

Committee Amendment Proposed by

Ms. Ayotte

1 At the appropriate place in title VI, insert the fol-
2 lowing:

3 **Subtitle _____—Benefits for Depend-**
4 **ents of Members of the Armed**
5 **Forces Who Lose the Right to**
6 **Retired Pay for Misconduct**

7 **SEC. [ARM15882A]. SHORT TITLE.**

8 This subtitle may be cited as the “Families Serve,
9 Too, Military Justice Reform Act fo 2015”.

10 **SEC. [ARM15882B]. BENEFITS FOR DEPENDENTS OF MEM-**
11 **BERS OF THE ARMED FORCES WHO LOSE**
12 **THEIR RIGHT TO RETIRED PAY FOR REASONS**
13 **OTHER THAN DEPENDENT ABUSE.**

14 (a) IN GENERAL.—Section 1408 of title 10, United
15 States Code, is amended—

16 (1) by redesignating subsections (i), (j), and (k)
17 as subsections (j), (k), and (l), respectively; and

18 (2) by inserting after subsection (h) the fol-
19 lowing new subsection (i):

20 “(i) BENEFITS FOR DEPENDENTS OF MEMBERS
21 LOSING RIGHT TO RETIRED PAY FOR MISCONDUCT
22 OTHER THAN DEPENDENT ABUSE.—(1)(A) If, in the

1 case of a member or former member of the armed forces
2 referred to in paragraph (2)(A), a court order provides
3 (in the manner applicable to a division of property) for
4 the payment of an amount from the disposable retired pay
5 of that member or former member (as certified under
6 paragraph (4)) to an eligible spouse or former spouse of
7 that member or former member, the Secretary concerned,
8 beginning upon effective service of such court order, shall
9 pay that amount in accordance with this subsection to
10 such spouse or former spouse.

11 “(B) If, in the case of a member or former member
12 of the armed forces referred to in paragraph (2)(A), a
13 court order provides for the payment as child support of
14 an amount from the disposable retired pay of that member
15 or former member (as certified under paragraph (4)) to
16 an eligible dependent child of the member or former mem-
17 ber, the Secretary concerned, beginning upon effective
18 service of such court order, shall pay that amount in ac-
19 cordance with this subsection to such dependent child.

20 “(2) A spouse or former spouse, or a dependent child,
21 of a member or former member of the armed forces is
22 eligible to receive payment under this subsection if—

23 “(A) the member or former member, while a
24 member of the armed forces and after becoming eli-
25 gible to be retired from the armed forces on the

1 basis of years of service, has eligibility to receive re-
2 tired pay terminated as a result of misconduct while
3 a member (other than misconduct described in sub-
4 section (h)(2)(A));

5 “(B) in the case of eligibility of a spouse or
6 former spouse under paragraph (1)(A), the spouse
7 or former spouse—

8 “(i) either—

9 “(I) was married to the member or
10 former member at the time of the mis-
11 conduct that resulted in the termination of
12 retired pay; or

13 “(II) was is receipt of marital sup-
14 port, alimony, or child support from the
15 member or former member as of the time
16 of the misconduct pursuant to a court
17 order; and

18 “(ii) was not, based on the evidence ad-
19 duced at trial, an aider, abettor, accomplice, or
20 co-conspirator in the misconduct that resulted
21 in the termination of retired pay, as certified in
22 writing to the convening authority by—

23 “(I) the military judge of the court-
24 martial that resulted in the termination of
25 retired pay; or

1 “(II) the staff judge advocate of the
2 convening authority; and

3 “(C) in the case of eligibility of a dependent
4 child under paragraph (1)(B), the dependent child—

5 “(i) had not reached the age of 16 years
6 at the time of the misconduct that resulted in
7 the termination of retired pay; or

8 “(ii) had reached the age of 16 years at
9 the time of the misconduct and was not, based
10 on the evidence adduced at trial, an aider, abet-
11 tor, accomplice, or co-conspirator in the mis-
12 conduct that resulted in the termination of re-
13 tired pay, as certified in writing to the con-
14 vening authority by—

15 “(I) the military judge of the court-
16 martial that resulted in the termination of
17 retired pay; or

18 “(II) the staff judge advocate of the
19 convening authority.

20 “(3) The amount certified by the Secretary concerned
21 under paragraph (4) with respect to a member or former
22 member of the armed forces referred to in paragraph
23 (2)(A) shall be deemed to be the disposable retired pay
24 of that member or former member for the purposes of this
25 subsection.

1 “(4) Upon the request of a court or an eligible spouse
2 or former spouse, or an eligible dependent child, of a mem-
3 ber or former member of the armed forces referred to in
4 paragraph (2)(A) in connection with a civil action for the
5 issuance of a court order in the case of that member or
6 former member, the Secretary concerned shall determine
7 and certify the amount of the monthly retired pay that
8 the member or former member would have been entitled
9 to receive as of the date of the certification—

10 “(A) if the member or former member’s eligi-
11 bility for retired pay had not been terminated as de-
12 scribed in paragraph (2)(A); and

13 “(B) if, in the case of a member or former
14 member not in receipt of retired pay immediately be-
15 fore that termination of eligibility for retired pay,
16 the member or former member had retired on the ef-
17 fective date of that termination of eligibility.

