

Leach	Pappas	Skelton
Levin	Parker	Slaughter
Lewis (CA)	Pascrell	Smith (MI)
Lewis (GA)	Pastor	Smith (NJ)
Lewis (KY)	Paul	Smith (OR)
Linder	Paxon	Smith (TX)
Livingston	Payne	Smith, Adam
LoBiondo	Pease	Smith, Linda
Lofgren	Pelosi	Snowbarger
Lowe	Peterson (MN)	Snyder
Lucas	Peterson (PA)	Solomon
Luther	Petri	Souder
Maloney (CT)	Pickering	Spence
Manton	Pickett	Spratt
Manzullo	Pitts	Stabenow
Markey	Pombo	Stearns
Martinez	Pomeroy	Stenholm
Mascara	Porter	Stokes
Matsui	Portman	Strickland
McCarthy (MO)	Poshard	Stump
McCarthy (NY)	Price (NC)	Stupak
McCollum	Quinn	Sununu
McCrery	Radanovich	Talent
McDade	Rahall	Tanner
McDermott	Ramstad	Tauscher
McGovern	Rangel	Tauzin
McHale	Redmond	Taylor (MS)
McHugh	Regula	Taylor (NC)
McInnis	Reyes	Thomas
McIntyre	Riggs	Thompson
McKeon	Riley	Thornberry
McKinney	Rivers	Thune
McNulty	Rodriguez	Thurman
Meehan	Roemer	Tiahrt
Meek	Rogan	Tierney
Menendez	Rogers	Torres
Metcalf	Rohrabacher	Towns
Mica	Ros-Lehtinen	Traficant
Millender-	Rothman	Turner
McDonald	Roukema	Upton
Miller (CA)	Roybal-Allard	Velazquez
Miller (FL)	Royce	Vento
Minge	Rush	Visclosky
Mink	Ryun	Walsh
Moakley	Salmon	Wamp
Molinari	Sanchez	Waters
Moran (KS)	Sanders	Watkins
Moran (VA)	Sandlin	Watt (NC)
Morella	Sanford	Watts (OK)
Murtha	Sawyer	Waxman
Myrick	Saxton	Weldon (FL)
Neal	Scarborough	Weldon (PA)
Nethercutt	Schaffer, Bob	Weller
Neumann	Scott	Wexler
Ney	Sensenbrenner	Weygand
Northup	Serrano	White
Norwood	Sessions	Whitfield
Nussle	Shadegg	Wicker
Oberstar	Shaw	Wise
Obey	Shays	Wolf
Olver	Sherman	Woolsey
Ortiz	Shimkus	Wynn
Owens	Shuster	Young (AK)
Oxley	Sisisky	Young (FL)
Packard	Skaggs	
Pallone	Skeen	

NOT VOTING—18

Barrett (WI)	Lipinski	Sabo
Blunt	Maloney (NY)	Schaefer, Dan
Cox	McIntosh	Schiff
Eshoo	Mollohan	Schumer
Gordon	Nadler	Stark
Kilpatrick	Pryce (OH)	Yates

So the amendment was agreed to.

71.26 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. TALENT:

Strike out section 568 (page 192, line 9, through page 201, line 9) and insert in lieu thereof the following:

SEC. 568. IMPROVEMENT OF MISSING PERSONS AUTHORITIES APPLICABLE TO DEPARTMENT OF DEFENSE.

(a) APPLICABILITY TO DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES AND CONTRACTOR EMPLOYEES.—(1) Section 1501 of title 10, United States Code, is amended—

(A) by striking out subsection (c) and inserting in lieu thereof the following:

“(c) COVERED PERSONS.—Section 1502 of this title applies in the case of the following persons:

“(1) Any member of the armed forces on active duty who becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for.

“(2)(A) Any other person who is a citizen of the United States and is described in subparagraph (B) who serves with or accompanies the armed forces in the field under orders and becomes involuntarily absent as a result of a hostile action, or under circumstances suggesting that the involuntary absence is a result of a hostile action, and whose status is undetermined or who is unaccounted for.

“(B) A person described in this subparagraph is any of the following:

“(i) A civilian officer or employee of the Department of Defense.

“(ii) An employee of a contractor of the Department of Defense.

