

116TH CONGRESS
1ST SESSION

S. 2451

To amend chapter 171 of title 28, United States Code, to allow suit against the United States for injuries and deaths of members of the Armed Forces caused by improper medical care, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10, 2019

Mr. KENNEDY (for himself and Ms. HIRONO) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To amend chapter 171 of title 28, United States Code, to allow suit against the United States for injuries and deaths of members of the Armed Forces caused by improper medical care, 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. SHORT TITLE.**

4 This Act may be cited as the “SFC Richard Stayskal
5 Military Medical Accountability Act of 2019”.

1 **SEC. 2. ALLOWING CLAIMS AGAINST THE UNITED STATES**
 2 **FOR INJURY AND DEATH OF MEMBERS OF**
 3 **THE ARMED FORCES CAUSED BY IMPROPER**
 4 **MEDICAL CARE.**

5 (a) IN GENERAL.—Chapter 171 of title 28, United
 6 States Code, is amended by adding at the end the fol-
 7 lowing:

8 **“§ 2681. Claims against the United States for injury**
 9 **and death of members of the Armed**
 10 **Forces**

11 “(a) In this section—

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

14 “(2) the term ‘covered military medical treat-
 15 ment facility’—

16 “(A) means the facilities described in sub-
 17 sections (b), (c), and (d) of section 1073d of
 18 title 10, regardless of whether the facility is lo-
 19 cated in or outside the United States; and

20 “(B) does not include battalion aid sta-
 21 tions or other medical treatment locations de-
 22 ployed in an area of armed conflict.

23 “(b) A claim may be brought against the United
 24 States under this chapter for damages for personal injury
 25 or death of a member of the Armed Forces arising out
 26 of a negligent or wrongful act or omission in the perform-

1 ance of medical, dental, or related health care functions
 2 (including clinical studies and investigations) that is pro-
 3 vided at a covered military medical treatment facility by
 4 a person acting within the scope of the office or employ-
 5 ment of that person by or at the direction of the Govern-
 6 ment of the United States and shall be exclusive of any
 7 other civil action or proceeding by reason of the same sub-
 8 ject matter against such person (or the estate of such per-
 9 son) whose act or omission gave rise to the action or pro-
 10 ceeding.

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

15 “(d) Notwithstanding section 2401(b)—

16 “(1) except as provided in paragraph (2), a
 17 claim arising under this section may not be com-
 18 menced later than 3 years after the date on which
 19 the claimant discovered, or by reasonable diligence
 20 should have discovered, the injury and the cause of
 21 the injury; and

22 “(2) with respect to a claim pending before the
 23 date of enactment of this section, the limitations pe-
 24 riod described in paragraph (1) shall begin on the
 25 date of enactment of this section.

1 “(e) For purposes of claims brought under this sec-
2 tion—

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

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

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

13 (b) CLERICAL AMENDMENT.—The table of sections
14 for chapter 171 of title 28, United States Code, is amend-
15 ed by adding at the end the following:

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

16 (c) EFFECTIVE DATE.—This Act and the amend-
17 ments made by this Act shall apply to—

18 (1) a claim arising on or after the date of the
19 enactment of this Act; and

20 (2) a pending claim arising before the date of
21 the enactment of this Act.

22 (d) RULE OF CONSTRUCTION.—Nothing in this Act
23 or the amendments made by this Act shall be construed
24 to limit the application of the administrative process and

1 procedures of chapter 171 of title 28, United States Code,
2 to claims permitted under section 2681, as added by this
3 section.

