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FY2014 National Defense Authorization Act: Selected Military Personnel Issues

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February 24, 2014

Congressional Research Service
7-5700
www.crs.gov
R43184

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

Military personnel issues typically generate significant interest from many Members of Congress and their staffs. Ongoing operations in Afghanistan, along with the operational role of the Reserve Components, further heighten interest in a wide range of military personnel policies and issues.

The Congressional Research Service (CRS) has selected a number of the military personnel issues considered in deliberations on the initial House-passed version of the National Defense Authorization Act for Fiscal Year 2014 and on the bill that was enacted and became law (P.L. 113-66). This report provides a brief synopsis of sections that pertain to personnel policy. These include end strengths, pay raises, health care, and sexual assault, as well as less prominent issues that nonetheless generate significant public interest.

This report focuses exclusively on the annual defense authorization process. It does not include language concerning appropriations, veterans' affairs, tax implications of policy choices, or any discussion of separately introduced legislation, topics which are addressed in other CRS products. Some issues were addressed in the FY2013 National Defense Authorization Act and discussed in CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary. Those issues that were considered previously are designated with a "*" in the relevant section titles of this report.

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Introduction

Each year, the House and Senate Armed Services Committees take up their respective versions of the National Defense Authorization Act (NDAA). These bills contain numerous provisions that affect military personnel, retirees, and their family members. Provisions in one version are often not included in another; are treated differently; or, in certain cases, are identical. Following passage of these bills by the respective legislative bodies, a conference committee is usually convened to resolve the various differences between the House and Senate versions.

In the course of a typical authorization cycle, congressional staffs receive many requests for information on provisions contained in the annual NDAA. This report highlights those personnel-related issues that seem likely to generate high levels of congressional and constituent interest, and tracks their status in the House and Senate versions of the FY2014 NDAA.

The process was not typical for the 2014 NDAA. The initial House version of the National Defense Authorization Act for Fiscal Year 2014, H.R. 1960 (113th Congress), was introduced in the House on May 14, 2013; reported by the House Committee on Armed Services on June 7, 2013 (H.Rept. 113-102); and passed by the House on June 14, 2013. A Senate version, S. 1197 (113th Congress), was introduced in the Senate on June 20, 2013, and reported by the Senate Committee on Armed Services (S.Rept. 113-44) on the same day without amendment. The Senate did not pass this bill however. Instead, the House passed a second bill, H.R. 3304, on October 28, 2013, the text of which had been negotiated between members of the House and Senate. The Senate agreed to the House bill on December 19, 2013 without amendment. The bill was presented to the President on December 23 and signed into law on December 26 (P.L. 113-66). No reports or explanatory statements for the enacted bill were approved by either body.

The entries under the heading "House" in the tables on the following pages are based on language from the initial bill, H.R. 1960, unless otherwise indicated. The entries under the heading "Enacted" refer to H.R. 3304 as enacted.

Related CRS products are identified to provide more detailed background information and analysis of the issues. For each issue, a CRS analyst is identified and contact information is provided.

Some issues were addressed in the FY2013 National Defense Authorization Act and discussed in CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary. Those issues that were considered previously are designated with a "*" in the relevant section titles of this report.

*Active Duty End Strengths

Background: The authorized active duty end strengths[1] for FY2001, enacted in the year prior to the September 11 terrorist attacks, were as follows: Army (480,000), Navy (372,642), Marine Corps (172,600), and Air Force (357,000). Over the next decade, in response to the demands of wars in Iraq and Afghanistan, Congress increased the authorized personnel strength of the Army and Marine Corps. Some of these increases were quite substantial, particularly after FY2006, but Congress began reversing these increases in light of the withdrawal of U.S. forces from Iraq in 2011 and a drawdown of U.S. forces in Afghanistan which began in 2012. In FY2013, the authorized end strength for the Army was 552,100, while the authorized end strength for the Marine Corps was 197,300. The Army has proposed reducing its personnel strength to 490,000 by FY2015 while the Marine Corps has proposed reducing its personnel strength to 175,000 by FY2017. End-strength for the Air Force and Navy has decreased since 2001. The authorized end strength for FY2013 was 329,460 for the Air Force and 322,700 for the Navy.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 401 authorizes a total FY2014 active duty end strength of 1,361,400 including: 520,000 for the Army 323,600 for the Navy 190,200 for the Marine Corps 327,600 for the Air Force	Identical to Section 401 of H.R. 1960.

Discussion: With the withdrawal of U.S. forces from Iraq and the ongoing drawdown in Afghanistan, the final bill included major reductions in Army (-32,100) and Marine Corps (-7,100) end strengths in comparison to their FY2013 authorized end strengths. It also slightly reduced the end strength for the Air Force (-1,860) while slightly increasing it for the Navy (+900). The figures in H.R. 1960, the Senate committee-reported bill (S. 1197), and H.R. 3304 are identical to the Administration's proposal. Taken together, the final bill stipulates a total active duty end strength which is 40,160 lower than the FY2013 level, almost entirely due to reductions in the size of the Army and Marine Corps. However, both the Army and the Marine Corps finished FY2013 well below their authorized end strength levels. The Army's strength at the end of FY2013 was 532,043 (instead of the authorized 552,100) and the Marine Corps' was 195,848 (instead of the authorized 197,300). Therefore, the required strength reductions in those services for FY2014 would be around 18,000.

Reference(s): Previously discussed in CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues, coordinated by Catherine A. Theohary, and similar reports from earlier years. See also CRS Report RL32965, *Recruiting and Retention: An Overview of FY2011 and FY2012 Results for Active and Reserve Component*

[1] The term "end strength" refers to the authorized strength of a specified branch of the military at the end of a given fiscal year, while the term authorized strength means "the largest number of members authorized to be in an armed force, a component, a branch, a grade, or any other category of the armed forces" (10 U.S.C. 101(b)(11)). As such, end strengths are maximum strength levels. Congress also sets minimum strength levels for the active component, which may be identical to or lower than the end strength.

Enlisted Personnel, by Lawrence Kapp, Recruiting and Retention: An Overview of FY2011 and FY2012 Results for Active and Reserve Component Enlisted Personnel, by Lawrence Kapp.

CRS Point of Contact: Lawrence Kapp, x7-7609.

*Selected Reserves End Strength

Background: Although the Reserves have been used extensively in support of operations since September 11, 2001, the overall authorized end strength of the Selected Reserves has declined by about 3% over the past 12 years (874,664 in FY2001 versus 850,880 in FY2013). Much of this can be attributed to the reduction in Navy Reserve strength during this period. There were also modest shifts in strength for some other components of the Selected Reserve. For comparative purposes, the authorized end strengths for the Selected Reserves for FY2001 were as follows: Army National Guard (350,526), Army Reserve (205,300), Navy Reserve (88,900), Marine Corps Reserve (39,558), Air National Guard (108,022), Air Force Reserve (74,358), and Coast Guard Reserve (8,000).[2] Between FY2001 and FY2013, the largest shifts in authorized end strength occurred in the Army National Guard (+7,674 or +2.2%), Coast Guard Reserve (+1,000 or +12.5%), Air Force Reserve (-3,478 or -4.7%), and Navy Reserve (-26,400 or -29.7%). A smaller change occurred in the Air National Guard (-2,322 or -2.1%), while the authorized end strengths of the Army Reserve (-300 or -0.15%) and the Marine Corps Reserve (+42 or +0.11%) have been largely unchanged during this period.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 411 authorizes the following end strengths for the Selected Reserves: Army National Guard: 354,200 Army Reserve: 205,000 Navy Reserve: 59,100 Marine Corps Reserve: 39,600 Air National Guard: 105,400 Air Force Reserve: 70,400 Coast Guard Reserve: 9,000	Identical to Section 411 of H.R. 1960.

Discussion: The provisions in H.R. 1960, the Senate committee-reported bill (S. 1197), and H.R. 3304 were identical. In the final bill, the authorized Selected Reserve end strengths for FY2014 are the same as those for FY2013 for the Army Reserve, the Marine Corps Reserve, and the Coast Guard Reserve. The Navy Reserve's authorized end strength was 62,500 in FY2013, but the Administration requested a decrease to 59,100 (-3,400) which the final bill approved. The Army National Guard's authorized end strength in FY2013 was 358,200; the Administration requested a decrease to 354,200 (-4,000) which the final bill also approved. The Air National Guard's end strength in FY2013 was 105,700 and the Air Force Reserve's was 70,880. The Administration proposed reducing these slightly to 105,400 (-300) and 70,400 (-480), respectively, and the final bill agreed.[3]

CRS Point of Contact: Lawrence Kapp, x7-7609.

