November 10, 2010

RE: ACLU Opposes Any Effort to Strip Repeal of Either “Don’t Ask, Don’t Tell” or the Ban on Private Funding of Abortions on Military Bases from the National Defense Authorization Act (S. 3454)

Dear Senator:

On behalf of the American Civil Liberties Union (ACLU), a non-partisan organization with more than a half million members, countless additional activists and supporters, and 53 affiliates nationwide, we urge you to oppose any effort to strip language repealing either the “Don’t Ask, Don’t Tell” (DADT) policy or the ban on privately-funded abortions on military bases from the National Defense Authorization Act (NDAA). Such an action would remove two important civil liberties advancements from this legislation and runs counter to the Obama administration’s goal of repealing both DADT and the ban on the use of private funds to access abortion care at US military hospitals and medical facilities around the world. The current language in the Senate Armed Services Committee-approved version of the NDAA offers important and overdue protections for servicewomen and military dependents, as well as providing those service members who are lesbian, gay or bisexual the opportunity to serve their country with honesty and integrity.

Repeal Don’t Ask, Don’t Tell Policy (Section 591)

Bill language repealing the discriminatory and unconstitutional DADT policy has already passed out of the House of Representatives and the Senate Armed Services Committee. The language is consistent with President Obama’s repeated calls for repeal of the policy as well as the Pentagon’s ongoing review examining how best to implement it. If this language becomes law during the 111th Congress, repeal of DADT will not take effect until the completion of the Pentagon review currently scheduled for December 1, 2010 and only after President Obama, Secretary Gates and Admiral Mullen, Chairman of the Joint Chiefs of Staff, certify that the new law will not have a negative impact on readiness, recruitment, or retention.

Since 1994, over 14,000 qualified and committed service members have been discharged under DADT simply on the basis of sexual orientation. The discrimination that DADT represents not only hurts the individual men and women whose military careers are brought to a sudden end, but also weakens the safety and security of other members of the armed forces and the overall mission. It is long overdue to end this discriminatory and unconstitutional policy.
Repeal Ban on Privately-Funded Abortions at Military Facilities (Section 713)

The current policy banning privately-funded abortions on military bases compromises the health, safety and dignity of servicewomen and military dependents, and discriminates against our military women who have committed their lives to defending our country. Removal of the current ban would simply restore the former policy that enabled servicewomen and military families to use their own private dollars to obtain abortion care at military facilities.

The current ban is particularly devastating for service members, spouses and dependents stationed overseas. Currently, tens of thousands of women live on military bases overseas and rely on military hospitals for access to health care. These women are forced either to attempt to obtain an abortion in a local medical facility in the country in which they are stationed, or to travel to a medical facility in the United States or in another country. In countries where abortion is legal, in practice, servicewomen frequently do not have access to legal abortions. Local health facilities are sometimes inadequate, unsafe, or lack trained medical personnel. Some U.S. military bases are located in remote areas without access to local medical facilities. Some military personnel are serving in an area with active hostilities. Servicewomen are therefore often forced to travel to obtain abortion care, requiring them to take leave from their military duty. Servicewomen must clear the leave time with their superiors, requiring them to disclose information about private medical decisions. The superior may delay or refuse to grant a woman leave, although each week of delay increases the potential risk to the woman’s health.

Moreover, members of the military have clearly stated that losing personnel while operationally deployed has a direct impact on the ability of the unit to complete its mission and there is much research to show that replacing members of a military unit during wartime has a detrimental effect on unit cohesion. Both of these factors present a greater threat to mission accomplishment than removing the abortion ban. The ban can also cause unfair harm to a servicewoman’s career by reducing the length of her combat tour, which the military views as crucial experience in the overall development of leadership and is the type of experience the military looks for when considering personnel for future promotion and assignment choices. Indeed, retired Lieutenant General Claudia Kennedy, one of the highest-ranking women ever to serve in the United States Army, has stated that it is “imperative that our soldiers have access to safe, confidential abortion services at U.S. military hospitals overseas.”

At a time when service members willingly put their lives at risk to preserve our rights and freedom, it is deeply troubling that lesbian, gay and bisexual service members are forced to hide and deny their very selves and that servicewomen are denied access to safe, legal abortion care when they serve abroad. These policies are unjust, unfair, and should be repealed. Congress now has the historic opportunity to overturn both policies. We therefore urge you oppose any effort to strip language repealing either “Don’t Ask, Don’t Tell” or the ban on privately-funded abortions on military bases from the NDAA.

---

Sincerely,

Laura W. Murphy  
Director, Washington Legislative Office

Christopher E. Anders  
Senior Legislative Counsel

Vania Leveille  
Legislative Counsel