

Flag & General Officers for the Military



ISSUE OVERVIEW

Repeal of the 1993 Law re Gays in the Military Would Break the Volunteer Force

The 111th Congress is about to consider legislation (H.R. 1283) to repeal the 1993 law, Section 654, Title 10, U.S.C., which states that homosexuals are not eligible to serve in the military. This law is commonly mislabeled “Don’t Ask, Don’t Tell,” even though its meaning is quite different from the administrative policy known as “Don’t Ask, Don’t Tell.”¹

Congress voted for statutory language that affirmed, almost word-for-word, long-standing regulations stating that homosexuality is incompatible with military service. Both houses passed the law with bipartisan veto-proof majorities, and federal courts have upheld it as constitutional several times.

Current debate in Congress should center on a basic question: *Would repeal of the law, Section 654, Title 10, improve or undermine discipline, morale, and overall readiness in the All-Volunteer Force?* More than 1,050 high-ranking retired Flag and General Officers for the Military have personally signed a statement expressing great concern that repeal of the law would undermine unit cohesion, discipline, and combat effectiveness:

“We believe that imposing this burden on our men and women in uniform would undermine recruiting and retention, impact leadership at all levels, have adverse effects on the willingness of parents who lend their sons and daughters to military service, and eventually break the All-Volunteer Force.”²

Forcing a controversial social agenda on our military would add to the stress of war and disrupt training, operations, and unit cohesiveness. These consequences deserve serious consideration by members of Congress:

1. Concerns Regarding Recruiting, Retention, and Readiness

For four years in a row, the *Military Times Poll* of almost 2,000 active-duty subscribers found that 58% of respondents opposed repeal of the law. These surveys, done by a Gannet-owned newspaper company, are more relevant than civilian polls asking misleading questions.³

- The 2008 *Military Times Poll* asked respondents what they would do if Congress repealed the 1993 law. In response, 10% said they would not re-enlist, and an additional 14% said they would consider ending their careers. If the smaller number (10%) left the military, active duty, guard, and reserve forces would lose 228,600 people—more than the active-duty Marine Corps today.

- The *Military Times Poll* of active-duty personnel cannot predict the future, but its findings are significant. Many first-term enlistees normally leave, but the loss of even a few thousand careerists in communities, grades, and skills that are not quickly or easily replaceable would come at a crippling cost—especially when we are at war and trying to grow the Army and Marine Corps. Personnel remaining would have to face more deployments and potential combat situations with fewer, less-skilled people.

2. *Military Life is Difficult Enough*

Current law recognizes that the military is a “*specialized society*” that is “*fundamentally different from civilian life.*” It requires a unique code of personal conduct, and demands “*extraordinary sacrifices, including the ultimate sacrifice, in order to provide for the common defense.*” The law appreciates military personnel who, unlike civilians who go home after work, must accept living conditions that are often “*characterized by forced intimacy with little or no privacy.*”

- If the 1993 law is repealed, new policies would require the accommodation of professed (not discrete) homosexuals in all branches and communities of the military, including Army and Marine infantry, Special Operations Forces, Navy SEALs, surface ships, and submarines, on a constant (24/7) basis.
- H.R. 1283 would retroactively impose a new policy of “*nondiscrimination*” against homosexuals. This would be tantamount to ordering military women to live in close quarters with men. Stated in gender-neutral terms, the military would order *persons* to accept exposure to *persons* who may be sexually attracted to them.
- We don’t need a study commission to know that resulting tensions in conditions offering little or no privacy would increase the stress and difficulties of daily military life.
- Various types of sexual misconduct occur in the military because men and women are human, and therefore imperfect. Homosexuals are no more perfect than anyone else. If repeal of the law forces the military to disregard basic human psychology, risks of demoralizing misconduct will escalate to include male/male and female/female issues in addition to those that already occur. Sound policies should encourage discipline rather than indiscipline.
- H.R. 1283 would forbid discrimination based on “*homosexuality or bisexuality, whether the orientation is real or perceived.*” Commanders, mid-level career officers and non-commissioned leaders should not have to divert valuable time from combat training defining what the new policy means in “human rights” classes and non-judicial disciplinary proceedings that detract from team cohesion, and mission accomplishment.

3. “Zero Tolerance” = *Intolerance of Dissent*

Advocates for homosexuals in the military are trying to invoke the military’s proud history of mandating civil rights for racial minorities.⁴ Extension of that concept to homosexuals as a special class would require corollary policies enforcing “zero tolerance” of anyone who disagrees, for any reason.