[2] P.L. 106-398, §411.

[3] In the FY2013 NDAA, Congress rejected the Administration's proposal to reduce the size of the Air National Guard and Air Force Reserve more substantially in accordance with its plans to divest, transfer or retire certain aircraft from Air National Guard and Air Force Reserve units. These proposals were quite controversial and Congress largely rejected them, ultimately authorizing only a small reduction in end strength for the Air National Guard (from 106,700 to 105,700) and the Air Force Reserve (from 71,400 to 70,880).

*Military Pay Raise

Background: Increasing concern with the overall cost of military personnel, combined with ongoing military operations in Afghanistan, has continued to focus interest on the military pay raise. Section 1009 of Title 37 provides a permanent formula for an automatic annual increase in basic pay that is indexed to the annual increase in the Employment Cost Index (ECI). The increase in basic pay for 2014 under this statutory formula would be 1.8%; however, Congress can pass a law to provide otherwise and the President asserts that he has authority under 37 USC 1009(e) to specify an alternative pay adjustment.[4] The FY2014 President's Budget requested a 1.0% military pay raise, lower than the statutory formula. According to the Department of Defense, this smaller increase would save "$540 million in FY 2014 and nearly $3.5 billion through FY 2018."[5] On August 30, 2013, the President sent a letter to Congress stating "I have determined it is appropriate to exercise my authority under Section 1009(e) of title 37, United States Code, to set the 2014 monthly basic pay increase at 1.0 percent...The adjustments described above shall take effect on the first applicable pay period beginning on or after January 1, 2014." [6]

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
No provision	No provision

Discussion: The House-passed bill contained no provision to specify the rate of increase in basic pay, while the Senate committee-reported bill (S. 1197) specified an increase of 1%. The final bill contained no provision regarding the rate of increase in basic pay. Normally, this would leave in place the statutory pay raise formula specified in 37 U.S.C. 1009, which equates to an increase of 1.8% on January 1, 2014. However, the President stated that he would direct a 1% pay raise under the authority of 37 USC 1009(e). Thus, basic pay for military personnel increased by 1% on January 1, 2014.

Reference(s): Previously discussed in CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary, FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues, coordinated by Catherine A. Theohary. See also CRS Report RL33446, *Military Pay and Benefits: Key Questions and Answers*, by Lawrence Kapp, Military Pay and Benefits: Key Questions and Answers, by Lawrence Kapp.

CRS Point of Contact: Lawrence Kapp, x7-7609.

[4] Section 1009 (e) allows the President to submit a plan for an alternative pay adjustment to Congress before September 1 of the year preceding the pay raise. This provision does not explicitly state that any such plan overrides the automatic adjustment tied to the ECI, but it could be argued that the authority nonetheless exists because subsection (e) refers to "alternative pay adjustments as the President considers appropriate" and subsection (b) states that "an adjustment under this section [1009] shall have the force and effect of law."

[5] United States Department of Defense Fiscal Year 2014 Budget Overview, p. 5-2, available at http://comptroller.defense.gov/defbudget/fy2014/FY2014_Budget_Request_Overview_Book.pdf.

[6] Letter available at http://www.whitehouse.gov/the-press-office/2013/08/30/letter-president-regarding-alternate-pay-plan-members-uniformed-services.

Limitations on Number of General and Flag Officers on Active Duty

Background: Congress sets limits on the number of general officers (officers in paygrades O-7 through O-10 in the Army, Air Force, and Marine Corps) and flag officers (officers in paygrades O -7 through O -10 in the Navy) on active duty. As specified in 10 U.S.C. 526, the number of general and flag officers (GO/FO) on active duty may not exceed the following as of October 1, 2013: 231 for the Army, 162 for the Navy, 198 for the Air Force, and 61 for the Marine Corps. In addition to these service-specific positions, the Secretary of Defense may designate up to 310 GO/FO for joint duty positions. Unless otherwise directed by the Secretary of Defense, at least 85 of these officers for these joint duty positions shall be Army officers, 61 from the Navy, 73 from the Air Force, and 21 from the Marine Corps. These figures do not include most reserve GO/FO.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 501 would reduce the number of service-specific general and flag officers to 226 for the Army, 157 for the Navy, and 193 for the Air Force as of October 1, 2014. It would also reduce the maximum number of joint duty positions for general and flag officers to 300 as of that date; and within the joint allocation, it would reduce minimum positions by service to 81 for the Army, 59 for the Navy, 70 for the Air Force, and 20 for the Marine Corps.	Section 501 sets a "baseline" number of Service GO/FO and another for joint duty GO/FO. It requires the Service Secretaries, the Secretary of Defense, or the Chairman of the Joint Chiefs of Staff – as the case may be – to provide a justification to the House and Senate Armed Services Committee of any action that would increase the number of GO/FO above these baselines, and delays the effect of such action until 60 days after such notice is given. The provision also requires the Secretary of Defense to provide an annual report to the House and Senate Armed Services Committees on the number of service-specific and joint duty GO/FO being counted towards the statutory limits.

Discussion: The wars in Iraq and Afghanistan resulted in a substantial expansion in the size of the Army and Marine Corps and in GO/FO authorizations. In 2001, there were 889 general and flag officers on active duty; 10 years later there were 971 (though DOD projects this figure to drop over the next few years). With the end of the war in Iraq, the ongoing drawdown in Afghanistan, and the substantial reductions in Army and Marine Corps strength that is underway, there has been growing interest in Congress to reduce the number of generals and admirals in the Armed Forces. Section 501 of the House bill would reduce current authorizations for GO/FO on active duty from 962 (effective October 1, 2013) to 937 (effective October 1, 2014). The Senate committee-reported bill (S. 1197) contained no similar provision. The final bill included a provision requiring DOD to notify the House and Senate Armed Services of any proposed action to increase in Service or joint duty GO/FO above specified baselines, and wait 60 days after such notification before the proposed action can go into effect. It also establishes an annual reporting requirement on the number of GO/FO.

Reference(s): For historical background on general and flag officer authorizations, see Library of Congress, Federal Research Division, "General and Flag Officer Authorizations for the Active and Reserve Components: a Comparative and Historical Analysis," 2007.[7]

CRS Point of Contact: Lawrence Kapp, x7-7609.

[7] Available at http://www.loc.gov/rr/frd/pdf-files/CNGR_General-Flag-Officer-Authorizations.pdf.

Minimum Notification Requirements for Reserve Component Deployment or Cancellation of Deployment

Background: Section 515 of the FY2008 National Defense Authorization Act (P.L. 110-181) required the Secretaries of the military departments to provide advance notice to reservists who were going to be ordered to active duty in support of a contingency operation for more than 30 days. The provision also specified that "[i]n so far as is practicable, the notice shall be provided not less than 30 days before the mobilization date, but with a goal of 90 days before the mobilization date of a pending activation." The Secretary of Defense was granted fairly broad authority to waive or reduce this requirement, but has to submit a report to Congress detailing the reasons for the waiver or the reduction in certain circumstances. DOD policy, as contained in DOD Instruction 1235.12, provides that mobilization orders are normally to be approved 180 days before mobilization, but allows the Secretaries of the military departments to approve "individual mobilization orders for emergent requirements and special capabilities provided that no less than 30 days' notification has been given...." The policy also acknowledges that "[i]n crisis situations, some RC forces may be required immediately" and allows the Secretary of Defense to approve mobilizations with less than 30 days between mobilization order approval and the mobilization date. DOD policy also specifies that in the event of changes to operational requirements that alter the need for already notified reservists "DOD Components will seek other missions for all RC units and members identified for mobilization" and "[t]he Military Services will identify and make efforts to mitigate individual hardships for RC units and members who have mobilized or are within 90 days of mobilization." Under DOD policy, reservists who wish to volunteer for duty in support of a contingency operation are able to waive the 30-day notification requirement of P.L. 110-181.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 511 would amend Section 12301 of Title 10 to require the Service Secretaries to provide at least 120 days of notice to reserve units or individual reservists if they will be "ordered to active duty for deployment in connection with a contingency operation" or, after being notified of such a deployment, the deployment is "canceled, postponed, or otherwise altered." If the Service Secretary fails to provide such notification, he or she must submit a report to the House and Senate Armed Services Committees explaining the reasons for the failure and providing the names of units and individuals affected.	Section 513 requires the Service Secretaries to provide at least 120 days of notice of an involuntary mobilization to reservists if they are "not assigned to a unit organized to serve as a unit" or are "mobilized apart from the member's unit." This part of the provision will cease to apply "as of the date of the withdrawal of United States combat forces from Afghanistan." Section 513 also prohibits cancelling the deployment of certain reserve units unless the Secretary of Defense approves the cancelation in writing. The prohibition affects reserve units within 180 days of their scheduled deployment, if the cancellation is due to the deployment of an active component unit in lieu of the reserve unit. This provision also requires the Secretary of Defense to notify the congressional defense committees and the governor concerned of any approved cancellations.

