

118TH CONGRESS
1ST SESSION

S. 2863

To establish the Commission on Equity and Reconciliation in the Uniformed Services.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2023

Mr. BLUMENTHAL (for himself, Mr. BOOKER, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To establish the Commission on Equity and Reconciliation in the Uniformed Services.

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 “Commission on Equity
5 and Reconciliation in the Uniformed Services Act”.

6 **SEC. 2. ESTABLISHMENT AND DUTIES.**

7 (a) ESTABLISHMENT.—There is established the Com-
8 mission on Equity and Reconciliation in the Uniformed
9 Services (in this Act referred to as the “Commission”).

1 (b) DUTIES.—The Commission shall perform the fol-
2 lowing duties:

3 (1) Identify and compile a corpus of docu-
4 mentation on the policing of sexual orientation and
5 gender identity in the uniformed services, from the
6 beginning of World War II and onward. Such docu-
7 mentation shall include the following:

8 (A) Facts related to the history of policing
9 LGBTQ sexual orientation and gender identity
10 in the uniformed services.

11 (B) The effects of such policies on eligi-
12 bility for, and access to, benefits under laws ad-
13 ministered by the Secretary of Veterans Affairs
14 on servicemembers who were discharged due to
15 sexual orientation or gender identity.

16 (2) Hold public hearings in such cities of the
17 United States as it finds appropriate, and do com-
18 munity outreach and other public relations efforts in
19 order to advertise such hearings and the opportunity
20 to give testimony.

21 (3) Gather testimonies, written and oral, from
22 LGBTQ servicemembers and veterans about their
23 experiences, both anonymously and with names
24 given.

1 (4) Examine the impacts that discriminatory
2 policy and corresponding actions taken by the uni-
3 formed services had on the physical and mental
4 wellbeing of servicemembers.

5 (5) Examine lasting impacts (including psycho-
6 logical, financial, and professional) that policies of
7 the uniformed services have had on veterans and
8 servicemembers who were discharged due to their
9 sexual orientation and/or gender identity.

10 (6) Examine the disparate impact that policies
11 targeting sexual and gender minorities has had on
12 minority groups in the uniformed services, especially
13 racial minorities and women.

14 (7) Examine the impacts that policing of sexual
15 and gender minorities has had on individuals who do
16 not identify as LGBTQ but were nevertheless tar-
17 geted due to perceived sexual orientation or gender
18 identity.

19 (8) Recommend appropriate ways to educate
20 the American public about institutionalized and gov-
21 ernment-sanctioned discrimination.

22 (9) Recommend appropriate remedies to ad-
23 dress the findings of the Commission, including—

24 (A) how the Federal Government may offer
25 an apology for enforcing discrimination that led

1 to psychological, emotional, and physical harm
2 to servicemembers and their families;

3 (B) how discharge upgrades and amend-
4 ments of military records may be streamlined
5 through the Boards for Correction of Military
6 Records, including improving the transparency
7 and accessibility of records by the members of
8 the Armed Forces to whom they pertain;

9 (C) how the service of LGBTQ individuals
10 in the uniformed services may be made more
11 visible in materials distributed by the Secretary
12 of Defense and the Secretary of Veterans Af-
13 fairs;

14 (D) how diversity and inclusion policies of
15 the Department of Defense may be revised, in-
16 cluding how resources may be committed to di-
17 versity training;

18 (E) how healthcare and other benefits, fur-
19 nished by such Secretaries to members of the
20 uniformed services and veterans, will commit
21 more resources to meeting the needs of LGBTQ
22 patients, including improved data collection on
23 LGBTQ patients, mental health counseling, and
24 other medical necessities; and

1 (F) how the Federal government may ex-
2 amine the issue of burial rights denied to mem-
3 bers of the uniformed services and veterans who
4 were prematurely discharged due to the dis-
5 criminatory policies against them.

6 (10) The Commission shall submit a written re-
7 port of its findings to Congress not later than one
8 year after the date of the first meeting of the Com-
9 mission.

