

104TH CONGRESS
2D SESSION

S. 2083

To amend title 18, United States Code, to set forth the civil jurisdiction of the United States for crimes committed by persons accompanying the Armed Forces outside of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 1996

Mr. DEWINE introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 18, United States Code, to set forth the civil jurisdiction of the United States for crimes committed by persons accompanying the Armed Forces outside of the United States, 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. PROHIBITION ON ACCRUAL OF PAY AND AL-**
4 **LOWANCES BY MEMBERS OF THE ARMED**
5 **FORCES WHO ARE CONFINED PENDING DIS-**
6 **HONORABLE DISCHARGE.**

7 (a) REVISION OF PROHIBITION.—

1 (1) IN GENERAL.—Section 804 of title 37,
 2 United States Code, is amended to read as follows:

3 **“§ 804. Prohibition on accrual of pay and allowances**
 4 **during confinement pending dishonor-**
 5 **able discharge**

6 “(a) PAY AND ALLOWANCES NOT TO ACCRUE.—A
 7 member of the Armed Forces sentenced by a court-martial
 8 to a dishonorable discharge is not entitled to pay and al-
 9 lowances for any period during which the member is in
 10 confinement after the adjournment of the court-martial
 11 that adjudged the sentence.

12 “(b) RESTORATION OF ENTITLEMENT.—If a sen-
 13 tence of a member of the Armed Forces to dishonorable
 14 discharge is disapproved, mitigated, changed, or set aside
 15 by an official authorized to do so, the prohibition in sub-
 16 section (a) shall cease to apply to the member on the basis
 17 of that sentence. In such cases, the member shall be enti-
 18 tled to receive the pay and allowances retroactive to the
 19 date of the sentence.”.

20 (2) CLERICAL AMENDMENT.—The item relating
 21 to section 804 in the table of sections at the begin-
 22 ning of chapter 15 of title 37, United States Code,
 23 is amended to read as follows:

“804. Prohibition on accrual of pay and allowances during confinement pending
 dishonorable discharge.”.

1 (b) PROSPECTIVE APPLICABILITY.—The amendment
 2 made by subsection (a)(1) shall not apply to pay periods
 3 beginning before the date of enactment of this Act.

4 **SEC. 2. CRIMINAL OFFENSES COMMITTED OUTSIDE THE**
 5 **UNITED STATES BY PERSONS ACCOMPANY-**
 6 **ING THE ARMED FORCES.**

7 (a) IN GENERAL.—Title 18, United States Code, is
 8 amended by inserting after chapter 211 the following new
 9 chapter:

10 **“CHAPTER 212—CRIMINAL OFFENSES**
 11 **COMMITTED OUTSIDE THE UNITED**
 12 **STATES**

“Sec.

“3261. Criminal offenses committed by persons formerly serving with, or presently employed by or accompanying, the Armed Forces outside the United States.

“3262. Delivery to authorities of foreign countries.

“3263. Regulations.

“3264. Definitions for chapter.

13 **“§ 3261. Criminal offenses committed by persons for-**
 14 **merly serving with, or presently em-**
 15 **ployed by or accompanying, the Armed**
 16 **Forces outside the United States**

17 “(a) IN GENERAL.—Whoever, while serving with, em-
 18 ployed by, or accompanying the Armed Forces outside of
 19 the United States, engages in conduct that would con-
 20 stitute an offense punishable by imprisonment for more
 21 than 1 year if the conduct had been engaged in within
 22 the special maritime and territorial jurisdiction of the

1 United States, shall be guilty of a like offense and subject
2 to a like punishment.

3 “(b) CONCURRENT JURISDICTION.—Nothing con-
4 tained in this chapter deprives courts-martial, military
5 commissions, provost courts, or other military tribunals of
6 concurrent jurisdiction with respect to offenders or of-
7 fenses that by statute or by the law of war may be tried
8 by courts-martial, military commissions, provost courts, or
9 other military tribunals.

10 “(c) ACTION BY FOREIGN GOVERNMENT.—No pros-
11 ecution may be commenced under this section if a foreign
12 government, in accordance with jurisdiction recognized by
13 the United States, has prosecuted or is prosecuting such
14 person for the conduct constituting such offense, except
15 upon the approval of the Attorney General of the United
16 States or the Deputy Attorney General of the United
17 States (or a person acting in either such capacity), which
18 function of approval shall not be delegated.