Discussion: Although DOD policy provides for reserve notification prior to mobilization, there have been complaints when the shorter notification limits have been invoked. More recently, there was dissatisfaction when the Army elected to use active duty units to replace four Army National Guard units that had already been notified of mobilization in support of Operation

Enduring Freedom-Trans Sahara and the Multinational Force Observer Task Force Sinai.[8] The House provision sought to provide greater advance notice to reservists of deployments and changes to deployment orders, though the Service Secretaries would still have had the option of providing less than 120 days of notice coupled with a report to Congress justifying the decision. The Senate committee-reported bill (S. 1197) contained a provision (Section 508) which would prohibit cancelling the deployment of certain reserve units unless the Secretary of Defense approved the cancelation in writing. The prohibition would affect reserve units within 180 days of their scheduled deployment, if the cancellation were due to the deployment of an active component unit in lieu of the reserve unit. Section 513 would have required the Secretary of Defense to notify the congressional defense committees and the governor concerned of any approved cancellations. The final enacted provision incorporates the Senate committee-reported provision, and a modified version of the House-passed provision.

Reference(s): None.

CRS Point of Contact: Lawrence Kapp, x7-7609.

[8] See "Army announces the off-ramp of reserve component units for fiscal year 2013," available at http://www.army.mil/article/99155/.

*Protection of Religious Freedom of Military Chaplains and Service Members

Background: The Free Exercise Clause of the U.S. Constitution is meant to protect individual religious exercise and requires a heightened standard of review for government actions that may interfere with a person's free exercise of religion. However, the Establishment Clause is meant to stop the government from endorsing a national religion, or favoring one religion over another. Actions taken must be carefully balanced to avoid being in violation of one of these Clauses. There are already sections in Title 10 under the Army, Navy, and Air Force that address chaplains' duties. The provision in the first House-passed bill would have amended these sections (§§3547, 6031, and 8547). Section 533 of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239) required the Armed Forces to accommodate the moral principles and religious beliefs of service members concerning appropriate and inappropriate expression of human sexuality and that such beliefs may not be used as a basis for any adverse personnel actions.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 529 would specify that if a chaplain is called upon to lead a prayer outside of a religious service, they would have the prerogative to close the prayer according to the traditions, expressions, and religious exercises of the endorsing faith group.	Section 530 amends Section 533 of the 2013 NDAA by narrowing exceptions to the requirement to accommodate religious beliefs to "cases of military necessity," by extending protection to actions and speech, and by narrowing exceptionable beliefs from those "that threaten" to those "that actually harm".

Discussion: DOD Instruction 1300.17 acts to accommodate religious practices in the military services. This instruction indicates that DOD places a high value on the rights of military personnel to practice their respective religions. There have been instances where military personnel have become upset because the chaplain closed the prayer at a mandatory ceremony, such as a deployment ceremony, with a specific religious remark, such as "praise be Jesus." In February, an atheist soldier at Fort Sam Houston in San Antonio, TX, threatened the U.S. Army with a lawsuit because a chaplain allegedly prayed to the Heavenly Father during a secular event. However, no personnel are required to recognize the prayer, or participate in it (for example, they do not have to respond). Religious proselytizing is considered by some to be a prominent issue in the Armed Forces. Some believe it could destroy the bonds that keep soldiers together, which could be viewed as a national security threat. The ability for a chaplain to be able to close a prayer outside of a religious service may heighten the tension between soldiers and may worsen the problem. Others disagree and argue that it is inappropriate to curtail a chaplain's activities.

Reference(s): Previously discussed in CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary, FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues, coordinated by Catherine A. Theohary. See also CRS Report R41171, *Military Personnel and Freedom of Religion: Selected Legal Issues*, by R. Chuck Mason and Cynthia Brougher.

CRS Point of Contact: David F. Burrelli, x7-8033.

*Protection of Child Custody Arrangements for Parents Who Are Members of the Armed Forces

Background: Military members who are single parents are subjected to the same assignment and deployment requirements as other servicemembers. Deployments to areas that do not allow dependents (such as aboard ships or in hostile fire zones) require the servicemember to have contingency plans to provide for their dependents, usually a temporary custody arrangement. Difficulties with child custody could in some cases potentially affect the welfare of military children as well as servicemembers' ability to effectively serve their country. (See U.S. Department of Defense, Instruction No. 1342.19, "Family Care Plans," May 7, 2010.) Concerns have been raised that the possibility or actuality of military deployments may encourage courts to deny custodial rights of a servicemember in favor of a former spouse or others. Also, concerns have been raised that custody changes may occur while the military member is deployed and unable to attend court proceedings.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 564 amends the Service Members Civil Relief Act to require courts to render temporary custody orders based on deployments and to reinstate the servicemember as custodian unless the court determines that reinstatement is not in the child's best interest. This language prohibits courts from using a deployment, or the possibility of a deployment, in determining the child's best interest. In cases where a state provides a higher standard of protection of the rights of the servicemember, then the state standards apply.	Section 555 provides a "Sense of Congress" stating that "It is the sense of Congress that State courts should not consider a military deployment, including past, present, or future deployment, as the sole factor in determining child custody in a State court proceeding involving a parent who is a member of the Armed Forces. The best interest of the child should always prevail in custody cases, but members of the Armed Forces should not lose custody of their children based solely upon service in the Armed Forces in defense of the United States."

Discussion: The House language would have amended the law to allow courts to assign temporary custody of a child for the purposes of deployment without allowing the (possibility of) deployment to be prejudicially considered against the servicemember in a custody hearing. The enacted bill does not amend current law.

Reference(s): Previously discussed in CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary. See also CRS Report R43091, *Military Parents and Child Custody: State and Federal Issues*, by David F. Burrelli and Michael A. Miller.

CRS Point of Contact: David Burrelli, 7-9483.

*Treatment of Victims of the Attacks at Recruiting Station in Little Rock, Arkansas, and at Fort Hood, Texas

Background: The Purple Heart is awarded to any member of the Armed Forces who has been (1) wounded or killed in action against an enemy, while serving with friendly forces against a belligerent party, resulting from a hostile foreign force, while serving as a member of a peacekeeping force while outside the United States; or (2) killed or wounded by friendly fire under certain circumstances. On June 9, 2009, a civilian who was angry over the killing of Muslims in Iraq and Afghanistan opened fire on two U.S. Army soldiers near a recruiting station in Little Rock, AR. On November 5, 2009, an Army major opened fire at Ft. Hood, TX, killing 13 and wounding 29. Both the civilian and the Army major were charged with murder and other crimes.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 585 requires the Secretary of Defense to award a Purple Heart to the military victims of these two attacks. Categorizing this as a combat zone also makes those members and civilians eligible for additional monetary benefits.	Section 565 requires the Secretary of the military department concerned to assess whether the members of the Armed Forces killed or wounded at Fort Hood and Little Rock qualify for award of the Purple Heart under the criteria as members of the Armed Forces who were killed or wounded as a result of an act of an enemy of the United States.

Discussion: These shootings on U.S. soil have spurred new debate on the eligibility criteria for the Purple Heart. Some now feel that the eligibility requirements for the Purple Heart should be modified, while others feel that the modifications would cheapen the value of the medal and sacrifices recipients have made. Authorities considered these specific acts to be crimes and not acts perpetrated by an enemy or hostile force. Because these acts involved Muslim perpetrators angered over U.S. actions in Iraq and Afghanistan, some believe they should be viewed as acts of war. Some are concerned that awarding the Purple Heart in these situations could have anti-Muslim overtones.

