

108TH CONGRESS  
1ST SESSION

# H. R. 2128

To amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2003

Mr. FRANK of Massachusetts (for himself, Mr. WALDEN of Oregon, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care.

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. CLAIMS FOR IMPROPER MEDICAL CARE.**

4       (a) COGNIZABLE CLAIMS.—Chapter 171 of title 28,  
5       United States Code, is amended by adding at the end the  
6       following new section:

1 **“§2681. Certain claims by members of the Armed**  
2 **Forces**

3 “(a) CLAIMS OF MEMBERS OF ARMED FORCES.—  
4 Subject to all the provisions of this chapter, claims may  
5 be brought under this chapter for damages against the  
6 United States for personal injury or death of a member  
7 of the Armed Forces serving on active duty or on full-  
8 time National Guard duty (as defined in section 101(42)  
9 of title 10), under the conditions prescribed in this section.

10 “(b) WHERE CARE PERFORMED.—The personal in-  
11 jury or death referred to in subsection (a) must have aris-  
12 en out of medical or dental care furnished the member  
13 of the Armed Forces in a fixed medical treatment facility  
14 operated by the Secretary of a military department or any  
15 other fixed medical facility operated by the United States.

16 “(c) DEFINITION.—For purposes of this section, a  
17 fixed medical facility is a medical center, hospital, or clinic  
18 that is located in a building, structure, or other improve-  
19 ment to real property.

20 “(d) REDUCTION OF CLAIMS BY OTHER BENE-  
21 FITS.—The payment of any claim of a member of the  
22 Armed Forces under this section shall be reduced by the  
23 present value of other benefits received by the member and  
24 the member’s estate, survivors, and beneficiaries, under  
25 title 10, title 37, or title 38 that are attributable to the  
26 physical injury or death from which the claim arose.”.

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

“2681. Certain claims by members of the Armed Forces.”.

4 **SEC. 2. EFFECTIVE DATE.**

5 Section 2681 of title 28, United States Code, as  
6 added by section 1, shall apply only with respect to per-  
7 sonal injuries or deaths occurring on or after the date of  
8 the enactment of this Act.

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