

111TH CONGRESS  
1ST SESSION

# S. 1347

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, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 24, 2009

Mr. SCHUMER introduced the following bill; which was read twice and 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, and for other purposes.

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 “Carmelo Rodriguez  
5 Military Medical Accountability Act of 2009”.

1 **SEC. 2. ALLOWANCE OF CLAIMS BY MEMBERS OF THE**  
2 **ARMED FORCES AGAINST THE UNITED**  
3 **STATES FOR CERTAIN INJURIES CAUSED BY**  
4 **IMPROPER MEDICAL CARE.**

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

8 **“§ 2681. Certain claims by members of the Armed**  
9 **Forces of the United States**

10 “(a) A claim may be brought against the United  
11 States under this chapter for damages relating to the per-  
12 sonal injury or death of a member of the Armed Forces  
13 of the United States arising out of a negligent or wrongful  
14 act or omission in the performance of medical, dental, or  
15 related health care functions (including clinical studies  
16 and investigations) that is provided by a person acting  
17 within the scope of the office or employment of that person  
18 by or at the direction of the Government of the United  
19 States, whether inside or outside the United States.

20 “(b) A claim under this section shall not be reduced  
21 by the amount of any benefit received under subchapter  
22 III (relating to Servicemembers’ Group Life Insurance) of  
23 chapter 19 of title 38.

24 “(c) This section does not apply to any claim arising  
25 out of the combatant activities of the Armed Forces dur-  
26 ing time of armed conflict.

1       “(d) For purposes of claims brought under this sec-  
2 tion—

3               “(1) subsections (j) and (k) of section 2680 do  
4 not apply; and

5               “(2) in the case of an act or omission occurring  
6 outside the United States, the ‘law of the place  
7 where the act or omission occurred’ shall be deemed  
8 to be the law of the place of domicile of the plaintiff.

9       “(e) As used in this section, the term ‘a negligent  
10 or wrongful act or omission in the performance of medical,  
11 dental, or related health care functions (including clinical  
12 studies and investigations)’ has the same meaning given  
13 that term for purposes of section 1089(e) of title 10.”.

14       (b) TECHNICAL AND CONFORMING AMENDMENT.—  
15 The table of sections for chapter 171 of title 28, United  
16 States Code, is amended by adding at the end the fol-  
17 lowing:

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

18       (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply with respect to a claim arising on  
20 or after January 1, 1997, and any period of limitation  
21 that applies to such a claim arising before the date of en-  
22 actment of this Act shall begin to run on the date of that  
23 enactment.

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