H. R. 3900

To amend title 38, United States Code, to establish certain rights for spouses of members of the uniformed services.

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 2023

Mr. DELUZIO introduced the following bill; which was referred to the Committee on Veterans’ Affairs

A BILL

To amend title 38, United States Code, to establish certain rights for spouses of members of the uniformed services.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF CERTAIN RIGHTS FOR
SPOUSES OF MEMBERS OF THE UNIFORMED
SERVICES.

(a) Definition.—Section 4303 of title 38, United
States Code, is amended—

(1) by redesignating paragraphs (14) through
(17) as paragraphs (15) through (18), respectively;

and
(2) by inserting, after paragraph (13), the following new paragraph:

“(14) The term ‘spouse’ means husband or wife, as the case may be.”.

(b) TERMINATION OF ENTITLEMENT.—Section 4304 of title 38, United States Code, is amended—

(1) by inserting “(a)” before “A person’s”;

(2) by adding at the end the following new subsection:

“(b) Except for reemployment rights under section 4312 of this title, a person’s entitlement to the benefits of this chapter by reason of service in the uniformed services by the spouse of such person terminates on the date of issuance, by a court of competent jurisdiction, of a final decree of divorce, dissolution, or annulment, regarding such person and such spouse.”; and

(3) in the heading, by striking “Character of service” and inserting “Termination of entitlement”.

(c) DISCRIMINATION PROHIBITED.—Section 4311 of title 38, United States Code, is amended—

(1) in subsection (a), by inserting “, or the spouse of such a person,” after “uniformed service”; and
(2) in the heading, by inserting “spouses of such persons;” after “and”.

(d) REEMPLOYMENT RIGHTS.—Section 4312 of title 38, United States Code, is amended as follows:

(1) In subsection (a)—

(A) in the matter preceding paragraph (1), by inserting “, or by reason of such service by the spouse of such person,” after “uniformed services”;

(B) in paragraph (2), by striking “service in the uniformed services does not exceed five years; and” and inserting “such service does not exceed five years;”;

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting, after paragraph (2), the following new paragraph (3):

“(3) in the case of a person whose absence is by reason of such service by the spouse of such person, the length of the absence does not exceed two consecutive years; and”.

(2) In subsection (c)—

(A) in the matter preceding paragraph (1)—
(i) by striking “who is absent from a position of employment by reason of service in the uniformed services if such person’s cumulative period of service in the uniformed services” and inserting “described in such subsection if the cumulative period of absence”; and

(ii) by striking “any such period of service shall not include any service” and inserting “any such period of absence shall not include any absence”; 

(B) in paragraph (1), by inserting “for the member of the uniformed services” before “to complete”; 

(C) in paragraph (2), by inserting “(or the spouse of such person)” after “such person” both places it appears; 

(D) in paragraph (3), by inserting “for service” before “performed as required”; and 

(E) in paragraph (4), in the matter preceding subparagraph (A)—

(i) by striking “performed”; and

(ii) by inserting “(or the spouse of such a member)” after “uniformed service”.

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(3) In subsection (d)(1)—

(A) in subparagraph (B), by striking “; or” and inserting a semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting, after subparagraph (B), the following new subparagraph (C):

“(C) in the case of a person whose absence from employment is by reason of service in the uniformed services by the spouse of such person, such person obtains new employment.”.

(4) In subsection (e)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”;

and

(ii) in subparagraph (D), by inserting “(or the spouse of such a person)” after “180 days”; 

(B) in paragraph (2)(A), by inserting “, or the spouse of such a person,” before “shall”; 

(C) by redesignating paragraph (3) as paragraph (4); and
(D) by inserting, after paragraph (2), the following new paragraph (3):

“(3) In the case of a person absent from employment by reason of service in the uniformed services by the spouse of such person, if such person ceases to be married to such spouse—

“(A) by reason of the death of such spouse, such person shall notify the employer of such person of the person’s intent to return to a position of employment with such employer not later than two years after such death; or

“(B) for any reason other than the death of such spouse, such person shall notify the employer of such person of the person’s intent to return to a position of employment with such employer not later than 30 days after a court of competent jurisdiction issues a final decree of divorce, dissolution, or annulment.”.

