

**AMENDMENT TO THE RULES COMMITTEE PRINT  
FOR H.R. 1735  
OFFERED BY MR. POCAN OF WISCONSIN**

Page 528, after line 2, add the following new section:

1 **SEC. 10\_\_ . REVIEW OF THE DISCHARGE CHARACTERIZA-**  
2 **TION OF FORMER MEMBERS OF THE ARMED**  
3 **FORCES WHO WERE DISCHARGED BY REASON**  
4 **OF SEXUAL ORIENTATION.**

5 (a) REVIEW OF DISCHARGE CHARACTERIZATION.—

6 (1) IN GENERAL.—In accordance with this sub-  
7 section, the appropriate discharge boards—

8 (A) shall review the discharge characteriza-  
9 tion of covered members at the request of the  
10 covered member; and

11 (B) if such characterization is any charac-  
12 terization except honorable, may change such  
13 characterization to honorable.

14 (2) CRITERIA.—In changing the discharge char-  
15 acterization of a covered member to honorable under  
16 paragraph (1)(B), the Secretary of Defense shall en-  
17 sure that such changes are carried out consistently

1 and uniformly across the military departments using  
2 the following criteria:

3 (A) The original discharge must be based  
4 on Don't Ask Don't Tell (in this Act referred  
5 to as "DADT") or a similar policy in place  
6 prior to the enactment of DADT.

7 (B) Such discharge characterization shall  
8 be so changed if, with respect to the original  
9 discharge, there were no aggravating cir-  
10 cumstances, such as misconduct, that would  
11 have independently led to a discharge character-  
12 ization that was any characterization except  
13 honorable. For purposes of this subparagraph,  
14 such aggravating circumstances may not in-  
15 clude—

16 (i) an offense under section 925 of  
17 title 10, United States Code (article 125 of  
18 the Uniform Code of Military Justice),  
19 committed by a covered member against a  
20 person of the same sex with the consent of  
21 such person; or

22 (ii) statements, consensual sexual con-  
23 duct, or consensual acts relating to sexual  
24 orientation or identity, or the disclosure of  
25 such statements, conduct, or acts, that

1           were prohibited at the time of discharge  
2           but after the date of such discharge be-  
3           came permitted.

4           (C) When requesting a review, a covered  
5           member, or their representative, shall be re-  
6           quired to provide either—

7                   (i) documents consisting of—

8                           (I) a copy of the DD-214 form  
9                           of the member;

10                          (II) a personal affidavit of the  
11                          circumstances surrounding the dis-  
12                          charge; and

13                          (III) any relevant records per-  
14                          taining to the discharge; or

15                          (ii) an affidavit certifying that the  
16                          member, or their representative, does not  
17                          have the documents specified in clause (i).

18           (D) If a covered member provides an affi-  
19           davit described in clause (ii) of subparagraph  
20           (C)—

21                          (i) the appropriate discharge board  
22                          shall make every effort to locate the docu-  
23                          ments specified in clause (i) of such sub-  
24                          paragraph within the records of the De-  
25                          partment of Defense; and

1                   (ii) the absence of such documents  
2                   may not be considered a reason to deny a  
3                   change of the discharge characterization  
4                   under paragraph (1)(B).

5                   (3) REQUEST FOR REVIEW.—The appropriate  
6                   discharge board shall ensure the mechanism by  
7                   which covered members, or their representative, may  
8                   request to have the discharge characterization of the  
9                   covered member reviewed under this section is sim-  
10                  ple and straightforward.

11                  (4) REVIEW.—

12                   (A) IN GENERAL.—After a request has  
13                   been made under paragraph (3), the appro-  
14                   priate discharge board shall review all relevant  
15                   laws, records of oral testimony previously taken,  
16                   service records, or any other relevant informa-  
17                   tion regarding the discharge characterization of  
18                   the covered member.

19                   (B) ADDITIONAL MATERIALS.—If addi-  
20                   tional materials are necessary for the review,  
21                   the appropriate discharge board—

22                   (i) may request additional information  
23                   from the covered member or their rep-  
24                   resentative, in writing, and specifically de-  
25                   tailing what is being requested; and

1 (ii) shall be responsible for obtaining  
2 a copy of the necessary files of the covered  
3 member from the member, or when appli-  
4 cable, from the Department of Defense.

5 (5) CHANGE OF CHARACTERIZATION.—The ap-  
6 propriate discharge board shall change the discharge  
7 characterization of a covered member to honorable if  
8 such change is determined to be appropriate after a  
9 review is conducted under paragraph (4) pursuant to  
10 the criteria under paragraph (2). A covered member,  
11 or the representative of the member, may appeal a  
12 decision by the appropriate discharge board to not  
13 change the discharge characterization by using the  
14 regular appeals process of the board.