18 “(5)(A) Paragraphs (5) through (8) and (10) of sub-
19 section (h) shall apply to eligibility of former spouses to
20 payments under this subsection, court orders for the pay-
21 ment of disposable retired pay under this subsection,
22 amounts payable under this subsection, and payments
23 under this subsection in the same manner as such para-
24 graphs apply to such matters under subsection (h).

1 “(B) If a spouse or former spouse or a dependent
2 child eligible or entitled to receive payments under this
3 subsection is eligible or entitled to receive benefits under
4 subsection (h), the eligibility or entitlement of that spouse
5 or former spouse or dependent child to such benefits shall
6 be determined under subsection (h) instead of this sub-
7 section.

8 “(6)(A) A spouse or former spouse of a member or
9 former member of the armed forces referred to in para-
10 graph (2)(A), while receiving payments in accordance with
11 this subsection, shall be entitled to receive medical and
12 dental care, to use commissary and exchange stores, and
13 to receive any other benefit that a spouse or a former
14 spouse of a retired member of the armed forces is entitled
15 to receive on the basis of being a spouse or former spouse,
16 as the case may be, of a retired member of the armed
17 forces in the same manner as if the member or former
18 member referred to in paragraph (2)(A) was entitled to
19 retired pay.

20 “(B) A dependent child of a member or former mem-
21 ber referred to in paragraph (2)(A) who was a member
22 of the household of the member or former member at the
23 time of the misconduct described in paragraph (2)(A) shall
24 be entitled to receive medical and dental care, to use com-
25 missary and exchange stores, and to have other benefits

1 provided to dependents of retired members of the armed
2 forces in the same manner as if the member or former
3 member referred to in paragraph (2)(A) was entitled to
4 retired pay.

5 “(C) If a spouse or former spouse or a dependent
6 child eligible or entitled to receive a particular benefit
7 under this paragraph is eligible or entitled to receive that
8 benefit under another provision of law, the eligibility or
9 entitlement of that spouse or former spouse or dependent
10 child to such benefit shall be determined under such other
11 provision of law instead of this paragraph.

12 “(7) In this subsection, the term ‘dependent child’,
13 with respect to a member or former member of the armed
14 forces referred to in paragraph (2)(A), has the meaning
15 given that term in subsection (h)(11).”.

16 (b) CONFORMING AMENDMENTS.—Subsection (f) of
17 such section is amended by striking “subsection (i)” each
18 place it appears and inserting “subsection (j)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date of the enactment
21 of this Act, and shall apply with respect to final court or-
22 ders issued on or after that date.

1 **SEC. [ARM15882C]. TRANSITIONAL COMPENSATION AND**
2 **OTHER BENEFITS FOR DEPENDENTS OF THE**
3 **ARMED FORCES WHO LOSE THEIR RIGHT TO**
4 **RETIRED PAY FOR MISCONDUCT.**

5 (a) IN GENERAL.—Chapter 53 of title 10, United
6 States Code, is amended by inserting after section 1059
7 the following new section:

8 **“§ 1059a. Dependents of members who lose right to**
9 **retired pay for misconduct: transitional**
10 **compensation; commissary and exchange**
11 **benefits**

12 “(a) AUTHORITY TO PAY COMPENSATION.—The Sec-
13 retary of Defense, with respect to the armed forces (other
14 than the Coast Guard when it is not operating as a service
15 in the Navy), and the Secretary of Homeland Security,
16 with respect to the Coast Guard when it is not operating
17 as a service in the Navy, may each carry out a program
18 under which the Secretary may pay monthly transitional
19 compensation in accordance with this section to depend-
20 ents or former dependents of a member of the armed
21 forces described in subsection (b) who is under the juris-
22 diction of the Secretary.

23 “(b) MEMBERS COVERED.—This section applies in
24 the case of a member of the armed forces eligible for re-
25 tired or retainer pay under this title for years of service
26 who—

1 “(1) is separated from the armed forces pursu-
2 ant to the sentence of a court-martial as a result of
3 misconduct while a member; and

4 “(2) has eligibility to receive retired pay termi-
5 nated pursuant to such sentence.

6 “(c) RECIPIENT OF PAYMENTS.—(1) In the case of
7 a member of the armed forces described in subsection (b),
8 the Secretary may pay compensation under this section
9 to dependents or former dependents of the member as fol-
10 lows:

11 “(A) If the member was married at the time of
12 the commission of the offense resulting in separation
13 from the armed forces, such compensation may be
14 paid to the spouse or former spouse to whom the
15 member was married at that time, including an
16 amount for each, if any, dependent child of the
17 member who resides in the same household as that
18 spouse or former spouse.

19 “(B) If there is a spouse or former spouse who
20 is or, but for subsection (d)(2), would be eligible for
21 compensation under this section and if there is a de-
22 pendent child of the member who does not reside in
23 the same household as that spouse or former spouse,
24 compensation under this section may be paid to each

1 such dependent child of the member who does not
2 reside in that household.

