

116TH
CONGRESS
2nd SESSION

S.

To amend chapter 171 of title 28, United States Code, to allow suit against the United States for discrimination of members of the Armed Forces on the basis of race, color, religion, absence of religion, sex, sexual orientation, gender identity, national origin, age, disability, marital status, or political affiliation.

IN THE SENATE OF THE UNITED STATES

(Date), 2020

Senator (Name) introduced the following bill; which was read 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 discrimination of members of the Armed Forces on the basis of race, color, religion, absence of religion, sex, sexual orientation, gender identity, national origin, age, disability, marital status, or political affiliation.

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 “Petty Officer Jonathan
5 Stremel Military Anti-Discrimination Act of 2020”.

1 **SEC. 2. ALLOWING CLAIMS AGAINST THE UNITED STATES**
2 **FOR DISCRIMINATION OF MEMBERS OF THE ARMED**
3 **FORCES ON THE BASIS OF RACE, COLOR, RELIGION,**
4 **ABSENCE OF RELIGION, SEX, SEXUAL ORIENTATION,**
5 **GENDER IDENTITY, NATIONAL ORIGIN, AGE, DISABILITY,**
6 **MARITAL STATUS, OR POLITICAL AFFILIATION.**

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

10 **“§ 2682. Claims against the United States for**
11 **discrimination of members of the Armed Forces**

12 “(a) In this section—

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

15 “(2) the term ‘discrimination’-

16 “(A) means no person in the Armed Forces shall
17 be excluded from participating in, be denied the
18 benefits of, be denied a promotion, be denied an
19 award or recognition, or be subject to defamation
20 of character or discrimination, under a program or
21 activity of a unit of general federal government
22 because of race, color, religion, absence of religion,

1 sex, sexual orientation, gender identity, national origin, age,
2 disability, marital status, or political affiliation, regardless of
3 whether it occurs in or outside the United States.

4 “(b) A claim may be brought against the United States under
5 this chapter for damages for defamation of character, personal
6 injury, or death of a member of the Armed Forces arising out
7 of a wrongful act of discrimination in the performance of
8 military and armed forces duties or support functions (including
9 clinical studies, medical care, and investigations) that is
10 provided at a military facility by a person acting within the
11 scope of office or employment of that person by or at the
12 direction of the Government of the United States and shall be
13 exclusive of any other civil action or proceeding by reason of
14 the same subject matter against such person (or the estate of
15 such person) whose act gave rise to the action or proceeding

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

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

1 “(1) except as provided in paragraph (2), a
2 claim arising under this section may not be commenced later
3 than 3 years after the date on which the claimant discovered, or
4 by reasonable diligence should have discovered, the injury and
5 the cause of the injury; and

6 “(2) with respect to a claim pending before the
7 date of enactment of this section, the limitations period
8 described in paragraph (1) shall begin on the 25 date of
9 enactment of this section.

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

11 “(1) subsections (h), (j) and (k) of section 2680
12 shall not apply; and

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

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

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for chapter 171 of title 28, United States Code, is amended by
3 adding at the end the following:

“2682. Claims against the United States for discrimination against
members of the Armed Forces.”.

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

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

8 (2) a pending claim arising before the date of
9 the enactment of this Act.

10 (d) RULE OF CONSTRUCTION.—Nothing in this Act
11 or the amendments made by this Act shall be construed
12 to limit the application of the administrative process and
13 procedures of chapter 171 of title 28, United States Code,
14 to claims permitted under section 2682, as added by this
15 section.