

118TH CONGRESS
1ST SESSION

S. 286

To make transitional compensation available to dependents of members of the Armed Forces convicted of dependent abuse in Federal or State court and dependents of members accused of dependent abuse who have forfeited all pay and allowances for an unrelated offense.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2023

Mr. RUBIO (for himself, Mrs. GILLIBRAND, Mr. SCOTT of Florida, and Ms. HASSAN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To make transitional compensation available to dependents of members of the Armed Forces convicted of dependent abuse in Federal or State court and dependents of members accused of dependent abuse who have forfeited all pay and allowances for an unrelated offense.

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 “Rachael Booth Act”.

1 **SEC. 2. MODIFICATIONS TO TRANSITIONAL COMPENSATION**
2 **FOR DEPENDENTS OF MEMBERS SEPARATED**
3 **FOR DEPENDENT ABUSE.**

4 (a) COVERED PUNITIVE ACTIONS.—Subsection (b) of
5 section 1059 of title 10, United States Code, is amended—

6 (1) in paragraph (1)(B), by striking “; or” and
7 inserting a semicolon;

8 (2) in paragraph (2), by striking the period at
9 the end and inserting a semicolon; and

10 (3) by adding at the end the following new
11 paragraph:

12 “(3) who is—

13 “(A) convicted of a dependent-abuse of-
14 fense in a district court of the United States or
15 a State court; and

16 “(B) separated from active duty pursuant
17 to a sentence of a court-martial, or administra-
18 tively separated, voluntarily or involuntarily,
19 from active duty, for an offense other than the
20 dependent-abuse offense; or

21 “(4) who is—

22 “(A) accused but not convicted of a de-
23 pendent-abuse offense;

24 “(B) determined, as a result of a review by
25 the commander of the member and based on a

1 preponderance of evidence, to have committed
2 the dependent-abuse offense; and

3 “(C) required to forfeit all pay and allow-
4 ances pursuant to a sentence of a court-martial
5 for an offense other than the dependent-abuse
6 offense.”.

7 (b) RECIPIENTS OF PAYMENTS.—Subsection (d) of
8 such section is amended—

9 (1) in paragraph (1), by striking “resulting in
10 the separation” and inserting “referred to in sub-
11 section (b)”;

12 (2) in paragraph (4)—

13 (A) by striking “determined as of the
14 date” and inserting the following: “deter-
15 mined—

16 “(A) as of the date”;

17 (B) by striking “offense or, in a case” and
18 inserting the following: “offense;

19 “(B) in a case”;

20 (C) by striking the period at the end and
21 inserting “; or”; and

22 (D) by adding at the end the following new
23 subparagraph:

24 “(C) in a case described in subsection
25 (b)(4), as of, as applicable—

1 “(i) the first date on which the indi-
 2 vidual is held in pretrial confinement relat-
 3 ing to the dependent-abuse offense of
 4 which the individual is accused after the 7-
 5 day review of pretrial confinement required
 6 by Rule 305(i)(2) of the Rules for Courts-
 7 Martial; or

8 “(ii) the date on which a review by a
 9 commander of the individual determines
 10 there is probable cause that the individual
 11 has committed that offense.”.

12 (c) COMMENCEMENT OF PAYMENT.—Subsection
 13 (e)(1) of such section is amended—

14 (1) in subparagraph (A)—

15 (A) in the matter preceding clause (i), by
 16 inserting after “offense” the following: “or an
 17 offense described in subsection (b)(3)(B)”;

18 (B) in clause (ii), by striking “; and” and
 19 inserting a semicolon;

20 (2) in subparagraph (B)—

21 (A) by striking “(if the basis” and all that
 22 follows through “offense)”;

23 (B) by striking the period at the end and
 24 inserting a semicolon; and

1 (3) by adding at the end the following new sub-
2 paragraph:

3 “(C) in the case of a member described in sub-
4 section (b)(4), shall commence as of, as applicable—

5 “(i) the first date on which the member is
6 held in pretrial confinement relating to the de-
7 pendent-abuse offense of which the member is
8 accused after the 7-day review of pretrial con-
9 finement required by Rule 305(i)(2) of the
10 Rules for Courts-Martial; or

11 “(ii) the date on which a review by a com-
12 mander of the member determines there is
13 probable cause that the member has committed
14 that offense.”.

15 (d) DEFINITION OF DEPENDENT CHILD.—Sub-
16 section (l) of such section is amended, in the matter pre-
17 ceding paragraph (1)—

18 (1) by striking “resulting in the separation of
19 the former member or” and inserting “referred to in
20 subsection (b) or”; and

21 (2) by striking “resulting in the separation of
22 the former member and” and inserting “and”.

23 (e) DELEGATION OF DETERMINATIONS RELATING TO
24 EXCEPTIONAL ELIGIBILITY.—Subsection (m)(4) of such
25 section is amended to read as follows:

1 “(4) The Secretary concerned may delegate the au-
2 thority under paragraph (1) to authorize eligibility for
3 benefits under this section for dependents and former de-
4 pendents of a member or former member to the first gen-
5 eral or flag officer (or civilian equivalent) in the chain of
6 command of the member.”.

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