AMENDMENT TO RULES COMMITTEE PRINT 118-10

OFFERED BY MR. ISSA OF CALIFORNIA

At the end of subtitle C of title XVIII, add the following new section:

SEC. 18. ALLOWING CLAIMS AGAINST THE UNITED STATES FOR INJURY AND DEATH OF MEMBERS OF THE ARMED FORCES CAUSED BY IMPROPER MEDICAL CARE.

(a) IN GENERAL.—Chapter 171 of title 28, United States Code, is amended by adding at the end the following:

“§ 2681. Claims against the United States for injury and death of members of the Armed Forces

“(a) In this section—

“(1) the term ‘Armed Forces’ has the meaning given the term in section 101 of title 38; and

“(2) the term ‘covered military medical treatment facility’—

“(A) means the facilities described in subsections (b), (c), and (d) of section 1073d of
title 10, regardless of whether the facility is located in or outside the United States; and

“(B) does not include battalion aid stations or other medical treatment locations deployed in an area of armed conflict.

“(b) A claim may be brought against the United States under this chapter for damages for personal injury or death of a member of the Armed Forces arising out of a negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) that is provided at a covered military medical treatment facility by a person acting within the scope of the office or employment of that person by or at the direction of the Government of the United States and shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or the estate of such person) whose act or omission gave rise to the action or proceeding.

“(c) A claim under this section shall not be reduced by the amount of any benefit received under subchapter III (relating to Servicemembers’ Group Life Insurance) of chapter 19 of title 38.

“(d) Notwithstanding section 2401(b)—
“(1) except as provided in paragraph (2), a claim arising under this section may not be commenced later than 8 years after the date on which the claimant discovered, or by reasonable diligence should have discovered, the injury and the cause of the injury; and

“(2) with respect to a claim pending before the date of enactment of this section, the limitations period described in paragraph (1) shall begin on the date of enactment of this section.

“(e) For purposes of claims brought under this section—

“(1) subsections (j) and (k) of section 2680 shall not apply; and

“(2) in the case of an act or omission occurring outside the United States, the law of the place where the act or omission occurred shall be deemed to be the law of the State of domicile of the claimant.

“(f) Not later than 2 years after the date of the enactment of this section, and every 2 years thereafter, the Secretary of Defense shall submit to Congress a report on the number of claims filed under this section.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 171 of title 28, United States Code, is amended by adding at the end the following:
'2681. Claims against the United States for injury and death of members of the Armed Forces.'

(e) EFFECTIVE DATE.—This Act and the amendments made by this Act shall apply to—

(1) a claim arising on or after January 1, 2017;

and

(2) a pending claim arising before January 1, 2017.

(d) RULE OF CONSTRUCTION.—Nothing in this Act or the amendments made by this Act shall be construed to limit the application of the administrative process and procedures of chapter 171 of title 28, United States Code, to claims permitted under section 2681, as added by this section.