

111TH CONGRESS  
2D SESSION

# S. 4022

To provide for the repeal of the Department of Defense policy concerning homosexuality in the Armed Forces known as “Don’t Ask, Don’t Tell”.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2010

Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. UDALL of Colorado, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To provide for the repeal of the Department of Defense policy concerning homosexuality in the Armed Forces known as “Don’t Ask, Don’t Tell”.

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 “Don’t Ask, Don’t Tell  
5 Repeal Act of 2010”.

6 **SEC. 2. DEPARTMENT OF DEFENSE POLICY CONCERNING**  
7 **HOMOSEXUALITY IN THE ARMED FORCES.**

8 (a) COMPREHENSIVE REVIEW ON THE IMPLEMENTA-  
9 TION OF A REPEAL OF 10 U.S.C. 654.—

1           (1) IN GENERAL.—On March 2, 2010, the Sec-  
2           retary of Defense issued a memorandum directing  
3           the Comprehensive Review on the Implementation of  
4           a Repeal of 10 U.S.C. 654 (section 654 of title 10,  
5           United States Code).

6           (2) OBJECTIVES AND SCOPE OF REVIEW.—The  
7           Terms of Reference accompanying the Secretary’s  
8           memorandum established the following objectives  
9           and scope of the ordered review:

10                   (A) Determine any impacts to military  
11                   readiness, military effectiveness and unit cohe-  
12                   sion, recruiting/retention, and family readiness  
13                   that may result from repeal of the law and rec-  
14                   ommend any actions that should be taken in  
15                   light of such impacts.

16                   (B) Determine leadership, guidance, and  
17                   training on standards of conduct and new poli-  
18                   cies.

19                   (C) Determine appropriate changes to ex-  
20                   isting policies and regulations, including but not  
21                   limited to issues regarding personnel manage-  
22                   ment, leadership and training, facilities, inves-  
23                   tigations, and benefits.

24                   (D) Recommend appropriate changes (if  
25                   any) to the Uniform Code of Military Justice.

1           (E) Monitor and evaluate existing legisla-  
2           tive proposals to repeal 10 U.S.C. 654 and pro-  
3           posals that may be introduced in the Congress  
4           during the period of the review.

5           (F) Assure appropriate ways to monitor  
6           the workforce climate and military effectiveness  
7           that support successful follow-through on imple-  
8           mentation.

9           (G) Evaluate the issues raised in ongoing  
10          litigation involving 10 U.S.C. 654.

11         (b) EFFECTIVE DATE.—The amendments made by  
12         subsection (f) shall take effect 60 days after the date on  
13         which the last of the following occurs:

14           (1) The Secretary of Defense has received the  
15           report required by the memorandum of the Sec-  
16           retary referred to in subsection (a).

17           (2) The President transmits to the congres-  
18           sional defense committees a written certification,  
19           signed by the President, the Secretary of Defense,  
20           and the Chairman of the Joint Chiefs of Staff, stat-  
21           ing each of the following:

22           (A) That the President, the Secretary of  
23           Defense, and the Chairman of the Joint Chiefs  
24           of Staff have considered the recommendations

1 contained in the report and the report’s pro-  
2 posed plan of action.

3 (B) That the Department of Defense has  
4 prepared the necessary policies and regulations  
5 to exercise the discretion provided by the  
6 amendments made by subsection (f).

7 (C) That the implementation of necessary  
8 policies and regulations pursuant to the discre-  
9 tion provided by the amendments made by sub-  
10 section (f) is consistent with the standards of  
11 military readiness, military effectiveness, unit  
12 cohesion, and recruiting and retention of the  
13 Armed Forces.

14 (c) NO IMMEDIATE EFFECT ON CURRENT POLICY.—  
15 Section 654 of title 10, United States Code, shall remain  
16 in effect until such time that all of the requirements and  
17 certifications required by subsection (b) are met. If these  
18 requirements and certifications are not met, section 654  
19 of title 10, United States Code, shall remain in effect.

20 (d) BENEFITS.—Nothing in this section, or the  
21 amendments made by this section, shall be construed to  
22 require the furnishing of benefits in violation of section  
23 7 of title 1, United States Code (relating to the definitions  
24 of “marriage” and “spouse” and referred to as the “De-  
25 fense of Marriage Act”).

1 (e) NO PRIVATE CAUSE OF ACTION.—Nothing in this  
2 section, or the amendments made by this section, shall be  
3 construed to create a private cause of action.

4 (f) TREATMENT OF 1993 POLICY.—

5 (1) TITLE 10.—Upon the effective date estab-  
6 lished by subsection (b), chapter 37 of title 10,  
7 United States Code, is amended—

8 (A) by striking section 654; and

9 (B) in the table of sections at the begin-  
10 ning of such chapter, by striking the item relat-  
11 ing to section 654.

12 (2) CONFORMING AMENDMENT.—Upon the ef-  
13 fective date established by subsection (b), section  
14 571 of the National Defense Authorization Act for  
15 Fiscal Year 1994 (10 U.S.C. 654 note) is amended  
16 by striking subsections (b), (c), and (d).

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