- Men and women who try to avoid or want to complain about inappropriate actions in close quarters could face questions asking whether their own attitudes are in compliance with the new “zero tolerance” policy. Many will not complain, even in cases of actual assault or abuse of rank, due to fear of career repercussions.
- In the military, denied promotions end careers. Chaplains whose values are suddenly in conflict with official Pentagon policy may feel compelled to leave. The ensuing climate of real or perceived injustice would undermine trust and unit cohesion.
- To change attitudes and make the new policy “work,” the military will have to implement “diversity training” programs designed by homosexual advocates. Mandatory sessions will attempt to overcome the normal human desire for modesty and privacy in sexual matters — a quest that is inappropriate for the military and unlikely to succeed.
- In 1999, Britain capitulated to a European court order to accept gays in their military. Same-sex couples have access to family housing—a situation that American military families are unlikely to support. Recruiting is still a problem, but the British Ministry of Defence meets regularly with lesbian, gay, bisexual and transgender (LGBT) activists to discuss their demands.
- Pending legislation to repeal the law purports to deny dependent benefits for same-sex couples, but litigation demanding equal treatment for all types of consensual sexual conduct could succeed if the current law is repealed.
- Full imposition of the gay agenda on our military ultimately would affect all institutions of American life.

4. *Unconvincing Arguments for Repeal*

There is no “national security” argument for repealing the 1993 law.

- Discharges of personnel due to homosexual conduct are small in number compared to separations for other reasons, such as pregnancy/family hardship or weight standard violations.⁵ Current shortages in some communities can be remedied in other ways, but nothing would be gained by imposing harmful social policies that escalate voluntary and involuntary losses of experienced, valuable personnel.
- Some advocates suggest that the United States military must emulate countries such as Denmark, the Netherlands, and Canada that have incorporated homosexuals into their forces.⁶ None of these, however, have the institutional culture, let alone the worldwide responsibilities, that our military has. America’s armed forces are role models for our allies’ militaries and the envy of our adversaries – not the other way around.
- Changes in popular culture do not justify policies that weaken military culture. No one has explained how repeal of the 1993 law would *improve* discipline, team cohesion and readiness in America’s armed forces.

Everyone can serve America in some way, but there is no “constitutional right” to serve in the

military. The issue is not individual desires—it is military readiness, morale, and the culture of the armed forces, on which our national security depends.

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1. In 1993 then-President Bill Clinton proposed a plan to accommodate homosexuals in the military if they did not *say* they were homosexual. Congress considered Clinton's concept, dubbed "Don't Ask, Don't Tell," but rejected it as unworkable. Instead, members chose to codify and confirm language nearly identical to Defense Department regulations in place since 1981. The only "compromise" allowed the Clinton administration to drop "the question" about homosexuality that used to appear on induction forms. That question can (and should) be reinstated at any time—no new legislation is required. Clinton signed the law, but imposed inconsistent Defense Department enforcement regulations reflecting his own concept, "Don't Ask, Don't Tell." In 1996, the U.S. Court of Appeals for the Fourth Circuit recognized disparities between the actual law and the administrative policy known as "Don't Ask, Don't Tell."
 2. The Flag & General Officers for the Military Statement to President Barack Obama and Members of Congress has been signed by more than 1,000 high-ranking retired military leaders. It is posted at www.flagandgeneralofficersforthemilitary.com. The open letter and signatures were delivered to administration officials and senior members of Congress on March 31, 2009. The Center for Military Readiness, an independent, non-partisan public policy organization that specializes in military/social issues, provided administrative support for the Flag & General Officers for the Military project.
 3. See *Army/Navy/Marine Corps/Air Force Times*, January 5, 2009. More information on this and related issues is available at www.cmrlink.org.
 4. President Harry Truman's Executive Order to end racial discrimination in 1948 advanced civil rights, but its primary purpose was to serve the needs of the military. Title VII of the Civil Rights Act of 1964 does not apply to uniformed military personnel because its provisions might detract from the needs of the military, which is charged to confront enemies that are not subject to similar rules. See report of the Presidential Commission on the Assignment of Women in the Armed Forces, Nov. 30, 1992, Findings 1.32, 1.33, and 1.33A, p. C-40.
 5. According to the General Accountability Office (GAO) and the Department of Defense, discharges due to homosexuality between 1994 and 2003 amounted to only 0.3% of discharges for all reasons (about 5% of unplanned separations).
 6. Some nations that accept homosexuals in their militaries impose restrictions that gay activists in this country would reject as unacceptable. In Germany, promotions and access to classified information can be denied, and homosexuals who are required to serve in the Israeli Army are barred from elite combat positions.

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