Reference(s): Previously discussed in CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary. See also CRS Report R42704, *The Purple Heart: Background and Issues for Congress*, by David F. Burrelli.

CRS Point of Contact: David Burrelli, 7-9483.

*Sexual Assault and the Military

Background: Sexual assault in the military has been a continuing problem. The number of sexual assaults reported in the most recent year (2011) represented an approximate increase of 6% over the previous. Earlier this year, the Senate Armed Services Committee held hearings on the topic.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 522 requires the verification and tracking of the organizational climate assessments mandated by P.L. 112-239 and includes report requirements to the HASC and SASC.	Section 1721 requires the Service Secretaries to track and verify the compliance of commanding officers in conducting climate assessments.
Section 540 requires uniform training standards to ensure that sexual assault prevention and response and education are uniform across DOD.	Section 1733 requires a review of the adequacy of sexual assault prevention and response training.
Section 547 requires commanders to include letters of reprimand, nonpunitive letters of action, and counseling statements involving substantiated cases of sexual harassment or sexual assault in performance evaluations of servicemembers.	Section 1745 requires that if a service member is convicted by court-martial or receives non-judicial punishment or punitive administrative action for a sex-related offense, a notation to that effect shall be placed in the service record.
Section 541 requires the establishment of selection qualifications for those assigned to be Sexual Assault Prevention and Response Managers, Sexual Assault Response Coordinators, and Sexual Assault Victim Advocates. Also, trained and certified Sexual Assault Nurse Examiners-Adult/Adolescent are to be assigned at the brigade level or other unit level subject to the discretion of the Secretary of Defense.	Section 1725 contains the House language with amendments: 1. requires at least one full-time sexual assault nurse examiner to a medical facility that has 24-hour ER, 2. provide that nurse examiners be made available to other medical facilities, and 3. require the Secretary of Defense to report on the adequacy of training, qualifications and experience of those assigned to positions including sexual assault prevention and response in the Armed Forces.
Section 550 requires a review of the Office of Diversity Management and Equal Opportunity to identify resource and personnel gaps in the office, the role of the office in sexual harassment cases, and how the office works with the Sexual Assault Prevention and Response Office (SAPRO) to address sexual assaults.	Section 1735 Requires a review of the Office of Diversity Management and Equal Opportunity to determine whether it should address sexual harassment cases and to identify how it works with the Sexual Assault Prevention and Response Office.
Section 548 provides enhanced protections for prospective members and new entrants by defining and prescribing what constitutes inappropriate/prohibited relations, communications, contact and conduct between such personnel and recruiter, drill sergeants and others who may be responsible for such prospective or new members. Violators will be automatically processed for separation in substantiated cases. Finally, this section requires the Secretary of Defense to propose an amendment to the UCMJ that addresses violations of this policy.	Section 1741 Provides enhanced protections for prospective and new service members during entry-level processing and training, including defining inappropriate and prohibited relationships, communication, conduct, and contact between certain members and processing for administrative separation.
Section 532 eliminates the five-year statute of limitations for sexual assault for offenses occurring after enactment of this act.	Section 1703 incorporates the House language (House Section 532).
Section 539 requires a review of the investigative practices of military law enforcement agencies, including a review of the extent to which such agencies recommend whether an allegation is founded/unfounded, recording the results of such cases, and considers	Section 1732 requires the Secretary of Defense to review the practices of the military criminal investigative organizations in response to allegations of an offense under the UCMJ and to develop a policy regarding the use of case determinations to record the results of the

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
adopting the determination of non-military law enforcement agencies.	investigation.
Sections 531, 538, and 549 address the role of the commander. Section 531 limits the convening authority's discretion regarding court-martial findings and sentence except under certain conditions (such as wherein the accused provided substantial assistance in the investigation or prosecution of another person). In those instances where a convening authority acts to change a finding or a sentence, the convening authority's written rationale would be made part of the record of that trial. Section 538 requires the Secretary of Defense to assess the current role of commanders in the administration of military justice and to recommend whether further modifications of the commanders' roles need to be considered. Section 549 requires an independent panel (established under P.L. 112-239) to assess the impact of removing from the chain of command the disposition authority for charges preferred on the overall reporting and prosecution of sexual assault cases. Also, the independent panel would review the findings of the panel established by Section 439 (above), concerning the convening authority's role.	Section 1744 requires Secretaries of the military departments to provide for review of decisions not to refer charges for trial by court-martial in cases where a sex-related offense has been alleged by a victim and to forward the case file to the next superior commander with convening authority. Section 1731directs the Response Systems Panel to conduct assessments of, among other things, removing disposition authority from the chain of command; of the Special Victims' Counsel authorities; of the feasibility of extending rights afforded a crime victim in civilian proceedings; and a comparison of military and civilian systems for the investigation, prosecution, and adjudication of adult sexual assault crimes. Section 1702 contains a provision that would amend Art. 60 to limit the convening authority's ability to modify the adjudged findings and sentence. This section also amended Art. 32 to narrow its objective. Section 1722 shortens the review panel's reporting date by 6 months.
Section 546 requires the Secretary of Defense to recommend striking the words "the character and military service of the accused" from the list of factors contained in the Manual for Courts-Martial in the section on Initial Disposition, when applied to sex-related offenses.	Section1708 modifies the Manual for Courts-Martial to strike the character and military service of the accused from matters a commander should consider in deciding how to dispose of an offense.
Section 535 authorizes the Secretary of Defense to temporarily reassign or remove from authority any person who is alleged to have committed a sexual assault.	Section 1713 provides the Secretary concerned with the authority to temporarily reassign or remove from the military an active duty member who is accused of sexual assault (see House Section 535)
Section 530A establishes a set of rights and responsibilities for each member and would require a formal means for the servicemember to acknowledge those rights and responsibilities at certain times in a member's career.	
Section 542 prescribes the rights of a victim under the UCMJ similar to those in Section 3771 of Title 18 and directs the Secretary of Defense to submit recommended changes needed to carry out the section.	Section 1701 (concerning House Section 542) substantially expands the rights of victims under the UCMJ.
Section 545 requires an eight-day incident reporting requirement detailing the actions taken of progress to provide the victim of sexual assault with care and support, in response to an unrestricted report of sexual assault in which the victim is a member of the military.	1743 requires the Secretary of Defense to establish a policy to require submission of an incident report not later than eight days after an unrestricted report of sexual assault, the purpose of which is to detail the actions taken to provide care and assault to the victim. This requirement includes the Coast Guard.
Sections 527 and 537 pertain to protected communications. Section 527 expands protected communications to include communications with a Member of Congress or an Inspector General and requires the Secretary concerned to take disciplinary action against an individual who commits a prohibited personnel action and to correct the record if such occurs. Section 537 adds rape, sexual assault, or other	Section1716 (House Section 537) requires an Inspector General investigation into retaliatory actions taken in response to those making protected communications regarding sexual assault. Section 1714 includes the House language (House Section 527) with three amendments: 1. the period of time that a retaliation allegation must be investigated is extended, 2. authorizes legal assistance for

