

103^D CONGRESS
1ST SESSION

H. R. 2067

To amend title 10, United States Code, to authorize the Secretaries of the military departments to provide temporary transitional and indemnity compensation payments to the dependents of a member of the Armed Forces who is separated from the Armed Forces following conviction for an offense involving the abuse of one of those dependents, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 1993

Mr. KYL (for himself and Mrs. FOWLER) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to authorize the Secretaries of the military departments to provide temporary transitional and indemnity compensation payments to the dependents of a member of the Armed Forces who is separated from the Armed Forces following conviction for an offense involving the abuse of one of those dependents, 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,*

1 **SECTION 1. INDEMNITY COMPENSATION FOR DEPENDENTS**
2 **OF MEMBERS OF THE ARMED FORCES DIS-**
3 **CHARGED FOR DEPENDENT ABUSE.**

4 (a) IN GENERAL.—(1) Chapter 53 of title 10, United
5 States Code, is amended by adding at the end the follow-
6 ing new section:

7 **“§ 1058. Abused dependents: payment of transitional**
8 **and indemnity compensation**

9 “(a) AUTHORITY TO PAY COMPENSATION.—If a
10 member of the armed forces is separated from the armed
11 forces as described in subsection (b), the Secretary of the
12 military department concerned may pay monthly transi-
13 tional and indemnity compensation in accordance with this
14 section to dependents or former dependents of the member
15 as specified in subsection (d).

16 “(b) SEPARATIONS COVERED.—(1) This section ap-
17 plies in the case of a member of the armed forces on active
18 duty for a period of more than 30 days—

19 “(A) who is convicted of a dependent-abuse of-
20 fense (as defined in subsection (c)) and whose con-
21 viction results in the member being—

22 “(i) administratively discharged with a
23 general discharge or under other than honor-
24 able conditions; or

25 “(ii) discharged or dismissed from the
26 armed forces by sentence of a court-martial; or

1 “(B) against whom court-martial charges were
2 preferred for a dependent-abuse offense and who is
3 discharged in lieu of trial by court-martial in that
4 case upon approval of the member’s request or appli-
5 cation for discharge or, in the case of an officer, for
6 resignation.

7 “(2) For purposes of this section, a member of the
8 armed forces who is incarcerated by sentence of a court-
9 martial with total forfeiture of pay and allowances shall
10 be treated as a former member dismissed or discharged
11 by sentence of a court-martial.

12 “(c) DEPENDENT-ABUSE OFFENSES.—(1) For pur-
13 poses of this section, a dependent-abuse offense is conduct
14 by an individual while a member of the armed forces on
15 active duty for a period of more than 30 days—

16 “(A) that involves abuse of the spouse or a de-
17 pendent child of the member; and

18 “(B) that is a criminal offense specified in reg-
19 ulations prescribed by the Secretary of Defense
20 under paragraph (2).

21 “(2) The Secretary of Defense shall prescribe by reg-
22 ulation the criminal offenses, or categories of offenses,
23 under the Uniform Code of Military Justice (chapter 47
24 of this title), Federal criminal law, the criminal laws of
25 the States and other jurisdictions of the United States,

1 and the laws of other nations that are to be considered
2 to be dependent-abuse offenses for the purposes of this
3 section.

4 “(d) RECIPIENTS OF PAYMENTS.—In any case of a
5 separation from active duty as described in subsection (b)
6 in which the Secretary of the military department con-
7 cerned determines that transitional and indemnity com-
8 pensation should be paid under this section, the Secretary
9 shall pay such compensation to dependents or former de-
10 pendents of the former member as follows:

11 “(1) If the former member was married at the
12 time of the commission of the dependent-abuse of-
13 fense resulting in the separation, such compensation
14 shall (except as otherwise provided in this sub-
15 section) be paid to the spouse or former spouse to
16 whom the member was married at that time.

17 “(2) If there is a spouse or former spouse who
18 (but for subsection (g)) would be eligible for com-
19 pensation under this section and if there is a de-
20 pendent child of the former member who does not
21 reside in the same household as that spouse or
22 former spouse, such compensation shall be paid to
23 each such dependent child of the former member
24 who does not reside in that household.

1 “(3) If there is no spouse or former spouse who
2 is (or but for subsection (g) would be) eligible under
3 paragraph (1), such compensation shall be paid to
4 the dependent children of the former member.

5 “(4) For purposes of paragraphs (2) and (3),
6 an individual’s status as a ‘dependent child’ shall be
7 determined as of the date on which the member is
8 convicted of the dependent-abuse offense or, in a
9 case described in subsection (b)(1)(B), as of the date
10 on which the member is discharged.

11 “(e) COMMENCEMENT AND DURATION OF PAY-
12 MENT.—(1) Payment of transitional and indemnity com-
13 pensation under this section shall commence as of the date
14 of the discontinuance of the member’s pay and allowances
15 pursuant to the separation or sentencing of the member.