3 “(C) If there is no spouse or former spouse who
4 is or, but for subsection (d)(2), would be eligible
5 under this section, compensation under this section
6 may be paid to the dependent children of the mem-
7 ber.

8 “(2) A dependent or former dependent of a member
9 described in subsection (b) is not eligible for transitional
10 compensation under this section if the Secretary con-
11 cerned determines (under regulations prescribed under
12 subsection (g)) that the dependent or former dependent
13 was an active participant in the conduct constituting the
14 offense under chapter 47 of this title (the Uniform Code
15 of Military Justice) for which the member was convicted
16 and separated from the armed forces.

17 “(d) COMMENCEMENT AND DURATION OF PAY-
18 MENT.—(1) Payment of transitional compensation under
19 this section shall commence—

20 “(A) as of the date the court-martial sentence
21 is adjudged if the sentence, as adjudged, includes—

22 “(i) a dismissal, dishonorable discharge, or
23 bad conduct discharge; and

24 “(ii) forfeiture of all pay and allowances;

25 or

1 “(B) if there is a pretrial agreement that pro-
2 vides for disapproval or suspension of the dismissal,
3 dishonorable discharge, bad conduct discharge, or
4 forfeiture of all pay and allowances, as of the date
5 of the approval of the court-martial sentence by the
6 person acting under section 860(c) of this title (arti-
7 cle 60(c) of the Uniform Code of Military Justice)
8 if the sentence, as approved, includes—

9 “(i) an unsuspended dismissal, dishonor-
10 able discharge, or bad conduct discharge; and

11 “(ii) forfeiture of all pay and allowances.

12 “(2) Paragraphs (2) and (3) of subsection (e), para-
13 graphs (1) and (2) of subsection (g), and subsections (f)
14 and (h) of section 1059 of this title shall apply in deter-
15 mining—

16 “(A) the amount of transitional compensation
17 to be paid under this section;

18 “(B) the period for which such compensation
19 may be paid; and

20 “(C) the circumstances under which the pay-
21 ment of such compensation may or will cease.

22 “(e) COMMISSARY AND EXCHANGE BENEFITS.—A
23 dependent or former dependent who receives transitional
24 compensation under this section shall, while receiving such
25 payments, be entitled to use commissary and exchange

1 stores in the same manner as provided in subsection (j)
2 of section 1059 of this title.

3 “(f) COORDINATION OF BENEFITS.—(1) The Sec-
4 retary concerned may not make payments to a spouse or
5 former spouse under both this section, on the one hand,
6 and section 1059, 1408(h), or 1408(i) of this title, on the
7 other hand. In the case of a spouse or former spouse for
8 whom a court order provides for payments pursuant to
9 section 1408(h) or 1408(i) of this title and to whom the
10 Secretary offers payments under this section or section
11 1059 of this title, the spouse or former spouse shall elect
12 which payments to receive.

13 “(2) Upon the cessation of payments of transitional
14 compensation to a spouse or former spouse under this sec-
15 tion pursuant to subsection (d)(2), a spouse or former
16 spouse who elected payments of transitional compensation
17 under this section and either remains or becomes eligible
18 for payments under section 1408(h) or 1408(i) of this
19 title, as applicable, may commence receipt of payments
20 under such section 1408(h) or 1408(i) in accordance with
21 such section.

22 “(g) REGULATIONS.—The Secretary of Defense shall
23 prescribe regulations to carry out this section with respect
24 to the armed forces (other than the Coast Guard when
25 it is not operating as a service in the Navy). The Secretary

1 of Homeland Security shall prescribe regulations to carry
2 out this section with respect to the Coast Guard when it
3 is not operating as a service in the Navy.

4 “(h) DEPENDENT CHILD DEFINED.—In this section,
5 the term ‘dependent child’, with respect to a member or
6 former member of the armed forces referred to in sub-
7 section (b), has the meaning given such term in subsection
8 (l) of section 1059 of this title, except that status as a
9 ‘dependent child’ shall be determined as of the date on
10 which the member described in subsection (b) is convicted
11 of the offense concerned.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 at the beginning of chapter 53 of such title is amended
14 by inserting after the item relating to section 1059 the
15 following new item:

“1059a. Dependents of members who lose right to retired pay for misconduct:
transitional compensation; commissary and exchange bene-
fits.”.

16 (c) CONFORMING AMENDMENT.—Subsection (i) of
17 section 1059 of title 10, United States Code, is amended
18 to read as follows:

19 “(i) COORDINATION OF BENEFITS.—The Secretary
20 concerned may not make payments to a spouse or former
21 spouse under both this section, on the one hand, and sec-
22 tion 1059a, 1408(h), or 1408(i) of this title, on the other
23 hand. In the case of a spouse or former spouse for whom
24 a court order provides for payments pursuant to section

1 1408(h) or 1408(i) of this title and to whom the Secretary
2 offers payments under this section or section 1059a of this
3 title, the spouse or former spouse shall elect which pay-
4 ments to receive.”.