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
sexual misconduct to protected communications of members of the Armed Forces with Members of Congress or an Inspector General. Sections 536 and 543 pertain to victim's counsel. Section 536 provides Victims' Counsel, who are trained and qualified lawyers in the Armed Forces, to be made available to provide legal assistance to victims of sexual assault. The independent panel (established under P.L. 112-239) would assess the Victims' Counsel program and assess whether it should be expanded to include legal standing to represent the victim during investigative and military justice proceedings. A victim could decline such assistance. Section 543 requires that if a defense counsel, in connection with proceedings under the UCMJ, desires to interview a complaining witness, such a request must be placed through trial counsel, and such interviews must take place in the presence of counsel for the witness or a Sexual Assault Victim Advocate. Section 544 enables a complaining witness who has suffered harm as the result of an offense to submit matters prior to the convening authority taking action on the finding or sentence of that court-martial. Section 534 requires the Secretary of Defense to issue regulations to provide for the timely consideration of a change of station or unit transfer of a servicemember who is a victim of sexual assault. Section 533 requires dismissal from the service for officers (and certain others) or a dishonorable discharge for enlisted personnel (and certain others) who are convicted of rape, sexual assault, forcible sodomy, or an attempt to commit those offenses, thereby limiting the jurisdiction of such trials to general court-martial. Further, the independent panel (established in P.L. 112-239) would assess the appropriateness of these mandatory minimum sentences and the appropriateness of other mandatory minimum sentences. Section 530B requires the DOD Inspector General to conduct a review to identify members of the military who, since January 1, 2002, were separated from the service after making an unrestricted report to determine the grounds of the separation and to determine if the separation was in retaliation or influenced by the unrestricted report.	a whistleblower in certain cases before a board for the correction of military records, and, 3. requires the IG investigation be one step higher in the chain of command or outside of the chain of command. Section 1715 includes the House language (House Section 537). Section 1704 contains the House language (House Section 543) with a provision that would require that, if requested by an alleged victim who is subject to a request for interview by defense counsel, such interview may only take place in the presence of trial counsel, the alleged victim's, or a Sexual Assault Victim Advocate. Section 1716 takes the House language of Section 536 with a clarifying amendment. Section 1706 expands the House language (House Section 544) to include the definition of a 'victim.' Section1712 expands the authority for regarding the consideration of a transfer or unit change from a sexual assault victim to include the Coast Guard. Section 1705 requires a person found guilty, in a general court–martial, of specific sex-related crimes be sentenced, at a minimum, to include dismissal or dishonorable discharge. Section 1734 requires a review of Evidence and Records Retention and Access Policy. Secton1746 requires the military service academies to include a section in the curricula that outlines honor, respect, and character development as such pertain to the issue of preventing sexual assault in the Armed Forces. Section 1747 requires notification of policy instructing individuals who are completing Standard Form 86 of the Questionnaire for National Security Positions to answer "no" to question 21 with respect to consultation with a health care professional if it occurred with respect to an emotional or mental health condition strictly in relation to sexual assault. Section 1707 modifies Article 125 of the UCMJ repealing sodomy as a crime and replacing it with 'forced sodomy.' Section 1709 prohibits the retaliation against a member of the Armed Forces who reports a criminal offense. Section 1711 modifies title 10 USC to prohibit the service in the Armed Forces of individuals who have been convicted of certain sexual offenses. Section 1723 requires that certain forms filed in connection with Restricted and Unrestricted reports of sexual assault be retained for 50 years or as long as such forms are retained pursuant to DOD directives.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
	Section 1724 requires that a member of the Reserve Components who is a victim of sexual assault by another member of the Reserve Components has timely access to a Sexual Assault Response Coordinator. Section 1726 proscribes additional responsibilities of the Sexual Assault Prevention and Response Office to include collecting and maintaining data of the military departments and overseeing the development of strategic program guidance. Section 1742 requires commanding officers to immediately forward reports of sex-related offenses to the responsible military criminal investigation organization. Section 1751 states the sense of Congress that commanders are responsible for establishing a command climate in which sexual assault allegations are properly managed and fairly evaluated, and a victim can report such assaults without fear of retaliation. Section 1752 gives the sense of Congress that any charge of an offense of sexual assault should be disposed of by court-martial rather than non-judicial punishment or administrative action, and that a case that is not disposed of by court-martial should include a justification. Section 1753 states the sense of Congress that the Armed Forces should be exceedingly sparing in discharging in lieu of court-martial service members who have committed sexual assault and that convening authorities should consult with and consider the views of victims.

Discussion: Many believe that more can and should be done to address the issue of sexual assault in the military. There is significant legislative activity on the issue with a number of options being considered. These provisions detail the congressional attention to the issues of sexual assault in the military requiring more focus on prevention, reporting, protecting alleged victims, judicial proceedings, and addressing the needs of the victims.

Reference(s): CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary.

CRS Point of Contact: Catherine A. Theohary, 7-0844 or David F. Burrelli, 7-8033.

Review of the Integrated Disability Evaluation System

Background: For many in the service who were injured, particularly reservists and those returning from overseas deployments, the disability evaluation process can take many months. In many cases, efforts to speed up the process have resulted in longer waits.[9]

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 521 would require the Secretary of Defense to conduct a review of the backlog of Reserve Component cases in the system and report the results, including considered improvements to the HASC and SASC.	Section 526 incorporates the House language and expands it to include additional language to improve the in transit visibility of pending cases.

Discussion: Injured military personnel waiting through this evaluation process can linger for over a year. Such waits lead to delays in the receipt of possible benefits.

Reference(s): None.

CRS Point of Contact: David F. Burrelli, x7-8033.

[9] U.S. Government Accountability Office, *Military Disability System: Improved Monitoring Needed to Better Track and Manage Performance*, GAO-12-676, 2012, p. 1, http://www.gao.gov/products/GAO-12-676.

Report on Data and Information Collected in Connection with Department of Defense Review of Laws, Policies, and Regulations Restricting Service of Female Members of the Armed Forces, and Sense of Congress Regarding the Women in Service Implementation Plan

Background: In early 2013, then-Secretary of Defense Panetta rescinded the rule that restricted women from serving in combat units. Section 535 of P.L. 111-383 required the Secretary of Defense to submit a report to Congress to determine if changes in laws, policies, and regulations are needed to ensure women have an "equitable opportunity" to serve in the Armed Forces. That report was due April 15, 2012, but has not been submitted to date.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 530C required the report ordered by Section 535 of P.L.111-383, to report not later than 30 days after the date of enactment of this Act. Section 530D states "This section would express the sense of Congress that no later than September 2015, the Secretaries of the military departments should develop, review, and validate occupational stands in order to assess and assign members of the Armed Forces to units, including Special Operations Forces, and should complete all assessments by January 1, 2016.	Section 524 provides the sense of Congress that the Secretaries of the military depts. should "develop, review and validate individual occupational standards, using validated gender-neutral occupational standards, so as to assess and assign members of the Armed Forces to units, including Special Operations Forces;.." to be completed by January 1, 2016.

Discussion: In many ways, the report mandated by Section 535 of P.L. 111-383 has been overtaken by events. Nevertheless, some in Congress are concerned that DOD is not taking seriously the review of policies affecting female servicemembers. Some are concerned that the use of the term "equitable," used above, does not mean the same as "equal." The service leadership has already begun assessing the occupational requirements.

Reference(s): CRS Report R42075, *Women in Combat: Issues for Congress*, by David F. Burrelli.

CRS Point of Contact: David F. Burrelli, x7-8033.

Health and Welfare Inspections, And, Review of Security of Military Installations, Including Barracks and Multi-Family Residences

Background: Reports of crimes committed at military facilities, including reports of sexual assaults at Lackland Air Base and the shootings at Ft. Hood, have raised concerns over the safety of military personnel, their families, and others serving and/or living on bases.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 564 requires each military department to conduct monthly health and welfare inspections to ensure and maintain security, readiness, good order and discipline. Section 565 directs the Secretary of Defense to review security measure on installations, specifically with regard to barracks and multi-family housing units. Elements of the study include identifying security gaps and evaluating the feasibility of 24-hour electronic security or placing guards at points of entry to barracks and military family housing.	No similar provisions.

Discussion: These changes are intended to increase safety and welfare at military facilities.

Reference(s): None.

CRS Point of Contact: David F. Burrelli, x7-8033.

Sense of Congress Regarding Preservation of Second Amendment Rights of Active Duty Military Personnel Stationed or Residing in the District of Columbia

Background: The District of Columbia has some of the most restrictive gun laws in the United States. On June 26, 2008, the Supreme Court held in the case of *District of Columbia v. Heller* that the District's handgun ban and certain requirements regarding the storage and carrying of firearms for rifles and shotguns were unconstitutional. Following this decision, the District of Columbia enacted the Firearms Control Emergency Amendment Act to comply with the ruling in Heller, although some assert the new requirements place "onerous restrictions on the ability of law-abiding citizens from possessing firearms."

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 1099A states "Sense of Congress that active duty military personnel who are stationed or residing in the District of Columbia should be permitted to exercise fully their rights under the Second Amendment to the Constitution of the United States and therefore should be exempt from the District of Columbia's restrictions on the possession of firearms."	No similar provision.

