

119TH CONGRESS
1ST SESSION

S. 2097

To provide remedies to members of the uniformed services discharged for not complying with the COVID–19 vaccination mandate.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2025

Mr. SHEEHY introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To provide remedies to members of the uniformed services discharged for not complying with the COVID–19 vaccination mandate.

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 “COVID–19 Military
5 Backpay Act of 2025”.

6 **SEC. 2. REMEDIES FOR MEMBERS OF UNIFORMED SERV-**
7 **ICES DISCHARGED FOR NOT COMPLYING**
8 **WITH COVID–19 VACCINATION MANDATE.**

9 (a) DEFINITIONS.—In this section:

1 (1) BENEFIT.—The term “benefit” means any
2 benefit available under title 10 or 37, United States
3 Code, including retirement points earned as de-
4 scribed in section 12732 of title 10, United States
5 Code, medical and dental care under chapter 55 of
6 that title, and educational assistance programs
7 under part IV of subtitle E of that title.

8 (2) COVERED DISCHARGE.—The term “covered
9 discharge”, with respect to a covered member,
10 means any the following, resulting, in whole or in
11 part, from the noncompliance of the member with
12 the COVID–19 vaccination mandate or from the
13 COVID–19 vaccination status of the member:

14 (A) Discharge or separation (including any
15 separation that may be considered to be vol-
16 untary) of the member from a uniformed serv-
17 ice.

18 (B) Any cancellation or curtailment of ac-
19 tive-duty orders issued to the member.

20 (C) Transfer of the member from an active
21 to inactive status.

22 (3) COVERED MEMBER.—The term “covered
23 member” means any individual who—

1 (A) is or was a member of an active or re-
2 serve component of a uniformed service or the
3 National Guard; and

4 (B) was at any time subject to the
5 COVID–19 vaccination mandate.

6 (4) COVID–19 VACCINATION MANDATE.—The
7 term “COVID–19 vaccination mandate” means—

8 (A) the requirement of the Secretary of
9 Defense to receive a COVID–19 vaccination
10 pursuant to the memorandum dated August 24,
11 2021, and entitled “Mandatory Coronavirus
12 Disease 2019 Vaccination of Department of De-
13 fense Service Members”; and

14 (B) any order or other requirement issued
15 by any uniformed service to implement the re-
16 quirement described in subparagraph (A).

17 (5) PAY.—The term “pay” has the meaning
18 given that term in section 101 of title 37, United
19 States Code.

20 (6) UNIFORMED SERVICES.—The term “uni-
21 formed services” has the meaning given that term in
22 section 101 of title 37, United States Code.

23 (b) CIVIL ACTIONS.—

24 (1) IN GENERAL.—A covered member may file
25 a civil action in the Court of Federal Claims for a

determination that the covered discharge of the member was involuntary or unlawful.

(2) SPECIAL RULES FOR CLAIMS OF INVOLUNTARY DISCHARGE.—In a claim that the covered discharge of a covered member was involuntary—

(A) it shall not be a defense that the discharge was voluntary if the discharge resulted solely from the noncompliance of the member with the COVID–19 vaccination mandate or the COVID–19 vaccination status of the member; and

(B) it shall be conclusive evidence that the discharge was involuntary if the discharge documentation of the member states that the member was discharged for the convenience of the Government, for failure to be world-wide deployable, or for misconduct.

(c) REMEDIES.—

(1) IN GENERAL.—If the Court of Federal Claims determines that the covered discharge of a covered member was involuntary or unlawful, the Court shall award the member the remedies specified in this subsection and such other remedies as may be available at law or in equity from the Court.

