

**Calendar No. 528**

117TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
117-178 }

MILITARY SPOUSE EMPLOYMENT ACT

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R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 4337

TO AMEND TITLE 5, UNITED STATES CODE, TO AUTHORIZE THE  
APPOINTMENT OF SPOUSES OF MEMBERS OF THE ARMED  
FORCES WHO ARE ON ACTIVE DUTY, DISABLED, OR DECEASED  
TO POSITIONS IN WHICH THE SPOUSES WILL WORK REMOTELY



OCTOBER 18, 2022.—Ordered to be printed  
Filed, under authority of the order of the Senate of October 14, 2022

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U.S. GOVERNMENT PUBLISHING OFFICE

39-010

WASHINGTON : 2022

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Mr. PETERS, from the Committee on Homeland Security and  
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 4337]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4337) to amend title 5, United States Code, to authorize the appointment of spouses of members of the Armed Forces who are on active duty, disabled, or deceased to positions in which the spouses will work remotely, having considered the same reports favorably thereon with an amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 4337, the *Military Spouse Employment Act*, would clarify that agencies can hire military spouses into fully remote positions. This will support the ability of military spouses to maintain their position in a federal career regardless of military relocations or transfers. The bill amends an existing section of title 5, United States

Code, providing federal agency heads with the authority to appoint military spouses to federal employment noncompetitively. The amending language adds a definition of “remote work” and specifies that the appointment authority applies to positions in which the spouse will engage in remote work.

## II. BACKGROUND AND NEED FOR THE LEGISLATION

Nearly half, or 49.9%, of active duty servicemembers are married, including two-thirds of active duty officers.<sup>1</sup> Military spouses serve as the backbone of military families, fulfilling a myriad of household needs around the service demands of active duty members. They also play an important role in the decision of the servicemember to remain in or leave the military.<sup>2</sup> Studies indicate that the wellbeing of military spouses impacts how committed the married servicemember is to military service.<sup>3</sup> A significant factor affecting military spouse wellbeing and the overall wellbeing of a military family is the spouse having the option to find and sustain meaningful employment.<sup>4</sup>

Over the past half a century, the proportion of dual-earner households in the United States has risen significantly, more than doubling between 1960 and 2000 from 25% to 60% and remaining above 50% of U.S. households for the past two decades.<sup>5</sup> Middle class households increasingly rely on two incomes for food, transportation, education, child care, and other expenditures.<sup>6</sup> These same trends impact military households as well.<sup>7</sup> Around 68% of unemployed military spouse respondents to the annual Military Family Lifestyle Survey conducted by Blue Star Families described their financial situation as causing them “some stress” or a “great deal of stress,” compared to 44% of employed spouses.<sup>8</sup> According to a 2021 Military Family Advisory Network Survey, military and veteran family respondents stated that financial hardships due to spousal unemployment was a key driver in negatively affecting the health of military marriages.<sup>9</sup> A dual income for military families can ease financial stress by allowing them to build a safety net and plan for longer term financial goals.<sup>10</sup> Spouse employment is also

<sup>1</sup>Department of Defense, *2020 Demographics: Profile of the Military Community* (2021) (download.militaryonesource.mil/12038/MOS/Reports/2020-demographics-report.pdf).

<sup>2</sup>Blue Star Families, *2021 Military Family Lifestyle Survey: Comprehensive Report* (2022) (bluestarfam.org/wp-content/uploads/2022/03/BSF\_MFLS\_Results2021\_ComprehensiveReport\_3\_22.pdf).

<sup>3</sup>U.S. Chamber of Commerce Foundation, *Military Spouses in the Workplace* (2020) (www.hiringourheroes.org/resources/military-spouses-in-the-workplace-2020/).

<sup>4</sup>*Id.* at 6.

<sup>5</sup>Jonathan Fisher and Nathaniel Johnson, *The Two-Income Trap: Are Two-Earner Households More Financially Vulnerable?*, Center for Economic Studies (June 2019) (www2.census.gov/ces/wp/2019/CES-WP-19-19.pdf); *Comparing characteristics and selected expenditures of dual- and single-income households with children*, U.S. Bureau of Labor Statistics (Sep. 2020) (www.bls.gov/opub/mlr/2020/article/comparing-characteristics-and-selected-expenditures-of-dual-and-single-income-households-with-children.htm).

<sup>6</sup>*Comparing characteristics and selected expenditures of dual- and single-income households with children*, U.S. Bureau of Labor Statistics (Sep. 2020) (www.bls.gov/opub/mlr/2020/article/comparing-characteristics-and-selected-expenditures-of-dual-and-single-income-households-with-children.htm).

<sup>7</sup>*U.S. Chamber of Commerce Foundation, supra* note 3, at 20.

<sup>8</sup>*Blue Star Families, supra* note 2, at 15.