16 “(2) Payment of such compensation shall terminate
17 at the end of the dependents’ transitional period. The de-
18 pendents’ transitional period is the period (A) beginning
19 on the date on which the member is convicted of the de-
20 pendent-abuse offense or, in a case described in subsection
21 (b)(1)(B), on the date on which the member is discharged,
22 and (B) ending at the end of the transitional period deter-
23 mined by the Secretary concerned. Such transitional pe-
24 riod may not exceed 36 months, except that if the length
25 of the member’s service on active duty was less than 36

1 months, the transitional period may not exceed the length
2 of such service.

3 “(f) AMOUNT OF PAYMENT.—(1) Payment to a
4 spouse or former spouse under this section for any month
5 shall be at the rate in effect for that month for the pay-
6 ment of dependency and indemnity compensation under
7 section 1311(a)(1) of title 38.

8 “(2) If a spouse or former spouse to whom compensa-
9 tion is paid under this section has custody of a dependent
10 child or children of the member, the amount of such com-
11 pensation paid for any month shall be increased for each
12 such dependent child by the amount in effect for that
13 month under section 1311(b) of title 38.

14 “(3) If compensation is paid under this section to a
15 child or children pursuant to subsection (d)(2) or (d)(3),
16 such compensation shall be paid in equal shares, with the
17 amount of such compensation for any month determined
18 in accordance with the rates in effect for that month under
19 section 1313 of title 38.

20 “(g) FORFEITURE PROVISIONS.—(1) If a former
21 spouse receiving compensation under this section remar-
22 ries, the Secretary shall terminate payment of such com-
23 pensation, effective as of the date of such marriage. The
24 Secretary may not renew payment of compensation under

1 this section to such former spouse in the event of the ter-
2 mination of such subsequent marriage.

3 “(2) If after the separation of the former member
4 as described in subsection (b) the former member resides
5 in the same household as the spouse or former spouse,
6 or dependent child, to whom compensation is otherwise
7 payable under this section, the Secretary shall terminate
8 payment of such compensation, effective as of the time the
9 former member begins residing in such household. Com-
10 pensation paid for a period after the former member’s sep-
11 aration, but before the former member resides in the
12 household, shall not be recouped. If the former member
13 subsequently ceases to reside in such household before the
14 end of the period of eligibility for such payments, the Sec-
15 retary may not resume such payments.

16 “(3) In a case in which the victim of the dependent-
17 abuse offense resulting in the separation of the former
18 member was a dependent child, the Secretary concerned
19 may not pay compensation under this section to a spouse
20 or former spouse who would otherwise be eligible to receive
21 such compensation if the Secretary determines (under reg-
22 ulations prescribed under subsection (i)) that the spouse
23 or former spouse was an active participant in the conduct
24 constituting the dependent-abuse offense.

1 “(h) COORDINATION OF BENEFITS.—The Secretary
2 concerned may not make payments to a spouse or former
3 spouse under both this section and section 1408(h)(1) of
4 this title. In the case of a spouse or former spouse for
5 whom a court order provides for payments by the Sec-
6 retary pursuant to section 1408(h)(1) of this title and to
7 whom the Secretary offers payments under this section,
8 the spouse or former spouse shall elect which to receive.

9 “(i) REGULATIONS.—The Secretary of each military
10 department shall prescribe regulations to carry out this
11 section with respect to members of the armed forces under
12 the jurisdiction of that Secretary. Such regulations shall
13 be as uniform as practicable and shall be subject to the
14 approval of the Secretary of Defense.

15 “(j) DEPENDENT CHILD DEFINED.—In this section,
16 the term ‘dependent child’, with respect to a member or
17 former member of the armed forces separated as described
18 in subsection (b), means an unmarried child, including an
19 adopted child or a stepchild, who was residing with the
20 member at the time of the dependent-abuse offense result-
21 ing in the separation of the former member and—

22 “(1) who is under 18 years of age;

23 “(2) who is 18 years of age or older and is in-
24 capable of self-support because of a mental or phys-
25 ical incapacity that existed before the age of 18 and

1 who is (or was at the time of the former member's
2 separation) dependent on the former member for
3 over one-half of the child's support; or

4 “(3) who is 18 years of age or older but less
5 than 23 years of age, is enrolled in a full-time course
6 of study in an institution of higher learning ap-
7 proved by the Secretary of Defense and who is (or
8 was at the time of the former member's separation)
9 dependent on the former member for over one-half
10 of the child's support.”.

11 (2) The table of sections at the beginning of such
12 chapter is amended by inserting after the item relating
13 to section 1056 the following new item:

“1058. Abused dependents: payment of transitional and indemnity compensa-
tion.”.

14 (b) EFFECTIVE DATE.—(1) Section 1058 of title 10,
15 United States Code, as added by subsection (a), shall
16 apply with respect to former members of the Armed
17 Forces discharged or dismissed as described in subsection
18 (b) of such section after the date that is three years before
19 the date of the enactment of this Act.

20 (2) Notwithstanding paragraph (1), no payment may
21 be made under such section 1058 with respect to any pe-
22 riod before the date of the enactment of this Act.

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