“(iii) An employee of a United States firm licensed by the United States under section 38 of the Arms Export Control Act (22 U.S.C. 2778) to perform duties under contract with a foreign government involving military training of the military forces of that government in accordance with policies of the Department of Defense.”; and

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

“(f) SECRETARY CONCERNED.—In this chapter, the term ‘Secretary concerned’ includes—

“(1) in the case of a person covered by clause (i) of subsection (c)(2)(B), the Secretary of the military department or head of the element of the Department of Defense employing the employee;

“(2) in the case of a person covered by clause (ii) of subsection (c)(2)(B), the Secretary of the military department or head of the element of the Department of Defense contracting with the contractor; and

“(3) in the case of a person covered by clause (iii) of subsection (c)(2)(B), the Secretary of Defense.”.

(2) Section 1503(c) of such title is amended—

(A) in paragraph (1), by striking out “one military officer” and inserting in lieu thereof “one individual described in paragraph (2)”;

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(C) by inserting after paragraph (1) the following new paragraph (2):

“(2) An individual referred to in paragraph (1) is the following:

“(A) A military officer, in the case of an inquiry with respect to a member of the armed forces.

“(B) A civilian, in the case of an inquiry with respect to a civilian employee of the Department of Defense or of a contractor of the Department of Defense.”.

(3) Section 1504(d) of such title is amended—

(A) in paragraph (1), by striking out “who are” and all that follows in that paragraph and inserting in lieu thereof “as follows:

“(A) In the case of a board that will inquire into the whereabouts and status of one or more members of the armed forces (and no civilians described in subparagraph (B)), the board shall be composed of officers having the grade of major or lieutenant commander or above.

“(B) In the case of a board that will inquire into the whereabouts and status of one or more civilian employees of the Department of Defense or contractors of the Department of Defense (and no members of the armed forces), the board shall be composed of—

“(i) not less than three employees of the Department of Defense whose rate of annual pay is equal to or greater than the rate of

annual pay payable for grade GS-13 of the General Schedule under section 5332 of title 5; and

“(ii) such members of the armed forces as the Secretary considers advisable.

“(C) In the case of a board that will inquire into the whereabouts and status of both one or more members of the armed forces and one or more civilians described in subparagraph (B)—

“(i) the board shall include at least one officer described in subparagraph (A) and at least one employee of the Department of Defense described in subparagraph (B)(i); and

“(ii) the ratio of such officers to such employees on the board shall be roughly proportional to the ratio of the number of members of the armed forces who are subjects of the board’s inquiry to the number of civilians who are subjects of the board’s inquiry.”; and

(B) in paragraph (4), by striking out “section 1503(c)(3)” and inserting in lieu thereof “section 1503(c)(4)”.

(4) Paragraph (1) of section 1513 of such title is amended to read as follows:

“(1) The term ‘missing person’ means—

“(A) a member of the armed forces on active duty who is in a missing status; or

“(B) a civilian employee of the Department of Defense or an employee of a contractor of the Department of Defense who serves with or accompanies the armed forces in the field under orders and who is in a missing status.

Such term includes an unaccounted for person described in section 1509(b) of this title, under the circumstances specified in the last sentence of section 1509(a) of this title.”.

(b) REPORT ON PRELIMINARY ASSESSMENT OF STATUS.—(1) Section 1502 of such title is amended—

(A) in subsection (a)(2)—

(i) by striking out “10 days” and inserting in lieu thereof “48 hours”; and

(ii) by striking out “Secretary concerned” and inserting in lieu thereof “theater component commander with jurisdiction over the missing person”;

(B) in subsection (a), as amended by subparagraph (A)—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(ii) by inserting “(1)” after “COMMANDER.—”; and

(iii) by adding at the end the following new paragraph:

“(2) However, if the commander determines that operational conditions resulting from hostile action or combat constitute an emergency that prevents timely reporting under paragraph (1)(B), the initial report should be made as soon as possible, but in no case later than ten days after the date on which the commander receives such information under paragraph (1).”;

(C) by redesignating subsection (b) as subsection (c);

(D) by inserting after subsection (a), as amended by subparagraphs (A) and (B), the following new subsection (b):

“(b) TRANSMISSION THROUGH THEATER COMPONENT COMMANDER.—Upon reviewing a report under subsection (a) recommending that a person be placed in a missing status, the theater component commander shall ensure that all necessary actions are being taken, and all appropriate assets are being used, to resolve the status of the missing person. Not later than 14 days after receiving the report, the theater component commander shall forward the report to the Secretary of Defense or the Secretary concerned in accordance with procedures prescribed under section 1501(b) of this title. The theater component commander shall include with such report a certification that all necessary actions are being taken, and all appropriate assets are being used, to resolve the status of the missing person.”; and

(E) in subsection (c), as redesignated by subparagraph (C), by adding at the end the following new sentence: "The theater component commander through whom the report with respect to the missing person is transmitted under subsection (b) shall ensure that all pertinent information relating to the whereabouts and status of the missing person that results from the preliminary assessment or from actions taken to locate the person is properly safeguarded to avoid loss, damage, or modification."