Discussion: "Sense of Congress" provisions are non-binding. Nevertheless, the House provision did suggest the displeasure of some in Congress of the effect of the District of Columbia's laws on gun control as they relate to members of the Armed Forces who are stationed or reside in the District.

Reference(s): None.

CRS Point of Contact: David F. Burrelli, x7-8033.

Enhancement of Mechanisms to Correlate Skills and Training for Military Occupational Specialties with Skills and Training Required for Civilian Certifications and Licenses

Background: Military veterans may have difficulty translating their military training and skills to jobs in the civilian market. The Transition Assistance Program (TAP) was created to address this initial hardship to provide opportunities and aids for the successful transition of retiring or separating personnel into "career ready" civilians.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 566 would require the Secretaries of the military departments to make information on civilian credentialing opportunities available to members of the Armed Forces, including during the transition assistance program. This section would also require the Secretaries of the military departments to make available to accredited civilian credentialing agencies information on military courses and skills.	Section 542 takes the House language and expands it to include other credentialing entities.

Discussion: This provision would be partially integrated with TAP, providing information on civilian credentialing opportunities and improving access of accredited civilian credentialing agencies to military training content. This will allow personnel to evaluate the extent to which their training correlates with the skills and training required for various civilian certifications and licenses.

Reference(s): CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary, FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues, coordinated by Catherine A. Theohary.

CRS Point of Contact: David F. Burrelli, x7-8033.

Transitional Compensation and Other Benefits for Dependents of Certain Members Separated for Violations of the Uniform Code of Military Justice

Background: Section 1433(b)(1) of P.L. 103-160, signed into law on November 30, 1993, provided transitional assistance to dependents of military members where the military member was separated for dependent abuse, including compensation and commissary and exchange benefits. This language was enacted following a report of a servicemember being tried and convicted of abusing his family. As part of his sentence, the court ordered that he forfeit all pay and benefits. This situation left the family stranded without the means to return home. This law (as subsequently amended) afforded the family compensation and access to military stores.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 621 expands the availability of these transitional benefits to the dependents of members of the Armed Forces who have served twenty years (including members of the Reserve Components) and are therefore retirement-eligible or retired.	Section 652 calls for a study of the merits and feasibility of providing transitional compensation and benefits to dependents of members of the military who are separated for a violation of the UCMJ.

Discussion: Family members suffering abuse are often afraid to report the abuse out of fear they will lose all support if the member or retired member is convicted of a crime and has to forfeit all pay and benefits. Such dependents may feel isolated especially if they are living far away from friends and family at the same time. The House-passed provision would have expanded these transitional benefits to dependents of retirement-eligible members and encouraged them to come forward and report the abuse. The enacted provision requires that a study on the subject be reported to Congress within 180 days of enactment of the bill.

Reference(s): None.

CRS Point of Contact: David F. Burrelli, x7-8033.

Fraudulent Representations about Receipt of Military Decorations or Medals

Background: The Stolen Valor Act of 2005 (P.L. 109-437) was signed into law by President Bush on December 20, 2006. This act broadened existing law making it a crime to falsely represent oneself as having received any U.S. military decoration or medal. On June 28, 2012, the Supreme Court ruled (*United States v. Alvarez*) that the Stolen Valor Act was an unconstitutional abridgment of freedom of speech.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 581 amends Title 18, United States Code, to "make fraudulently claiming to be a recipient of certain decorations or medals with the intent to obtain money, property, or other tangible benefits a crime."	No similar provision.

Discussion: This language is intended to revise the Stolen Valor Act so that it meets constitutional standards by narrowing the category of proscribed claims to those made for the purpose of gaining money, property, etc.

Reference(s): CRS Report 95-519, *Medal of Honor: History and Issues*, by David F. Burrelli and Barbara Salazar Torreon, Medal of Honor: History and Issues, by David F. Burrelli.

CRS Point of Contact: David F. Burrelli, x7-8033.

Review and Assessment of the Armed Forces Transition Assistance Program (TAP)

Background: The Transition Assistance Program (TAP) was authorized by Congress in 1990 to assist separating military servicemembers and their families in their transition to civilian life. The program was designed to provide pre-separation services and counseling on various transition-related topics such as civilian employment, relocation, education and training, health and life insurance, finances, entrepreneurship, disability benefits, and retirement. TAP is available to servicemembers 12 months before separation and 24 months before for those retiring. The program is supported by interagency efforts from the Departments of Defense, Labor, Homeland Security, Education, and Veterans Affairs; the Office of Personnel Management; and the Small Business Administration. In 2012, TAP was redesigned as Transition Goals Plans Success, or Transition GPS. The Transition GPS redesign was initiated by the executive branch's Veterans' Employment Initiative Task Force and intended to conform with the Veterans Opportunity to Work (VOW) to Hire Heroes Act of 2011. The VOW Act made participation in TAP mandatory for nearly all separating military personnel and required that each TAP participant receive "an individualized assessment of the various positions of civilian employment in the private sector for which such member may be qualified" as a result of their military training. The core Transition GPS was implemented in November 2012 and optional tracks are expected to take place by the end of 2013.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 524 would amend Section 1144 of Title 10, U.S.C., adding a clause to provide information related to disability-related employment and education protections. The provision would also require instruction on the use of veterans' educational and other benefits, and mandates a feasibility study.	Section 521 amends Section 1144 of Title 10, adding a clause to provide information related to disability-related employment and education protections.

Discussion: Section 524 of the House bill would amend Section 1144 of Title 10, United States Code, by adding a provision requiring the TAP to provide information regarding disability-related employment and education protections for servicemembers. Section 524 would also add a new program requirement to instruct participants on the use of veterans' educational benefits, "courses of post-secondary education appropriate for the member, courses of post-secondary education compatible with the member's educational goals, and instruction on how to finance the member's post-secondary education," and instruction on other veterans' benefits not later than April 1, 2015. This section also requires that the Secretary of Veterans Affairs, within 270 days after the date of the enactment of this act, submit to the Committees on Veterans' Affairs and the Committees on Armed Services the results of a feasibility study of providing the pre-separation counseling specified in 10 U.S.C. 1142(b) at all overseas locations where such instruction is provided by entering into a contract jointly with the Secretary of Labor for the provision of such instruction. The Senate bill (S. 1197) contained no similar provision. The enacted bill includes that part of the House provision related to providing information related to disability related employment and education protections.

Reference(s): See also CRS Report R42790, *Employment for Veterans: Trends and Programs*, coordinated by Benjamin Collins.

CRS Point of Contact: Lawrence Kapp, x7-7609.

Internet Access for Members of the Army, Navy, Air Force, and Marine Corps Serving in Combat Zones

Background: According to DOD, many servicemembers deployed in Afghanistan have free Internet access via several hundred Internet cafes located on bases. Internet access allows servicemembers to communicate with family and friends, access personal email, and browse websites. Service-members stationed in remote locations have more limited access to the Internet, but the Department of Defense tries to provide some access at these locations through the Cheetah Program, which uses Humvee mounted satellite units and laptops with webcams to provide Internet access. The portability of this system allows servicemembers to keep in touch with family and friends even in remote locations. However, despite these efforts, there have been periodic complaints from servicemembers about the availability of Internet access in Afghanistan.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 569 mandates access to free Internet for servicemembers in combat zones.	No provision.

Discussion: Section 569 of H.R. 1960 mandated that free Internet service be provided to members of the military serving in combat zones. The section was added to H.R. 1960 by amendment #63, which was offered by Representative Gene Green (D-TX 29) and adopted by the House. Representative Green indicated in debate that his amendment was intended as a response to concerns expressed by servicemembers from his district who are serving in Afghanistan. The Senate committee-reported bill (S. 1197) contained no similar provision, nor did the enacted bill.

Reference(s): None.

CRS Point of Contact: Lawrence Kapp, x7-7609.

Extension of the Transitional Assistance Management Program

Background: The Transitional Assistance Management Program (TAMP) provides 180 days of premium-free transitional medical and dental benefits after regular TRICARE benefits end for servicemembers and their families separating from active duty. The 180-day health care coverage period begins the day after separation from active duty. Once eligible, servicemembers and their families will be automatically covered under TRICARE Standard and TRICARE extra or the TRICARE Overseas program (TOP) Standard (if overseas).