19 “(d) ARRESTS.—

20 “(1) LAW ENFORCEMENT PERSONNEL.—The
21 Secretary of Defense may designate and authorize
22 any person serving in a law enforcement position in
23 the Department of Defense to arrest outside of the
24 United States any person described in subsection (a)
25 if there is probable cause to believe that such person

1 engaged in conduct which constitutes a criminal of-
2 fense under subsection (a).

3 “(2) RELEASE TO CIVILIAN LAW ENFORCE-
4 MENT.—A person arrested under paragraph (1)
5 shall be released to the custody of civilian law en-
6 forcement authorities of the United States for re-
7 moval to the United States for judicial proceedings
8 in relation to conduct referred to in such paragraph
9 unless—

10 “(A) such person is delivered to authorities
11 of a foreign country under section 3262; or

12 “(B) such person has had charges brought
13 against him or her under chapter 47 of title 10
14 for such conduct.

15 **“§ 3262. Delivery to authorities of foreign countries**

16 “(a) IN GENERAL.—Any person designated and au-
17 thorized under section 3261(d) may deliver a person de-
18 scribed in section 3261(a) to the appropriate authorities
19 of a foreign country in which the person is alleged to have
20 engaged in conduct described in subsection (a) if—

21 “(1) the appropriate authorities of that country
22 request the delivery of the person to such country
23 for trial for such conduct as an offense under the
24 laws of that country; and

1 “(2) the delivery of such person to that country
 2 is authorized by a treaty or other international
 3 agreement to which the United States is a party.

4 “(b) DETERMINATION BY THE SECRETARY.—The
 5 Secretary of Defense shall determine which officials of a
 6 foreign country constitute appropriate authorities for pur-
 7 poses of this section.

8 **“§ 3263. Regulations**

9 “The Secretary of Defense shall issue regulations
 10 governing the apprehension, detention, and removal of
 11 persons under this chapter. Such regulations shall be uni-
 12 form throughout the Department of Defense.

13 **“§ 3264. Definitions for chapter**

14 “As used in this chapter—

15 “(1) the term ‘Armed Forces’ has the same
 16 meaning as in section 101(a)(4) of title 10;

17 “(2) a person is ‘employed by the Armed
 18 Forces outside of the United States’ if the person—

19 “(A) is employed as a civilian employee of
 20 the Department of Defense, as a Department of
 21 Defense contractor, or as an employee of a De-
 22 partment of Defense contractor;

23 “(B) is present or residing outside of the
 24 United States in connection with such employ-
 25 ment; and

1 “(C) is not a national of the host nation;
2 and

3 “(3) a person is ‘accompanying the Armed
4 Forces outside of the United States’ if the person—

5 “(A) is a dependent of a member of the
6 armed forces;

7 “(B) is a dependent of a civilian employee
8 of the Department of Defense; and

9 “(C) is residing with the member or civil-
10 ian employee outside of the United States.”.

11 (b) CLERICAL AMENDMENT.—The table of chapters
12 at the beginning of part II of title 18, United States Code,
13 is amended by inserting after the item relating to chapter
14 211 the following:

**“212. Criminal Offenses Committed Outside the United
States 3261”.**

15 **SEC. 3. MILITARY JUSTICE ACTIONS.**

16 (a) DEFINITION.—For purposes of this section, the
17 term “Director” means the Director of the Federal Bu-
18 reau of Investigation.

19 (b) RECORDS OF MILITARY JUSTICE ACTIONS.—At
20 the time that a member of the Armed Forces is discharged
21 from a period of service in the Armed Forces or is released
22 from a period of active duty service in the Armed Forces,
23 the Secretary of the military department having jurisdic-
24 tion of the armed force of the member shall transmit to

1 the Director a copy of records of any penal actions taken
2 against the member under chapter 47 of title 10, United
3 States Code (the Uniform Code of Military Justice), dur-
4 ing that period.

5 (c) DNA ANALYSIS.—

6 (1) SAMPLES REQUIRED.—Any person who is
7 convicted of a crime of a sexual nature under the
8 Uniform Code of Military Justice shall, prior to mili-
9 tary discharge, transmit to the Secretary of the mili-
10 tary department having jurisdiction of the armed
11 force of the member, a sample of blood, saliva, or
12 other specimen collected from that person necessary
13 to conduct DNA analysis consistent with established
14 procedures for DNA testing by the Director.

15 (2) TRANSMISSION TO FBI.—Each sample
16 transmitted under paragraph (1) shall be transmit-
17 ted by the Secretary described in that paragraph in
18 a timely manner to the Director for inclusion in the
19 Combined DNA Identification System (CODIS) of
20 the Federal Bureau of Investigation.

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