(2) Section 1503(a) of such title is amended by striking out "section 1502(a)" and inserting in lieu thereof "section 1502(b)".

(3) Section 1504 of such title is amended by striking out "section 1502(a)(2)" in subsections (a), (b), and (e)(1) and inserting in lieu thereof "section 1502(a)".

(4) Section 1513 of such title is amended by adding at the end the following new paragraph:

"(8) The term 'theater component commander' means, with respect to any of the combatant commands, an officer of any of the armed forces who (A) is commander of all forces of that armed force assigned to that combatant command, and (B) is directly subordinate to the commander of the combatant command."

(c) FREQUENCY OF SUBSEQUENT REVIEWS.—Subsection (b) of section 1505 of such title is amended to read as follows:

"(b) FREQUENCY OF SUBSEQUENT REVIEWS.—(1) In the case of a missing person who was last known to be alive or who was last suspected of being alive, the Secretary shall appoint a board to conduct an inquiry with respect to a person under this subsection—

"(A) on or about three years after the date of the initial report of the disappearance of the person under section 1502(a) of this title; and

"(B) not later than every three years thereafter.

"(2) In addition to appointment of boards under paragraph (1), the Secretary shall appoint a board to conduct an inquiry with respect to a missing person under this subsection upon receipt of information that could result in a change of status of the missing person. When the Secretary appoints a board under this paragraph, the time for subsequent appointments of a board under paragraph (1)(B) shall be determined from the date of the receipt of such information.

"(3) The Secretary is not required to appoint a board under paragraph (1) with respect to the disappearance of any person—

"(A) more than 30 years after the initial report of the disappearance of the missing person required by section 1502(a) of this title; or

"(B) if, before the end of such 30-year period, the missing person is accounted for."

(d) INFORMATION TO ACCOMPANY RECOMMENDATION OF STATUS OF DEATH.—Section 1507(b) of such title is amended adding at the end the following new paragraphs:

"(3) A description of the location of the body, if recovered.

"(4) If the body has been recovered and is not identifiable through visual means, a certification by a practitioner of an appropriate forensic science that the body recovered is that of the missing person."

(e) MISSING PERSON'S COUNSEL.—(1) Sections 1503(f)(1) and 1504(f)(1) of such title are amended by adding at the end the following: "The identity of counsel appointed under this paragraph for a missing person shall be made known to the missing person's primary next of kin and any other previously designated person of the person."

(2) Section 1503(f)(4) of such title is amended by adding at the end the following: "The primary next of kin of a missing person and any other previously designated person of the missing person shall have the right to

submit information to the missing person's counsel relative to the disappearance or status of the missing person."

(3) Section 1505(c)(1) is amended by adding at the end the following: "The Secretary concerned shall appoint counsel to represent any such missing person to whom such information may be related. The appointment shall be in the same manner, and subject to the same provisions, as an appointment under section 1504(f)(1) of this title."

(f) SCOPE OF PREENACTMENT REVIEW.—(1) Section 1509 of such title is amended by striking out in subsection (a) and inserting in lieu thereof the following:

"(a) REVIEW OF STATUS.—(1) If new information is found or received that may be related to one or more unaccounted for persons described in subsection (b) (whether or not such information specifically relates (or may specifically relate) to any particular such unaccounted for person), that information shall be provided to the Secretary of Defense. Upon receipt of such information, the Secretary shall ensure that the information is treated under paragraphs (2) and (3) of section 1505(c) of this title and under section 1505(d) of this title in the same manner as information received under paragraph (1) of section 1505(c) of this title. For purposes of the applicability of other provisions of this chapter in such a case, each such unaccounted for person to whom the new information may be related shall be considered to be a missing person.

"(2) The Secretary concerned shall appoint counsel to represent each such unaccounted for person to whom the new information may be related. The appointment shall be in the same manner, and subject to the same provisions, as an appointment under section 1504(f)(1) of this title.

"(3) For purposes of this subsection, new information is information that—

"(A) is found or received after the date of the enactment of the the National Defense Authorization Act for Fiscal Year 1998 by a United States intelligence agency, by a Department of Defense agency, or by a person specified in section 1504(g) of this title; or

"(B) is identified after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998 in records of the United States as information that could be relevant to the case of one or more unaccounted for persons described in subsection (b)."