(5) In subsection (h), by striking “person’s training or service” and inserting “person’s (or the person’s spouse’s) training or service”.

(6) In the heading, by striking “of persons who serve in the uniformed services”.

(e) REEMPLOYMENT POSITIONS.—Section 4313(a)(2) of title 38, United States Code, is amended
in the matter preceding subparagraph (A) by inserting ``(or whose spouse’s)'' after ``(whose''.

(f) **Reemployment by the Federal Government.**—Section 4314 of title 38, United States Code, is amended by inserting ``(or the spouse of such person)'' before ``entered'' both places it appears.

(g) **Reemployment by Certain Federal Agencies.**—Section 4315(b) of title 38, United States Code, is amended by inserting ``; and the spouses of such persons,'' after ``uniformed services''.

(h) **Rights, Benefits, and Obligations of Spouses Absent From Employment for Service in a Uniformed Service.**—Section 4316 of title 38, United States Code, is amended—

(1) in subsection (a), by inserting ``(by such person or the spouse of such person,'' after ``(of service'');

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ``in the uniformed services'' and inserting ``described in subsection (a)'';
(ii) in subparagraph (A), by striking “while performing” and inserting “during”; and

(iii) in subparagraph (B), by striking “while such person performs” and inserting “during”;  

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clause (i), by striking “in the uniformed services” and inserting “described in subsection (a)”;

(II) in clause (ii), by striking “service in the uniformed services” and inserting “such service”; and

(ii) in subparagraph (B), by striking “service in the uniformed services” and inserting “such service”; and

(C) in paragraph (3), by striking “while serving in the uniformed services” and inserting “during service described in subsection (a)”; 

(3) in subsection (c), by striking “person’s period of service” both places it appears and inserting “period of service described in subsection (a)”;
(4) in subsection (d), by striking “in the uniformed services” and inserting “described in subsection (a)”;
and

(5) in the heading, by striking “for” and inserting “due to”.

(i) Health Plans.—Section 4317 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting “by such person or the spouse of such person” after “uniformed services”;

(B) in paragraph (2), by striking “performs service in the uniformed services” and inserting “is absent from such position of employment by reason of service described in subsection (a)”;
and

(C) in paragraph (3)(B)(ii), by striking “served by the person in the uniformed services” and inserting “of service described in subsection (a)”;

(2) in subsection (b)(1), by striking “in the uniformed services” and inserting “described in subsection (a)”.

(j) Employee Pension Benefit Plans.—Section 4318 of title 38, United States Code, is amended—
(1) in subsection (a)(2)—

   (A) in subparagraph (A), by striking “periods of service in the uniformed services” and inserting “periods of absence from employment described in section 4312 of this title”; and

   (B) in subparagraph (B), by striking “period served by a person in the uniformed services” and inserting “such period of absence”;

(2) in subsection (b)—

   (A) in paragraph (1)—

      (i) in the matter preceding subparagraph (A)—

         (I) by striking “period of service” both places it appears and inserting “such period”; and

         (II) by striking “service in the uniformed services” and inserting “a period of absence”; and

      (ii) in subparagraph (B)(i), by striking “period served by the person in the uniformed services” and inserting “period of absence”;

   (B) in paragraph (2)—

      (i) by striking “period of service” and inserting “period of absence”; and
(ii) by striking “service in the uniformed services” and inserting “absence”; and

(C) in paragraph (3), by striking “period of service” both places it appears and inserting “period of absence”.

(k) Training for Federal Executive Agency Human Resources Personnel on Employment and Reemployment Rights and Limitations.—Section 4318(a) of title 38, United States Code, is amended by inserting “(and the spouses of such members)” after “members” both places it appears.

(l) Technical Amendments.—The table of sections at the beginning of chapter 43 of title 38, United States Code, is amended as follows:

(1) By striking the item relating to section 4304 and inserting the following:

“4304. Termination of entitlement.”.

(2) By striking the item relating to section 4311 and inserting the following:

“4311. Discrimination against persons who serve in the uniformed services and spouses of such persons; acts of reprisal prohibited.”.

(3) By striking the item relating to section 4312 and inserting the following:

“4312. Reemployment rights.”.
(4) By striking the item relating to section 4316 and inserting the following:

“4316. Rights, benefits, and obligations of persons absent from employment due to service in a uniformed service.”.