful act or omission in the performance of medical,
12 dental, or related health care functions (including clinical
13 studies and investigations)’ has the same meaning given
14 that term for the purposes of section 1089(e) of title 10.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for chapter 171 of title 28, United States Code, is amend-
17 ed by adding at the end thereof the following new item:

“2681. Certain claims by members of the Armed Forces of the United States.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply only with respect to claims arising
20 on or after January 1, 1997 and any period of limitation
21 that applies to such a claim arising before the date of en-
22 actment of this Act shall begin to run on the date of that
23 enactment.

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