10 **SEC. 3. MEMBERSHIP.**

11 (a) IN GENERAL.—There shall be 15 members of the
12 Commission, who shall be appointed not later than 30
13 days after the date of the enactment of this Act, and as
14 follows:

15 (1) One member appointed by the Chair of the
16 Committee on Armed Services of the House of Rep-
17 resentatives.

18 (2) One member appointed by the Ranking
19 Member of the Committee on Armed Services of the
20 House of Representatives.

21 (3) One member appointed by the Chair of the
22 Committee on Veterans' Affairs of the House of
23 Representatives.

1 (4) One member appointed by the Ranking
2 Member of the Committee on Veterans' Affairs of
3 the House of Representatives.

4 (5) One member appointed by the Chair of the
5 Committee on Armed Services of the Senate.

6 (6) One member appointed by the Ranking
7 Member of the Committee on Armed Services of the
8 Senate.

9 (7) One member appointed by the Chair of the
10 Committee on Veterans' Affairs of the Senate.

11 (8) One member appointed by the Ranking
12 Member of the Committee on Veterans' Affairs of
13 the Senate.

14 (9) Two members appointed by the Secretary of
15 Defense.

16 (10) Two members appointed by the Secretary
17 of Veterans Affairs.

18 (11) One member appointed by the Secretary of
19 Homeland Security.

20 (12) One member appointed by the Secretary of
21 Commerce, for the purpose of representing the Na-
22 tional Oceanic and Atmospheric Administration.

23 (13) One member appointed by the Secretary of
24 Health and Human Services, for the purpose of rep-
25 resenting the Public Health Service.

1 (b) QUALIFICATIONS.—All members of the Commis-
2 sion shall be persons who are exceptionally qualified to
3 serve on the Commission by virtue of their education,
4 training, activism, or experience, particularly in the fields
5 of advocating for LGBTQ members of the uniformed serv-
6 ices.

7 (c) TERMS.—The term of office for members shall be
8 for the life of the Commission. A vacancy in the Commis-
9 sion shall not affect the powers of the Commission and
10 shall be filled in the same manner in which the original
11 appointment was made.

12 (d) FIRST MEETING.—The President shall call the
13 first meeting of the Commission not later than 30 days
14 after the later of the following:

15 (1) The date of the enactment of this Act.

16 (2) The date of the enactment of an Act that
17 makes appropriations to carry out this Act.

18 (e) QUORUM.—Eight members of the Commission
19 shall constitute a quorum, but a lesser number may hold
20 hearings.

21 (f) CHAIR AND VICE CHAIR.—The Commission shall
22 elect a Chair and Vice Chair from among its members.
23 The term of office for each shall be for the life of the
24 Commission.

25 (g) COMPENSATION.—

1 (1) IN GENERAL.—Each member of the Com-
2 mission may be compensated at a rate not to exceed
3 the daily equivalent of the annual rate of basic pay
4 in effect for a position at level IV of the Executive
5 Schedule under section 5315 of title 5, United
6 States Code, for each day during which that member
7 is engaged in the actual performance of the duties
8 of the Commission.

9 (2) FEDERAL EMPLOYEES.—A member of the
10 Commission who is a full-time officer or employee of
11 the United States or a Member of Congress shall re-
12 ceive no additional pay, allowances, or benefits by
13 reason of the member's service to the Commission.

14 (3) TRAVEL EXPENSES.—Each member shall
15 receive travel expenses, including per diem in lieu of
16 subsistence, in accordance with applicable provisions
17 under subchapter I of chapter 57 of title 5, United
18 States Code.

19 **SEC. 4. POWERS OF THE COMMISSION.**

20 (a) HEARINGS AND SESSIONS.—The Commission
21 may, for the purpose of carrying out the provisions of this
22 Act, hold such hearings and sit and act at such times and
23 at such places in the United States, and request the at-
24 tendance and testimony of such witnesses and the produc-
25 tion of such books, records, correspondence, memoranda,

1 papers, and documents, as the Commission considers ap-
2 propriate. The Commission may invoke the aid of an ap-
3 propriate United States district court to require, by sub-
4 poena or otherwise, such attendance, testimony, or pro-
5 duction.