15 (6) CHANGE OF RECORDS.—For each covered  
16 member whose discharge characterization is changed  
17 under paragraph (5), or for each covered member  
18 who was honorably discharged but whose DD-214  
19 form reflects the sexual orientation of the member,  
20 the Secretary of Defense shall reissue to the member  
21 or their representative a revised DD-214 form that  
22 reflects the following:

23 (A) For each covered member discharged,  
24 the Separation Code, Reentry Code, Narrative  
25 Code, and Separation Authority shall not reflect

1 the sexual orientation of the member and shall  
2 be placed under secretarial authority. Any other  
3 similar indication of the sexual orientation or  
4 reason for discharge shall be removed or  
5 changed accordingly to be consistent with this  
6 subparagraph.

7 (B) For each covered member whose dis-  
8 charge occurred prior to the creation of general  
9 secretarial authority, the sections of the DD-  
10 214 form referred to in subparagraph (A) shall  
11 be changed to similarly reflect a universal au-  
12 thority with codes, authorities, and language  
13 applicable at the time of discharge.

14 (7) STATUS.—

15 (A) IN GENERAL.—Each covered member  
16 whose discharge characterization is changed  
17 under paragraph (5) shall be treated without  
18 regard to the original discharge characterization  
19 of the member, including for purposes of—

20 (i) benefits provided by the Federal  
21 Government to an individual by reason of  
22 service in the Armed Forces; and

23 (ii) all recognitions and honors that  
24 the Secretary of Defense provides to mem-  
25 bers of the Armed Forces.

1 (B) REINSTATEMENT.—In carrying out  
2 subparagraph (A)(ii), the Secretary shall rein-  
3 state all recognitions and honors of a covered  
4 member whose discharge characterization is  
5 changed under paragraph (5) that the Sec-  
6 retary withheld because of the original dis-  
7 charge characterization of the member.

8 (8) DEFINITIONS.—In this subsection:

9 (A) The term “appropriate discharge  
10 board” means the boards for correction of mili-  
11 tary records under section 1552 of title 10,  
12 United States Code, or the discharge review  
13 boards under section 1553 of such title, as the  
14 case may be.

15 (B) The term “covered member” means  
16 any former member of the Armed Forces who  
17 was discharged from the Armed Forces because  
18 of the sexual orientation of the member.

19 (C) The term “discharge characterization”  
20 means the characterization under which a mem-  
21 ber of the Armed Forces is discharged or re-  
22 leased, including “dishonorable”, “general”,  
23 “other than honorable”, and “honorable”.

24 (D) The term “Don’t Ask Don’t Tell”  
25 means section 654 of title 10, United States

1 Code, as in effect before such section was re-  
2 pealed pursuant to the Don't Ask, Don't Tell  
3 Repeal Act of 2010 (Public Law 111–321).

4 (E) The term “representative” means the  
5 surviving spouse, next of kin, or legal represent-  
6 ative of a covered member.

7 (b) REPORTS.—

8 (1) REVIEW.—The Secretary of Defense shall  
9 conduct a review of the consistency and uniformity  
10 of the reviews conducted under subsection (a).

11 (2) REPORTS.—Not later than 270 days after  
12 the date of the enactment of this Act, and each year  
13 thereafter for a four-year period, the Secretary shall  
14 submit to Congress a report on the reviews under  
15 paragraph (1). Such reports shall include any com-  
16 ments or recommendations for continued actions.

17 (c) HISTORICAL REVIEW.—The Secretary of each  
18 military department shall ensure that oral historians of  
19 the department—

20 (1) review the facts and circumstances sur-  
21 rounding the estimated 100,000 members of the  
22 Armed Forces discharged from the Armed Forces  
23 between World War II and September 2011 because  
24 of the sexual orientation of the member; and

1           (2) receive oral testimony of individuals who  
2           personally experienced discrimination and discharge  
3           because of the actual or perceived sexual orientation  
4           of the individual so that such testimony may serve  
5           as an official record of these discriminatory policies  
6           and their impact on American lives.

7           (d) MODIFICATION OF ARTICLE 125 OF THE UNI-  
8 FORM CODE OF MILITARY JUSTICE.—Section 925(a) of  
9 title 10, United States Code (article 125 of the Uniform  
10 Code of Military Justice) is amended by striking “with  
11 another person of the same or opposite sex”.