<sup>9</sup>Military Family Advisory Network, *Military Family Support Programming Survey: 2021 Results* (July 14, 2022) (www.mfan.org/wp-content/uploads/2022/07/MFAN-Programming-Survey-Results.pdf).

<sup>10</sup>*U.S. Chamber of Commerce Foundation, supra* note 3, at 25.

correlated with spouses gaining a sense of purpose and other positive impacts to their overall wellbeing.<sup>11</sup>

According to annual Military Family Lifestyle Surveys, military spouse employment has ranked as the top issue for active duty spouses for the third year in a row.<sup>12</sup> The issue of spouse employment has surpassed the ranking of other pressing issues, such as servicemember time away from family, children's education, relocation, and military pay.<sup>13</sup> Spouse employment is also a top-five issue for active duty servicemembers, veteran spouses, and Reserve families.<sup>14</sup>

Military spouses are more likely to be unemployed compared to their civilian counterparts.<sup>15</sup> According to a 2020 survey, nearly one-third of military spouse respondents in the labor force were unemployed, at a rate over three times higher than the national population at the time of the survey.<sup>16</sup> Similarly, 31% of the unemployed military spouse respondents said they were experiencing long-term unemployment, meaning they had been unemployed for 27 weeks or longer, which was also a rate three times higher than that of the civilian population.<sup>17</sup>

Even when military spouses find employment, they often experience underemployment or hold the job for a shorter tenure due to military-related reasons. In the 2020 survey of military spouses, over half of employed respondents reported they were underemployed.<sup>18</sup> Types of underemployment include working in positions that do not match the individual's educational background, skills, or training, or positions with fewer hours than desired or that do not provide a livable wage.<sup>19</sup> In addition, the most recent annual Military Family Lifestyle Survey found that one-third of employed active duty spouse respondents indicated they would need to look for a job within the next 12 months due to a military relocation or permanent change-of-station (PCS).<sup>20</sup>

Military-related barriers to spouse employment include the unpredictable schedule of the servicemember, access to affordable child care, and the frequency of relocations due to PCS moves.<sup>21</sup> According to Department of Defense data, over 80% of active duty spouses experience a PCS move during their partner's military career, and one-third have gone through a PCS move over the past 12 months.<sup>22</sup> Research indicates that PCS moves can cause spousal unemployment, underemployment, loss of earnings, and delays in

<sup>11</sup> *Id.* at 8.

<sup>12</sup> Blue Star Families, *2021 Military Family Lifestyle Survey: Comprehensive Report* (2022) ([bluestarfam.org/wp-content/uploads/2022/03/BSF\\_MFLS\\_Results2021\\_ComprehensiveReport\\_3\\_22.pdf](https://bluestarfam.org/wp-content/uploads/2022/03/BSF_MFLS_Results2021_ComprehensiveReport_3_22.pdf)); Blue Star Families, *2020 Military Family Lifestyle Survey: Comprehensive Report* ([bluestarfam.org/wp-content/uploads/2021/10/BSF\\_MFLS\\_CompReport\\_FULL.pdf](https://bluestarfam.org/wp-content/uploads/2021/10/BSF_MFLS_CompReport_FULL.pdf)); Blue Star Families, *2019 Military Family Lifestyle Survey: Comprehensive Report* ([bluestarfam.org/wp-content/uploads/2020/03/BSF-2019-Survey-Comprehensive-Report-Digital-rev200305.pdf](https://bluestarfam.org/wp-content/uploads/2020/03/BSF-2019-Survey-Comprehensive-Report-Digital-rev200305.pdf)).

<sup>13</sup> *Blue Star Families, supra* note 2, at 3.

<sup>14</sup> *Id.*

<sup>15</sup> RAND Corporation, *Enhancing Family Stability During a Permanent Change of Station: A Review of Disruptions and Policies* (2018) ([www.rand.org/pubs/research\\_reports/RR2304.html](https://www.rand.org/pubs/research_reports/RR2304.html)).

<sup>16</sup> U.S. Chamber of Commerce Foundation, *supra* note 3, at 7.

<sup>17</sup> *Id.* at 29.

<sup>18</sup> *Id.* at 17.

<sup>19</sup> *Id.*

<sup>20</sup> *Blue Star Families, supra* note 2, at 7.

<sup>21</sup> *Id.* at 66.