6 (b) POWERS OF SUBCOMMITTEES AND MEMBERS.—
7 Any subcommittee or member of the Commission may, if
8 authorized by the Commission, take any action which the
9 Commission is authorized to take under this section.

10 (c) OBTAINING OFFICIAL DATA.—The Commission
11 may acquire directly from the head of any department,
12 agency, or instrumentality of the executive branch of the
13 Federal Government, available information which the
14 Commission considers useful in the discharge of its duties.
15 All departments, agencies, and instrumentalities of the ex-
16 ecutive branch of the Government shall cooperate with the
17 Commission with respect to such information and shall
18 furnish all information requested by the Commission to
19 the extent permitted by law.

20 **SEC. 5. ADMINISTRATIVE PROVISIONS.**

21 (a) STAFF.—The Commission may, without regard to
22 the civil service laws and regulations, appoint and fix the
23 compensation of such personnel as the Commission con-
24 siders appropriate.

1 (b) APPLICABILITY OF CERTAIN CIVIL SERVICE
2 LAWS.—The personnel of the Commission may be ap-
3 pointed without regard to the provisions of title, United
4 States Code, governing appointments in the competitive
5 service, and without regard to the provisions of chapter
6 51 and subchapter III of chapter 53 of such title, relating
7 to classification and General Schedule pay rates, except
8 that the rate of basic pay of any employee of the Commis-
9 sion may not exceed the rate of basic pay established for
10 a position at level V of the Executive Schedule under sec-
11 tion 5316 of such title.

12 (c) EXPERTS AND CONSULTANTS.—The Commission
13 may procure the services of experts and consultants in ac-
14 cordance with the provisions of section 3109(b) of title 5,
15 United States Code, but at rates for individuals not to
16 exceed the daily equivalent of the annual rate of basic pay
17 established for a position at level V of the Executive
18 Schedule under section 5316 of such title.

19 (d) ADMINISTRATIVE SUPPORT SERVICES.—The
20 Commission may enter into agreements with the Adminis-
21 trator of General Services for procurement of financial
22 and administrative services necessary for the discharge of
23 the duties of the Commission. Payment for such services
24 shall be made by reimbursement from funds of the Com-

1 mission in such amounts as may be agreed upon by the
2 Chairman of the Commission and the Administrator.

3 (e) CONTRACTS.—The Commission may—

4 (1) procure supplies, services, and property by
5 contract in accordance with applicable laws and reg-
6 ulations and to the extent or in such amounts as are
7 provided in appropriations Acts; and

8 (2) enter into contracts with departments,
9 agencies, and instrumentalities of the Federal Gov-
10 ernment, State agencies, and private firms, institu-
11 tions, and agencies, for the conduct of research or
12 surveys, the preparation of reports, and other activi-
13 ties necessary for the discharge of the duties of the
14 Commission, to the extent or in such amounts as are
15 provided in appropriations Acts.

16 **SEC. 6. TERMINATION.**

17 (a) IN GENERAL.—The Commission, and all the au-
18 thorities of this title, shall terminate 90 days after the
19 date on which the final report is submitted under section
20 2.

21 (b) ADMINISTRATIVE ACTIVITIES BEFORE TERMI-
22 NATION.—The Commission may use the 90-day period re-
23 ferred to in subsection (a) for the purpose of concluding
24 its activities, including providing testimony to committees

1 of Congress concerning its reports and disseminating the
2 final report.

3 **SEC. 7. FUNDING.**

4 (a) IN GENERAL.—There is authorized to be appro-
5 priated such sums as necessary to carry out this Act.

6 (b) DURATION.—Amounts made available to the
7 Commission under subsection (a) shall remain available
8 until the termination of the Commission.

9 **SEC. 8. DEFINITIONS.**

10 In this Act:

11 (1) The term “servicemember” has the meaning
12 given such term in section 101 of the
13 Servicemembers Civil Relief Act (50 U.S.C. 3911).

14 (2) The term “uniformed services” has the
15 meaning given such term in section 101 of title 10,
16 United States Code.

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