

Union Calendar No. 267

111TH CONGRESS
2^D SESSION

H. R. 1478

[Report No. 111-466]

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

MARCH 12, 2009

Mr. HINCHEY introduced the following bill; which was referred to the Committee on the Judiciary

APRIL 26, 2010

Additional sponsors: Mr. CONYERS, Mr. COHEN, Mr. FRANK of Massachusetts, Mr. TERRY, Mr. NADLER of New York, Mr. SHERMAN, Mr. HOLT, Mr. JOHNSON of Illinois, Mr. COURTNEY, Ms. SUTTON, Mr. THOMPSON of California, and Ms. JACKSON LEE of Texas

APRIL 26, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 12, 2009]

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 Mili-*
5 *tary Medical Accountability Act of 2009”.*

6 **SEC. 2. ALLOWANCE OF CLAIMS BY MEMBERS OF THE**
7 **ARMED FORCES AGAINST THE UNITED**
8 **STATES FOR CERTAIN INJURIES CAUSED BY**
9 **IMPROPER MEDICAL CARE.**

10 *(a) IN GENERAL.—Chapter 171 of title 28, United*
11 *States Code, is amended by adding at the end the following:*

12 **“§2681. Certain claims by members of the Armed**
13 **Forces of the United States**

14 *“(a) A claim may be brought against the United States*
15 *under this chapter for damages relating to the personal in-*
16 *jury or death of a member of the Armed Forces of the United*
17 *States arising out of a negligent or wrongful act or omission*
18 *in the performance of medical, dental, or related health care*
19 *functions (including clinical studies and investigations)*
20 *that is provided by a person acting within the scope of the*
21 *office or employment of that person by or at the direction*
22 *of the Government of the United States, whether inside or*
23 *outside the United States.*

24 *“(b) A claim under this section shall not be reduced*
25 *by the amount of any benefit received under subchapter III*

1 *(relating to Servicemembers' Group Life Insurance) of*
2 *chapter 19 of title 38.*

3 “(c) *This section does not apply to any claim arising*
4 *out of the combatant activities of the Armed Forces during*
5 *time of armed conflict.*

6 “(d) *For purposes of claims brought under this sec-*
7 *tion—*

8 “(1) *subsections (j) and (k) of section 2680 do*
9 *not apply; and*

10 “(2) *in the case of an act or omission occurring*
11 *outside the United States, the ‘law of the place where*
12 *the act or omission occurred’ shall be deemed to be the*
13 *law of the place of domicile of the plaintiff.*

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

19 (b) *TECHNICAL AND CONFORMING AMENDMENT.—The*
20 *table of sections for chapter 171 of title 28, United States*
21 *Code, is amended by adding at the end the following:*

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

22 (c) *EFFECTIVE DATE.—The amendments made by this*
23 *section shall apply with respect to a claim arising on or*
24 *after January 1, 1997, and any period of limitation that*

- 1 *applies to such a claim arising before the date of enactment*
- 2 *of this Act shall begin to run on the date of that enactment.*

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