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 704 provides an additional 180 days for telemedicine treatment coverage. It also includes an extension of the Transitional Assistance Management Program for mental health care and behavioral services. The period of extension would be determined by a professional treating the covered individual.	Section 702 authorizes DOD to provide 180-day extension of telemedicine treatment coverage under the Transitional Assistance Management Program. Should the authority be exercised, a report to Congress on the results is required. Section 702 also requires that not later than 270 days after enactment, a report on the use of telemedicine to improve the diagnosis and treatment of post-traumatic stress disorder, traumatic brain injuries, and mental health conditions.

Discussion: The enacted provision would authorize DOD to provide an additional 180 days for medical treatment provided through telemedicine to servicemembers as an extension of the Transitional Assistance Management Program. "Telemedicine" has been defined as "the use of medical information exchanged from one site to another via electronic communications to improve a patient's clinical health status. Telemedicine includes a growing variety of applications and services using two-way video, email, smart phones, wireless tools and other forms of telecommunications technology."[10] This provision is intended to help ensure a more seamless transition for servicemembers from military to civilian life, particularly those who may endure mental or physical injuries. The provision states that the requirement to carry out this mandate would terminate on December 31, 2018, if suicide rates are 50% less than rates of December 31, 2012.

Reference(s): None.

CRS Point of Contact: Don Jansen, x7-4769.

[10] American Telemedicine Association, "What is Telemedicine," at http://www.americantelemed.org/learn.

Provision of Status under Law by Honoring Certain Members of the Reserve Components as Veterans

Background: Under Section 101 of Title 38, United States Code, a veteran is defined as "a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable." "Active military, naval or air service" does not include active duty for training (ADT) or inactive duty training (IDT) unless the individual was disabled or died from a disease or injury incurred or aggravated in the line of duty. Thus, reservists who are ordered to active duty during the course of their careers—for example, a deployment to Afghanistan—or who were disabled or died while on ADT or IDT, are considered veterans. However, some reservists only serve on ADT or IDT during the course of their careers, and do so without dying or suffering a disabling injury or disease in the line of duty. These individuals are not technically veterans under the Title 38 definition, even if they have completed a full reserve career and are eligible for reserve retirement. However, this does not necessarily mean these individuals are ineligible for veterans benefits, which may be granted based on eligibility criteria other than the definition of 38 U.S.C. 101.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 642 would amend Title 38 by inserting a new section specifying that reservists who are entitled to retired pay, or who would be entitled to retired pay but for age, "shall be honored as a veteran but shall not be entitled to any benefit by reason of this action."	No similar provision.

Discussion: Reservists typically become eligible for retired pay at age 60, after having completed at least 20 years of qualifying service, although in certain circumstances they can draw retired pay at early as age 50. Section 642 of the House bill would honor as "veterans" those reservists who are entitled to reserve retired pay, or who would be entitled to reserve retired pay except that they are too young to receive it. This honorary designation as a veteran would not entitle the retiree to any benefit. The Congressional Budget Office scored this provision as "cost neutral" because there is no cost in giving recognition to retired members of the reserve in the absence of providing additional benefits. The Senate committee-reported bill (S. 1197) contained no similar provision, nor did the final bill.

Reference(s): CRS Report R42324, *"Who is a Veteran?"—Basic Eligibility for Veterans' Benefits*, by Umar Moulta-Ali, "Who is a Veteran?"—Basic Eligibility for Veterans' Benefits, by Christine Scott.

CRS Point of Contact: Christine Scott, x7-7366 or Lawrence Kapp, x7-7609

*TRICARE Beneficiary Cost-Sharing

Background: TRICARE is a health care program serving uniformed servicemembers, retirees, their dependents, and survivors. Neither H.R. 1960, as passed by the House, nor the Senate committee-reported bill (S. 1197) included the Administration's 2014 budget proposals to raise premiums for military retirees using a three-tier model based on retirement pay brackets, to index the TRICARE catastrophic cap to the National Health Expenditure, and to introduce enrollment fees for TRICARE Standard/Extra and TRICARE for Life.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
H.Rept. 113-102 states "Mindful of Congress' commitment to service members and their families, the legislation would reject proposals to increase some TRICARE fees or establish new TRICARE fees. The committee has already put TRICARE on a sustainable path through reforms enacted in several recent defense authorization acts. Those reforms connect TRICARE fee increases to retiree cost of living increases."	No provision.

Discussion: The enacted bill did not adopt the Administration's proposals to increase the share of health care costs paid by military retirees. The enacted bill, however, does not prevent DOD from implementing its proposal to increase the TRICARE Prime non-mental health office visit co-pay for retirees and their families from $12 to $16 per visit.

Reference(s): Previously discussed in CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary; CRS Report R41874, *FY2012 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by David F. Burrelli, FY2012 National Defense Authorization Act: Selected Military Personnel Policy Issues, coordinated by David F. Burrelli; CRS Report R40711, *FY2010 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Don J. Jansen, FY2010 National Defense Authorization Act: Selected Military Personnel Policy Issues, coordinated by Don J. Jansen; and CRS Report RL34590, *FY2009 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Lawrence Kapp, FY2009 National Defense Authorization Act: Selected Military Personnel Policy Issues, coordinated by Lawrence Kapp.

CRS Point of Contact: Don Jansen, x7-4769.

*Military Psychological Health

Background: Issues of the mental health of servicemembers in the Armed Forces have been of concern to Congress for decades. Over the years, Congress has addressed the issue via studies, hearings, and legislation. In H.R. 1960, Title V contains three provisions related to servicemember mental health in Subtitles C and I, while Title VI, "Health Care Provisions," contains 10 provisions concerning mental health. These provisions deal with varied mental health concerns, including post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI), among other mental health diagnoses.

Note: Section numbers and order do not necessarily correspond across bills.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 528 removes the prohibition against required examinations for TBI among previously deployed servicemembers diagnosed with PTSD being applied in courts martial or other proceedings under the Uniform Code of Military Justice. Section 530H requires a report evaluating the separation of servicemembers on the basis of personality or adjustment disorders since 2008, and the impact such separations have had on the ability of separated servicemembers to access disability-related compensation. Section 593 creates a new Commission on Military Behavioral Health and Disciplinary Issues, which must evaluate the appropriateness of DOD disciplinary actions in cases where the servicemember may have service-connected mental disorders or TBI. Section 701 mandates mental health assessments every 180 days during deployments. Section 702 requires "periodic" "person-to-person" mental health assessments for all active-duty servicemembers, extending mental health assessments beyond deployed servicemembers. Section 723 authorizes collaborative programs responding to DOD personnel and family mental health needs and evaluations of those efforts. Section 725 requires DOD research on TBI and psychological health conditions, including drug development for neurodegeneration following TBI. Section 726 authorizes the sharing of a state's reservists' information for suicide prevention outreach efforts at the request of an adjutant general of a state. Section 728 expresses the sense of Congress that DOD must develop a plan to ensure a flow of qualified counselors to meet the long-term needs of servicemembers and families.	Section 522 amends the medical examination requirements regarding post-traumatic stress disorder or traumatic brain injury before administrative separation to include administrative separation in lieu of court-martial. Similar to Section 530H of H.R. 1960, Section 574 requires a Comptroller General report on use of determination of personality disorder or adjustment disorder as basis to separate members from the Armed Forces within one year. Section 702 authorizes DOD to provide 180-day extension of telemedicine treatment coverage under the Transitional Assistance Management Program. Should the authority be exercised, a report to Congress on the results is required. Section 702 also requires that not later than 270 days after enactment, a report on the use of telemedicine to improve the diagnosis and treatment of post-traumatic stress disorder, traumatic brain injuries, and mental health conditions. Section 704 authorizes a pilot program for randomized placebo-controlled clinical trials of investigational treatments (including diagnostic testing) of traumatic brain injury or post-traumatic stress disorder received by members of the Armed Forces in health care facilities other than military treatment facilities. Section 721 amends title 10 to require that the annual DOD budget justification display the amount requested for embedded mental health providers within each reserve component. Section 723 requires, not later than 180 days after enactment, a report on how service member who served in Operations Enduring Freedom and Iraqi Freed om before June 2010 are referred and treated for traumatic brain injuries.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 730 requires a preliminary mental health assessment for each individual joining the Armed Forces, to be used as a baseline for subsequent mental health examinations. Section 731 describes the sense of Congress regarding the high importance and desired timeliness of the statutorily required plan to improve the coordination and integration of DOD programs addressing TBI and psychological health. Section 732 requires DOD to identify, refer, and treat TBI among servicemembers who may have experienced them prior to the policy of evaluating all servicemembers within a 50m radius of an explosion for TBI. Section 733 authorizes a five-year pilot program in which servicemembers may receive investigational treatments for TBI or PTSD in civilian health care facilities. A database of treatments must be maintained to allow for studies regarding the efficacy of these treatments. This section authorizes $10 million in FY2014 for this pilot program.	

