

REV 43

**AMENDMENT TO H.R. 5136, AS REPORTED
OFFERED BY MR. PATRICK MURPHY OF
PENNSYLVANIA**

At the end of subtitle D of title V, add the following
new section:

1 **SEC. 5__ . DEPARTMENT OF DEFENSE POLICY CON-**
2 **CERNING HOMOSEXUALITY IN THE ARMED**
3 **FORCES.**

4 (a) **COMPREHENSIVE REVIEW ON THE IMPLEMENTA-**
5 **TION OF A REPEAL OF 10 U.S.C. § 654.—**

6 (1) **IN GENERAL.—**On March 2, 2010, the Sec-
7 retary of Defense issued a memorandum directing
8 the Comprehensive Review on the Implementation of
9 a Repeal of 10 U.S.C. § 654 (section 654 of title 10,
10 United States Code).

11 (2) **OBJECTIVES AND SCOPE OF REVIEW.—**The
12 Terms of Reference accompanying the Secretary's
13 memorandum established the following objectives
14 and scope of the ordered review:

15 (A) Determine any impacts to military
16 readiness, military effectiveness and unit cohe-
17 sion, recruiting/retention, and family readiness
18 that may result from repeal of the law and rec-

1 commend any actions that should be taken in
2 light of such impacts.

3 (B) Determine leadership, guidance, and
4 training on standards of conduct and new poli-
5 cies.

6 (C) Determine appropriate changes to ex-
7 isting policies and regulations, including but not
8 limited to issues regarding personnel manage-
9 ment, leadership and training, facilities, inves-
10 tigations, and benefits.

11 (D) Recommend appropriate changes (if
12 any) to the Uniform Code of Military Justice.

13 (E) Monitor and evaluate existing legisla-
14 tive proposals to repeal 10 U.S.C. § 654 and
15 proposals that may be introduced in the Con-
16 gress during the period of the review.

17 (F) Assure appropriate ways to monitor
18 the workforce climate and military effectiveness
19 that support successful follow-through on imple-
20 mentation.

21 (G) Evaluate the issues raised in ongoing
22 litigation involving 10 U.S.C. § 654.

23 (b) **EFFECTIVE DATE.**—The amendments made by
24 subsection (f) shall take effect 60 days after the date on
25 which the last of the following occurs:

1 (1) The Secretary of Defense has received the
2 report required by the memorandum of the Sec-
3 retary referred to in subsection (a).

4 (2) The President transmits to the congres-
5 sional defense committees a written certification,
6 signed by the President, the Secretary of Defense,
7 and the Chairman of the Joint Chiefs of Staff, stat-
8 ing each of the following:

9 (A) That the President, the Secretary of
10 Defense, and the Chairman of the Joint Chiefs
11 of Staff have considered the recommendations
12 contained in the report and the report's pro-
13 posed plan of action.

14 (B) That the Department of Defense has
15 prepared the necessary policies and regulations
16 to exercise the discretion provided by the
17 amendments made by subsection (f).

18 (C) That the implementation of necessary
19 policies and regulations pursuant to the discre-
20 tion provided by the amendments made by sub-
21 section (f) is consistent with the standards of
22 military readiness, military effectiveness, unit
23 cohesion, and recruiting and retention of the
24 Armed Forces.

1 (c) NO IMMEDIATE EFFECT ON CURRENT POLICY.—

2 Section 654 of title 10, United States Code, shall remain
3 in effect until such time that all of the requirements and
4 certifications required by subsection (b) are met. If these
5 requirements and certifications are not met, section 654
6 of title 10, United States Code, shall remain in effect.

7 (d) BENEFITS.—Nothing in this section, or the
8 amendments made by this section, shall be construed to
9 require the furnishing of benefits in violation of section
10 7 of title 1, United States Code (relating to the definitions
11 of “marriage” and “spouse” and referred to as the “De-
12 fense of Marriage Act”).

13 (e) NO PRIVATE CAUSE OF ACTION.—Nothing in this
14 section, or the amendments made by this section, shall be
15 construed to create a private cause of action.

16 (f) TREATMENT OF 1993 POLICY.—

17 (1) TITLE 10.—Upon the effective date estab-
18 lished by subsection (b), chapter 37 of title 10,
19 United States Code, is amended—

20 (A) by striking section 654; and

21 (B) in the table of sections at the begin-
22 ning of such chapter, by striking the item relat-
23 ing to section 654.

24 (2) CONFORMING AMENDMENT.—Upon the ef-
25 fective date established by subsection (b), section

1 571 of the National Defense Authorization Act for
2 Fiscal Year 1994 (10 U.S.C. 654 note) is amended
3 by striking subsections (b), (c), and (d).