(2) MONETARY REMEDIES.—

1 (A) COMPENSATION FOR INACTIVE-DUTY
2 TRAINING.—In the case of a covered member
3 who is or was a member of a reserve component
4 of a uniformed service or the National Guard,
5 upon a determination by the Court of Federal
6 Claims that the covered discharge of the mem-
7 ber was involuntary or unlawful, the member is
8 entitled to compensation under section 206 of
9 title 37, United States Code, for inactive-duty
10 training the member did not perform if the
11 member did not perform such training as a re-
12 sult, in whole or in part, of the covered dis-
13 charge.

14 (B) NO REDUCTION OF CLAIM FOR OTHER
15 COMPENSATION.—The amount paid to a cov-
16 ered member under subparagraph (A) shall not
17 be reduced or offset by any amounts received by
18 the member from civilian employment after the
19 covered discharge.

20 (3) OTHER REMEDIES.—In addition to the
21 other remedies provided for under this subsection,
22 the Court of Federal Claims shall award the fol-
23 lowing to a covered member if the Court determines
24 that the covered discharge of the member was invol-
25 untary or unlawful:

1 (A) The member shall be deemed to have
2 served for the period beginning on the date of
3 the covered discharge of the member and end-
4 ing at the end of the member's term of service
5 or enlistment contract, plus the term of reen-
6 listment or extension of service under subpara-
7 graph (D).

8 (B) If the member would have completed
9 20 years of service during the term of service
10 or enlistment contract during which the covered
11 discharge occurred, or during the term of reen-
12 listment or extension of service under subpara-
13 graph (D), the member shall—

14 (i) be deemed—

15 (I) to have completed 20 years of
16 service; and

17 (II) to have requested and re-
18 ceived the approval of the Secretary of
19 Defense for a retirement date com-
20 mencing on the first day of the cal-
21 endar month following the completion
22 of 20 years of service; and

23 (ii) be paid retired pay or retainer pay
24 and other retirement benefits commensu-

1 rate with the member's rank and years of
2 service.

3 (C) If the member would have completed
4 18 years of service during the term of service
5 or enlistment contract during which the covered
6 discharge occurred, or during the term of reen-
7 listment or extension of service under subpara-
8 graph (D), the member shall be deemed—

9 (i) to have completed 18 years of serv-
10 ice;

11 (ii) to have requested and received the
12 approval of the Secretary of Defense for a
13 retirement date commencing on the first
14 day of the calendar month following the
15 completion of 20 years of service; and

16 (iii) in the case of an enlisted mem-
17 ber, to be eligible for retention in accord-
18 ance with section 1176 of title 10, United
19 States Code.

20 (D) The member shall, notwithstanding
21 any reentry or reenlistment code on the dis-
22 charge documentation of the member—

23 (i) be eligible to reenlist or otherwise
24 extend the service of the member; and

1 (ii) be deemed to have reenlisted or
2 extended the service of the member for an
3 additional term of two years commencing
4 on the day after the end of the term of
5 service or enlistment contract of the mem-
6 ber during which the covered discharge oc-
7 curred.

8 (E) The member shall be awarded involun-
9 tary separation pay under section 1174 of title
10 10, United States Code, and the time in service
11 and time in rank for such pay shall be cal-
12 culated to include service through the end of
13 the term of service or enlistment contract dur-
14 ing which the covered discharge occurred, plus
15 the term of reenlistment or extension of service
16 under subparagraph (D).

17 (d) JURISDICTION.—Notwithstanding section 1500 of
18 title 28, United States Code, the Court of Federal Claims
19 shall have jurisdiction over any civil action brought by a
20 covered member relating to a covered discharge.

21 (e) COORDINATION WITH EXECUTIVE ORDER
22 14184.—The remedies available under this section are in
23 addition to any remedies available pursuant to Executive
24 Order 14184 (90 Fed. Reg. 8761; relating to reinstating

1 service members discharged under the military's COVID–
2 19 vaccination mandate).

3 (f) APPLICABILITY.—This section applies with re-
4 spect to claims relating to covered discharges pending be-
5 fore the Court of Federal Claims on or after the date of
6 the enactment of this Act.

○