(2) Such section is further amended by adding at the end the following new subsection:

"(d) ESTABLISHMENT OF PERSONNEL FILES FOR KOREAN CONFLICT CASES.—The Secretary of Defense shall ensure that a personnel file is established for each unaccounted for person who is described in subsection (b)(1). Each such file shall be handled in accordance with, and subject to the provisions of, section 1506 of this title in the same manner as applies to the file of a missing person."

(g) WITHHOLDING OF CLASSIFIED INFORMATION.—Section 1506(b) of such title is amended—

(1) by inserting "(1)" before "The Secretary";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following:

"(2) If classified information withheld under this subsection refers to one or more unnamed missing persons, the Secretary shall ensure that notice of that withheld information, and notice of the date of the most recent review of the classification of that withheld information, is made reasonably accessible to family members of missing persons."

(h) WITHHOLDING OF PRIVILEGED INFORMATION.—Section 1506(d) of such title is amended—

(1) in paragraph (2)—

(A) by striking out "non-derogatory" both places it appears in the first sentence;

(B) by inserting "or about unnamed missing persons" in the first sentence after "the debriefing report";

(C) by striking out "the missing person" in the second sentence and inserting in lieu thereof "each missing person named in the debriefing report"; and

(D) by adding at the end the following new sentence: "Any information contained in the extract of the debriefing report that pertains to unnamed missing persons shall be made reasonably accessible to family members of missing persons."; and

(2) in paragraph (3)—

(A) by inserting ", or part of a debriefing report," after "a debriefing report"; and

(B) by adding at the end the following new sentence: "Whenever the Secretary withholds a debriefing report, or part of a debriefing report, containing information on unnamed missing persons from accessibility to families of missing persons under this section, the Secretary shall ensure that notice that the withheld debriefing report exists is made reasonably accessible to family members of missing persons."

It was decided in the { Yeas 415
affirmative } Nays 2

¶71.27	[Roll No. 226]	
	AYES—415	
Abercrombie	Christensen	Flake
Ackerman	Clay	Foglietta
Aderholt	Clayton	Foley
Allen	Clement	Forbes
Andrews	Clyburn	Ford
Archer	Coble	Fowler
Armey	Coburn	Fox
Bachus	Collins	Frank (MA)
Baessler	Combest	Franks (NJ)
Baker	Condit	Frelinghuysen
Baldacci	Conyers	Frost
Ballenger	Cook	Furse
Barcia	Cooksey	Gallegly
Barr	Costello	Ganske
Barrett (NE)	Coyne	Gejdenson
Bartlett	Cramer	Gekas
Barton	Crane	Gephardt
Bass	Crapo	Gibbons
Bateman	Cubin	Gilchrest
Becerra	Cummings	Gillmor
Bentsen	Cunningham	Gilman
Bereuter	Danner	Gonzalez
Berman	Davis (FL)	Goode
Berry	Davis (IL)	Goodlatte
Bilbray	Davis (VA)	Goodling
Bilirakis	Deal	Goss
Bishop	DeFazio	Graham
Blagojevich	DeGette	Granger
Bliley	Delahunt	Green
Blumenauer	DeLauro	Greenwood
Boehlert	DeLay	Gutierrez
Boehner	Dellums	Gutknecht
Bonilla	Deutsch	Hall (OH)
Bonior	Diaz-Balart	Hall (TX)
Bono	Dickey	Hamilton
Borski	Dicks	Hansen
Boswell	Dingell	Harman
Boucher	Dixon	Hastert
Boyd	Doggett	Hastings (FL)
Brady	Dooley	Hastings (WA)
Brown (CA)	Doolittle	Hayworth
Brown (FL)	Doyle	Hefley
Brown (OH)	Dreier	Hefner
Bryant	Duncan	Henger
Bunning	Dunn	Hill
Burr	Edwards	Hilleary
Burton	Ehlers	Hilliard
Buyer	Ehrlich	Hinchey
Callahan	Emerson	Hinojosa
Calvert	Engel	Hobson
Camp	English	Hoekstra
Campbell	Ensign	Holden
Canady	Etheridge	Hooley
Cannon	Evans	Horn
Capps	Everett	Hostettler
Cardin	Ewing	Houghton
Carson	Farr	Hoyer
Castle	Fattah	Hulshof
Chabot	Fawell	Hunter
Chambliss	Fazio	Hutchinson
Chenoweth	Filner	Hyde