

116TH CONGRESS
1ST SESSION

S. 2459

To amend title 9, United States Code, to prohibit predispute arbitration agreements that force arbitration of certain disputes arising from claims of servicemembers and veterans.

IN THE SENATE OF THE UNITED STATES

Ms. MURKOWSKI (for herself, Mr. REED, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend title 9, United States Code, to prohibit predispute arbitration agreements that force arbitration of certain disputes arising from claims of servicemembers and veterans.

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 “Justice for Service-
5 members Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

1 (1) to prohibit predispute arbitration agree-
 2 ments that force arbitration of disputes arising from
 3 claims brought under chapter 43 of title 38, United
 4 States Code, and the Servicemembers Civil Relief
 5 Act (50 U.S.C. 3901 et seq.); and

6 (2) to prohibit agreements and practices that
 7 interfere with the right of persons to participate in
 8 a joint, class, or collective action related to disputes
 9 arising from claims brought under the provisions of
 10 the laws described in paragraph (1).

11 **SEC. 3. ARBITRATION OF DISPUTES INVOLVING THE**
 12 **RIGHTS OF SERVICEMEMBERS AND VET-**
 13 **ERANS.**

14 (a) IN GENERAL.—Title 9, United States Code, is
 15 amended by adding at the end the following:

16 **“CHAPTER 4—ARBITRATION OF SERVICE-**
 17 **MEMBER AND VETERAN DISPUTES**

“Sec.

“401. Definitions.

“402. No validity or enforceability.

18 **“§ 401. Definitions**

19 “In this chapter—

20 “(1) the term ‘predispute arbitration agree-
 21 ment’ means an agreement to arbitrate a dispute
 22 that has not yet arisen at the time of the making
 23 of the agreement; and

1 “(2) the term ‘predispute joint-action waiver’
 2 means an agreement, whether or not part of a
 3 predispute arbitration agreement, that would pro-
 4 hibit, or waive the right of, one of the parties to the
 5 agreement to participate in a joint, class, or collec-
 6 tive action in a judicial, arbitral, administrative, or
 7 other forum, concerning a dispute that has not yet
 8 arisen at the time of the making of the agreement.

9 **“§ 402. No validity or enforceability**

10 “(a) IN GENERAL.—Notwithstanding any other pro-
 11 vision of this title, no predispute arbitration agreement or
 12 predispute joint-action waiver shall be valid or enforceable
 13 with respect to a dispute relating to disputes arising under
 14 chapter 43 of title 38 or the Servicemembers Civil Relief
 15 Act (50 U.S.C. 3901 et seq.).

16 “(b) APPLICABILITY.—

17 “(1) IN GENERAL.—An issue as to whether this
 18 chapter applies with respect to a dispute shall be de-
 19 termined under Federal law. The applicability of this
 20 chapter to an agreement to arbitrate and the validity
 21 and enforceability of an agreement to which this
 22 chapter applies shall be determined by a court, rath-
 23 er than an arbitrator, irrespective of whether the
 24 party resisting arbitration challenges the arbitration
 25 agreement specifically or in conjunction with other

terms of the contract containing such agreement,
and irrespective of whether the agreement purports
to delegate such determinations to an arbitrator.

“(2) COLLECTIVE BARGAINING AGREEMENTS.—
Nothing in this chapter shall apply to any arbitra-
tion provision in a contract between an employer and
a labor organization or between labor organizations,
except that no such arbitration provision shall have
the effect of waiving the right of a worker to seek
judicial enforcement of a right arising under a provi-
sion of the Constitution of the United States, a
State constitution, or a Federal or State statute, or
public policy arising therefrom.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Title 9 of the United States
Code is amended—

(A) in section 1 by striking “of seamen,”
and all that follows through “interstate com-
merce” and inserting “persons and causes of
action under chapter 43 of title 38 or the
Servicemembers Civil Relief Act (50 U.S.C.
3901 et seq.)”;

(B) in section 2 by inserting “or as other-
wise provided in chapter 4” before the period at
the end;

1 (C) in section 208—

2 (i) in the section heading, by striking

3 **“Chapter 1; residual application”**

4 and inserting **“Application”**; and

5 (ii) by adding at the end the fol-

6 lowing: “This chapter applies to the extent

7 that this chapter is not in conflict with

8 chapter 4.”; and

9 (D) in section 307—

10 (i) in the section heading, by striking

11 **“Chapter 1; residual application”**

12 and inserting **“Application”**; and

13 (ii) by adding at the end the fol-

14 lowing: “This chapter applies to the extent

15 that this chapter is not in conflict with

16 chapter 4.”.

17 (2) TABLE OF SECTIONS.—

18 (A) CHAPTER 2.—The table of sections for

19 chapter 2 of title 9, United States Code, is

20 amended by striking the item relating to section

21 208 and inserting the following:

“208. Application.”.

22 (B) CHAPTER 3.—The table of sections for

23 chapter 3 of title 9, United States Code, is

1 amended by striking the item relating to section
2 307 and inserting the following:

“307. Application.”.

3 (3) TABLE OF CHAPTERS.—The table of chap-
4 ters of title 9, United States Code, is amended by
5 adding at the end the following:

“4. Arbitration of servicemember and veteran disputes ... 401”.

6 **SEC. 4. LIMITATION ON WAIVER OF RIGHTS AND PROTEC-**
7 **TIONS UNDER SERVICEMEMBERS CIVIL RE-**
8 **LIEF ACT.**

9 (a) AMENDMENTS.—Section 107(a) of the
10 Servicemembers Civil Relief Act (50 U.S.C. 3918(a)) is
11 amended—

12 (1) in the second sentence, by inserting “and if
13 it is made after a specific dispute has arisen and the
14 dispute is identified in the waiver” before the period
15 at the end; and

16 (2) in the third sentence by inserting “and if it
17 is made after a specific dispute has arisen and the
18 dispute is identified in the waiver” before the period
19 at the end.

20 (b) APPLICATION OF AMENDMENTS.—The amend-
21 ments made by subsection (a) shall apply with respect to
22 waivers made on or after the date of the enactment of
23 this Act.

1 **SEC. 5. APPLICABILITY.**

2 This Act, and the amendments made by this Act,
3 shall apply with respect to any dispute or claim that arises
4 or accrues on or after the date of enactment of this Act.