<sup>22</sup> Department of Defense, *2019 Survey of Active Duty Spouses: Infographic on Spouse Education and Employment* (May 1, 2020) ([www.opa.mil/research-analysis/spouse-family/military-spouse-survey-reports-briefings/2019-survey-of-active-duty-spouses-infographics/2019-survey-of-active-duty-spouses-infographic-on-spouse-education-and-employment/](https://www.opa.mil/research-analysis/spouse-family/military-spouse-survey-reports-briefings/2019-survey-of-active-duty-spouses-infographics/2019-survey-of-active-duty-spouses-infographic-on-spouse-education-and-employment/)).

employment, particularly when the spouse needs to obtain a new credential at the new location.<sup>23</sup> For around 35% of affected spouses, it takes seven or more months to find new employment after a PCS move.<sup>24</sup>

Remote work opportunities can help military spouses avoid some of the negative impacts that military-related barriers to employment, such as PCS, have on their ability to find and stay at a job aligned with their qualifications. Among active duty spouse respondents to the Military Family Lifestyle Survey who identified spousal employment as a top issue, 44% noted that “remote work opportunities” would best address their concerns.<sup>25</sup> Since the start of the COVID 19 pandemic, rates of teleworking or remote working have significantly increased, even as offices started to reopen.<sup>26</sup> Those who are opting to continue working from home increasingly do so out of preference rather than safety concerns, and there has also been a notable increase in remote working driven by the employee relocating to a different geographic area.<sup>27</sup>

The federal government has also seen a significant increase in the number of eligible employees teleworking compared to before the pandemic.<sup>28</sup> The Office of Personnel Management (OPM) has been developing policy guidance, resources, technical support, and training to leverage the lessons learned during the pandemic, particularly related to hybrid work environments.<sup>29</sup> In 2021, for the first time in ten years, OPM updated its guidance for agencies on implementing effective telework and remote work flexibility.<sup>30</sup> Going forward, there is likely to be a higher number of remote work opportunities within federal agencies compared to before the pandemic, and military spouses may stand to benefit from such changes.

Senator Lankford inquired about the potential benefits of federal remote work opportunities for military spouses seeking employment during a March 2022 hearing conducted by the Senate Committee on Homeland Security and Governmental Affairs’ Subcommittee on Government Operations and Border Management, entitled “Chief Human Capital Officers at 20: What is Needed to Empower CHCOs to Ensure HR Practices Support Agencies” Mission Success.”<sup>31</sup> Subcommittee Ranking Member Lankford asked the panel about the higher percentages of federal employees who are teleworking or remote working and about the access of military spouses and individuals in rural areas. Mr. Steve Lenkart, Executive Director of the National Federation of Federal Employees, replied that “remote work opens up a world of possibilities” and is

<sup>23</sup> RAND Corporation, *supra* note 15, at ix.

<sup>24</sup> Department of Defense, *supra* note 22.

<sup>25</sup> Blue Star Families, *supra* note 2, at 67.

<sup>26</sup> Pew Research Center, *COVID-19 Pandemic Continues to Reshape Work in America* (Feb. 16, 2022) ([www.pewresearch.org/social-trends/2022/02/16/covid-19-pandemic-continues-to-reshape-work-in-america/](http://www.pewresearch.org/social-trends/2022/02/16/covid-19-pandemic-continues-to-reshape-work-in-america/)).

<sup>27</sup> *Id.*

<sup>28</sup> Office of Personnel Management, *Future of Work* ([www.opm.gov/policy-data-oversight/future-of-work/](http://www.opm.gov/policy-data-oversight/future-of-work/)) (accessed Aug. 12, 2022).

<sup>29</sup> *Id.*

<sup>30</sup> Office of Personnel Management, *2021 Guide to Telework and Remote Work in the Federal Government* (Nov. 2021) ([chcoc.gov/sites/default/files/Telework-Guide-2021\\_0.pdf](http://chcoc.gov/sites/default/files/Telework-Guide-2021_0.pdf)).

<sup>31</sup> Senate Subcommittee on Government Operations and Border Management, *Hearing on Chief Human Capital Officers at 20: What is Needed to Empower CHCOs to Ensure HR Practices Support Agencies’ Mission Success*, 117th Cong. (Mar. 2, 2022) (S. Hrg. 117-252).

“absolutely the gold standard for a lot of our military spouses that keep moving around with their spouses.”

Congress and Presidents have previously enacted policies to help increase the number of employment opportunities available to military spouses. In 2008, President George W. Bush issued an Executive Order to provide federal agencies with the authority to appoint spouses who relocate due to a PCS into positions in the civil service without needing to fulfill a number of competitive hiring requirements usually required for such positions.<sup>32</sup> The *National Defense Authorization Act for Fiscal Year 2013* codified the authorization initiated by the Bush Executive Order by establishing a new section 3330d of title 5, United States Code, regarding the non-competitive appointment of military spouses.<sup>33</sup> The *National Defense Authorization Act for Fiscal Year 2017* and the *National Defense Authorization Act for Fiscal Year 2019* further amended section 3330d, including to temporarily expand the noncompetitive hiring authority to all military spouses.<sup>34</sup>

The *Military Spouse Employment Act* would further amend section 3330d to clarify the applicability of remote work to federal agencies’ noncompetitive hiring authority for military spouses. The bill adds a definition of “remote work” and adds this term to the subsection describing the hiring authority. The bill aims to increase the number of remote work opportunities in the federal government for military spouses, which would enable spouses to continue their careers in the civil service even as they experience PCS relocations.