Discussion: The sections in the first House-passed bill would have expanded mental health assessments; require evaluations of the role of mental health disorders in servicemembers' encounters with the Uniform Code of Military Justice system and separations from the Armed Forces, and build on previous efforts to ensure appropriate identification, diagnosis, treatment, and access to psychological health resources to active duty servicemembers, reservists, and military families. The Senate committee-reported bill (S. 1197) contained no similar provisions.

Reference(s): CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary.

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*Availability of TRICARE Prime

Background: DOD announced that as of October 1, 2013, TRICARE Prime will no longer be available to beneficiaries living in certain areas in the United States. Prime Service Areas (PSAs) are geographic areas where TRICARE Prime is offered. PSAs were created to ensure medical readiness of the active duty force by augmenting the capability and capacity of military treatment facilities (MTFs). The affected areas are not close to existing MTFs and have never augmented care around MTF or Base Realignment and Closure (BRAC) locations. This change is estimated to affect approximately 171,000 military retirees. Elimination of the TRICARE Prime option for these individuals means that they need to either use TRICARE Standard/Extra, obtain a waiver to use TRICARE Prime if within the limits of another PSA, or use some other form of health coverage (such as employer sponsored insurance).

DOD had planned to make PSA reductions since 2007, when proposals were requested for the next generation of TRICARE contracts. DOD determined that existing PSAs be kept in place in all regions until October 1, 2013, to coincide with the deadline for annual TRICARE Prime enrollments and fee adjustments.

Both TRICARE's general Prime enrollment policy (see TRICARE Operations Manual (TOM), Chapter 6, Section 1, para 9.0), as well as the guidance provided to the managed care support contractors and TRICARE beneficiaries as part of DOD's PSA reduction (see TOM, Chapter 27, Section 1), permitted beneficiaries who live outside of a T-3 PSA but within 100 miles of an available Primary Care Manager (whether civilian network or MTF) in a remaining PSA to execute a drive time waiver and apply for Prime enrollment. We are not aware any T-PSA beneficiary being denied re-enrollment in a remaining T-3 PSA from Jan-Oct 2013, but there could be some who were within 100 miles of a PCM, but that PCM's enrollment panel was at capacity.

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 711 would require DOD to continue to make the TRICARE Prime benefit available to beneficiaries currently residing in affected areas. DOD would be allowed to phase-out Prime in those areas as those beneficiaries move, opt out of Prime, or reach the age of eligibility for TRICARE-for-Life.	Section 701 provides for a one time election opportunity for individuals who were enrolled in TRICARE Prime as of September 30, 2013, to remain in TRICARE Prime, notwithstanding changes in TRICARE Prime availability, if the individual resides in an affected ZIP code and within 100 miles of a military medical treatment facility.

Discussion: Section 701of the enacted bill requires DOD to ensure certain affected beneficiaries (specifically those that were disenrolled from TRICARE Prime on October 1, 2013 due to the PSA changes but that reside within 100 miles of a MTF) are provided the right to make a one-time election to continue their enrollment in Prime. Section 701 provides a guarantee that those within 100 miles of an MTF can continue their enrollment in Prime. DOD has stated that it will ensure these affected beneficiaries are informed of this statutory right and that a PCM in a remaining PSA is made available to any beneficiary who makes the one-time election per Section 701. DOD has stated that the existing enrollment policy that allowed a beneficiary to waive the drive-time standard and apply for Prime enrollment at a remaining PSA within 100 miles of a Primary Care Manager is not being changed and the beneficiaries who re-enrolled under that policy will not be dis-enrolled. Under this general enrollment policy, contractors are not required to establish sufficient network capacity and capability to grant enrollment to beneficiaries who

reside outside of the PSA - enrollment for those individuals is based on availability/capacity and is not a matter of right.

DOD's plans to eliminate TRICARE Prime coverage for certain PSAs would have been completely overridden by Section 711 of the House-passed bill. The initial House provision would have allowed individuals who were enrolled in TRICARE Prime in affected services areas to elect to remain in TRICARE Prime for as long as they reside in the affected service area. DOD would still, however, been able to prevent any new enrollments in TRICARE Prime in the affected areas. The Senate committee-reported bill (S. 1197) contained no similar provision. The enacted provision limits the election opportunity to individuals who live within 100 miles of a military treatment facility (MTF). Such individuals, however, were already allowed to waive access standards and enroll in the Prime Service Area associated with the military treatment facility.

Previously, Section 732 of the FY2013 NDAA required the Secretary of Defense to submit within 90 days to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the policy of the Department of Defense on the future availability of TRICARE Prime for eligible beneficiaries in all TRICARE regions throughout the United States. The report[11] was submitted to Congress on March 22, 2013.

References: CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary.

CRS Point of Contact: Don Jansen, x7-4769.

[11] Department of Defense, "TRICARE Prime Service Area Reductions" January 10, 2013, available at http://tricare.mil/tma/congressionalinformation/downloads/Future%20Availability%20of%20TRICARE%20Prime%20Throughout%20the%20U.S.pdf.

Integrated Electronic Health Record (EHR) Program

Background: In 2011, the Secretaries of Defense and Veterans Affairs signed a commitment to implement a "single common platform" for an integrated electronic health record (EHR) system.[12] However, in February 2013, the Secretaries announced that the departments would instead acquire EHRs separately. They cited cost savings and meeting needs sooner rather than later as reasons for this decision.[13]

First House-passed (H.R. 1960)	Enacted (P.L. 113-66/H.R. 3304)
Section 713 would limit the amount of funds the Secretary of Defense may obligate or expend for procurement, or research, development, test and evaluation of the integrated electronic health record until 30 days after the date that the Secretary submits a report detailing an analysis of alternatives for the plan of the Secretary to proceed with such program. Section 734 requires that the Secretary of Defense and the Secretary of Veterans Affairs implement an integrated electronic health record to be used by each of the Secretaries and deploy such record by not later than October 1, 2016	Section 713 requires the Secretary of Defense and the Secretary of Veterans Affairs to ensure that the EHR systems of their respective departments are interoperable with an integrated display of data, or a single electronic health record, by complying with national standards and architectural requirements identified by the Interagency Program Office (IPO) and in collaboration with the Office of the National Coordinator for Health Information Technology. Section 713 requires each department to deploy modernized EHRs no later than December 31, 2016. It also requires program plan, quarterly reporting, joint-certification of interoperability by the Secretaries, an annual review by the Defense Science Board, establishment of an executive committee, and review by the Comptroller General.

Discussion: Since 1998, DOD and VA have undertaken numerous initiatives to achieve greater EHR interoperability. These have included efforts to share viewable data in existing systems; link and share computable data between the Departments' health data repositories; establish interoperability objectives to meet specific data-sharing needs; and implement electronic sharing capabilities for the first joint federal health care center. These initiatives have increased data-sharing in various capacities but have not achieved the fully interoperable electronic health record capabilities required in previous legislation. The Senate committee-reported bill S. 1197) included a "Sense of the Senate" provision.

References: CRS Report R42970, *Departments of Defense and Veterans Affairs: Status of the Integrated Electronic Health Record (iEHR)*, by Sidath Viranga Panangala and Don J. Jansen.

CRS Point of Contact: Don Jansen, x7-4769.

[12] Memorandum dated May 2, 2011, Subject: SECDEF/SECVA Meeting Minutes May 2, 2011, http://www.govexec.com/pdfs/052511bb1.pdf.

[13] U.S. Department of Defense, "Remarks by Secretary Panetta and Secretary Shinseki from the Department of Veterans Affairs," press release, February 5, 2013, http://www.defense.gov/Transcripts/Transcript.aspx?TranscriptID=5187.

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Acknowledgments

Talia Ascher, Catherine Blakeley, and Lucy Martinez, Research Associates, also contributed to this report.