### III. LEGISLATIVE HISTORY

Senator James Lankford (R–OK) introduced S. 4337, the *Military Spouse Employment Act*, on May 26, 2022, with original cosponsors Senator Angus King (I–ME), Senator James Inhofe (R–OK), and Senator Kyrsten Sinema (D–AZ). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 4337 at a business meeting on August 3, 2022. At the business meeting, Senators Lankford and Sinema offered a substitute amendment to the bill to make technical edits to the definition of “remote work” and add a reference to an existing definition of “telework” in title 5. The Lankford-Sinema substitute amendment was adopted by voice vote *en bloc*. The bill, as amended by the Lankford-Sinema substitute amendment, was ordered reported favorably by voice vote *en bloc* with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney, Scott, and Hawley present.

### IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

#### *Section 1. Short title*

This section establishes the short title of the bill as the “Military Spouse Employment Act.”

<sup>32</sup> Exec. Order No. 13473, 73 Fed. Reg. 56703 (Sep. 25, 2008).

<sup>33</sup> National Defense Authorization Act for Fiscal Year 2013, Pub. L. 112–239, Sec. 566(a) (2013).

<sup>34</sup> National Defense Authorization Act for Fiscal Year 2017, Pub. L. 114–328, Sec. 1131 (2016); John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115–232, Sec. 573 (2018).

*Sec. 2. Appointment of military spouses*

This section amends section 3330d of title 5, United States Code, to add definitions of “remote work” and “telework” for the purposes of this section. The bill also adds language to the subsection describing the authority of the heads of federal agencies to appoint military spouses to positions noncompetitively. The language specifies that the authority includes appointments to positions in which military spouses engage in remote work.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 25, 2022.*

Hon. GARY PETERS,  
*Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 4337, the Military Spouse Employment Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dawn Sauter Regan.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.



<b>S. 4337, Military Spouse Employment Act</b>			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on August 3, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	*	*
Statutory pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 4337 would authorize federal agencies to hire military spouses for remote work without going through a competitive process. CBO estimates that enacting the bill would not significantly affect the federal budget.

Under current law, spouses of members of the U.S. Armed Forces on active duty and spouses of disabled or deceased members of the armed forces receive hiring preferences for jobs with the federal government. S. 4337 would expand the application of those preferences to remote work positions. That change would not affect the total number of people the federal government would employ or their compensation. However, implementing the bill could cause agencies to modify administrative processes. CBO estimates that the costs to implement those changes would be insignificant.

Enacting the bill also could affect direct spending by some agencies that are allowed to use fees, receipts from the sale of goods, and other collections to cover operating costs. CBO estimates that any net changes in direct spending by those agencies would be negligible because most of them can adjust amounts collected to reflect changes in operating costs.

The CBO staff contact for this estimate is Dawn Sauter Regan. The estimate was reviewed by Leo Lex, Deputy Director of Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

**UNITED STATES CODE**

\* \* \* \* \*

**TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES**

\* \* \* \* \*

**PART III—EMPLOYEES**

\* \* \* \* \*

**Subpart B—Employment and Retention**

\* \* \* \* \*

**CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT**

\* \* \* \* \*

**Subchapter I—Examination, Certification, and Appointment**

\* \* \* \* \*

**SEC. 3330d. APPOINTMENT OF MILITARY SPOUSES.**

(a) DEFINITIONS.—In this section:

(1) \* \* \*

(2) \* \* \*

(3) *The term “remote work” refers to a particular type of telework under which an employee is not expected to report to an officially established agency location on a regular and recurring basis.*

~~[(3)]~~(4) The term “spouse of a disabled or deceased member of the Armed Forces” means an individual—

(A) who is married to a member of the Armed Forces who—

(i) is retired, released, or discharged from the Armed Forces; and

(ii) on the date on which the member retires, is released, or is discharged, has a disability rating of 100 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs; or

(B) who—

(i) was married to a member of the Armed Forces on the date on which the member dies while on active duty in the Armed Forces; and

(ii) has not remarried.

(5) *The term “telework” has the meaning given the term in section 6501.*

(b) APPOINTMENT AUTHORITY.—The head of an agency may appoint noncompetitively—

(1) a spouse of a member of the Armed Forces on active duty;

**[or]**

(2) a spouse of a disabled or deceased member of the Armed Forces~~].~~; or

(3) *a spouse of a member of the Armed Forces on active duty, or a spouse of a disabled or deceased member of the Armed Forces, to a position in which the spouse will engage in remote work.*

\* \* \* \* \*