H.R. 4909—FY17 NATIONAL DEFENSE AUTHORIZATION BILL

SUBCOMMITTEE ON MILITARY PERSONNEL

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TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

LEGISLATIVE PROVISIONS

SUBTITLE A—ACTIVE FORCES

Section 401—End Strengths for Active Forces

This section would authorize the following end strengths for Active Duty personnel of the Armed Forces as of September 30, 2017:

	FY 2016	**FY 2017**		**Change from**	
Service	**Authorized**	**Request**	**Committee Recommendation**	**FY 2017 Request**	**FY 2016 Authorized**
Army	475,000	460,000	480,000	20,000	5,000
Navy	329,200	322,900	322,900	0	-6,300
USMC	184,000	182,000	185,000	3,000	1,000
Air Force	320,715	317,000	321,000	4,000	285
DOD Total	1,308,915	1,281,900	1,308,900	27,000	-15

Section 402—Revisions in Permanent Active Duty End Strength Minimum Levels

This section would establish new minimum Active Duty end strengths for the Army, Navy, Marine Corps, and Air Force as of September 30, 2017. The committee recommends 480,000 as the minimum Active Duty end strength for the Army, 322,900 as the minimum Active Duty end strength for the Navy, 185,000 as the minimum Active Duty end strength for the Marine Corps, and 321,000 as the minimum Active Duty end strength for the Air Force.

SUBTITLE B—RESERVE FORCES

Section 411—End Strengths for Selected Reserve

This section would authorize the following end strengths for Selected Reserve personnel, including the end strength for Reserves on Active Duty in support of the Reserves, as of September 30, 2017:

	FY 2016	**FY 2017**		**Change from**	
Service	**Authorized**	**Request**	**Committee Recommendation**	**FY 2017 Request**	**FY 2016 Authorized**
Army National Guard	342,000	335,000	350,000	15,000	8,000
Army Reserve	198,000	195,000	205,000	10,000	7,000
Navy Reserve	57,400	58,000	58,000	0	600
Marine Corps Reserve	38,900	38,500	38,500	0	-400
Air National Guard	105,500	105,700	105,700	0	200
Air Force Reserve	69,200	69,000	69,000	0	-200
DOD Total	811,000	801,200	826,200	25,000	15,200
Coast Guard Reserve	7,000	7,000	7,000	0	0

Section 412—End Strengths for Reserves on Active Duty in Support of the Reserves

This section would authorize the following end strengths for Reserves on Active Duty in support of the Reserves as of September 30, 2017:

	FY 2016	**FY 2017**		**Change from**	
Service	**Authorized**	**Request**	**Committee Recommendation**	**FY 2017 Request**	**FY 2016 Authorized**
Army National Guard	30,770	30,155	30,155	0	-615
Army Reserve	16,261	16,261	16,261	0	0
Navy Reserve	9,934	9,955	9,955	0	21
Marine Corps Reserve	2,260	2,261	2,261	0	1
Air National Guard	14,748	14,764	14,764	0	16
Air Force Reserve	3,032	2,955	2,955	0	-77
DOD Total	77,005	76,351	76,351	0	-654

Section 413—End Strengths for Military Technicians (Dual Status)

This section would authorize the following end strengths for military technicians (dual status) as of September 30, 2017:

	FY 2016	**FY 2017**		**Change from**	
Service	**Authorized**	**Request**	**Committee Recommendation**	**FY 2017 Request**	**FY 2016 Authorized**
Army National Guard	26,099	25,507	25,507	0	-592
Army Reserve	7,395	7,570	7,570	0	175
Air National Guard	22,104	22,103	22,103	0	-1
Air Force Reserve	9,814	10,061	10,061	0	247
DOD Total	65,412	65,241	65,241	0	-171

Section 414—Fiscal Year 2017 Limitation on Number of Non-Dual Status Technicians

This section would establish the maximum end strengths for the Reserve Components of the Army and Air Force for non-dual status technicians as of September 30, 2017:

	FY 2016	**FY 2017**		**Change from**	
Service	**Authorized**	**Request**	**Committee Recommendation**	**FY 2017 Request**	**FY 2016 Authorized**
Army National Guard	1,600	1,600	1,600	0	0
Air National Guard	350	350	350	0	0
Army Reserve	595	420	420	0	-175
Air Force Reserve	90	90	90	0	0
DOD Total	2,635	2,460	2,460	0	-175

Section 415—Maximum Number of Reserve Personnel Authorized To Be on Active Duty for Operational Support

This section would authorize, as required by section 115(b) of title 10, United States Code, the maximum number of Reserve Component personnel who may be on Active Duty or full-time National Guard duty during fiscal year 2017 to provide operational support. The personnel authorized here do not count against the end strengths authorized by section 401 or section 412 of this Act unless the duration on Active Duty exceeds the limitations in section 115(b)(2) of title 10, United States Code.

	FY 2016	**FY 2017**		**Change from**	
Service	**Authorized**	**Request**	**Committee Recommendation**	**FY 2017 Request**	**FY 2016 Authorized**
Army National Guard	17,000	17,000	17,000	0	0
Army Reserve	13,000	13,000	13,000	0	0
Navy Reserve	6,200	6,200	6,200	0	0
Marine Corps Reserve	3,000	3,000	3,000	0	0
Air National Guard	16,000	16,000	16,000	0	0
Air Force Reserve	14,000	14,000	14,000	0	0
DOD Total	69,200	69,200	69,200	0	0

SUBTITLE C—AUTHORIZATION OF APPROPRIATIONS

Section 421—Military Personnel

This section would authorize appropriations for military personnel at the levels identified in the funding table in section 4401 of division D of this Act.

TITLE V—MILITARY PERSONNEL POLICY

LEGISLATIVE PROVISIONS

SUBTITLE A—OFFICER PERSONNEL POLICY

Section 5xx—Technical Correction to Annual Authorization for Personnel Strengths

This section would amend section 115 of title 10, United States Code, to update the references to section 502(f) of title 32, United States Code, as amended by the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364). Section 502(f) provides for the conditions under which the Secretary of the Army or the Secretary of the Air Force may order a member of the National Guard to perform training or other duty in addition to required drills and field exercises.

Section 5xx—Extension of Removal of Restrictions on the Transfer of Officers Between the Active and Inactive National Guard

This section would amend section 512 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66) to extend the authorization to allow officers to participate in the Inactive National Guard for 3 years, from December 31, 2016 until December 31, 2019. The extension would give the National Guard more flexibility to access departing Active Component members during the drawdown and provide a 5-year period to evaluate the benefits of Inactive National Guard transferability.

Section 5xx—Extension of Temporary Authority to Use Air Force Reserve Component Personnel to Provide Training and Instruction Regarding Pilot Training

This section would amend section 514(a)(1) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92) to extend, for 1 year, the current temporary authority for the Air Force to allow no more than 50 Active Guard and Reserve personnel and dual status military technicians to instruct and

train Active Duty and members of foreign military forces in the United States, the Commonwealth of Puerto Rico, or possessions of the United States as a primary duty.

Section 5xx—Technical Correction to Voluntary Separation Pay and Benefits

This section would amend section 1175a of title 10, United States Code, by updating the references to section 502(f) of title 32, United States Code, and the list of involuntary mobilization authorities.

Section 5xx—Pilot Program on Consolidated Army Recruiting

This section would direct the Secretary of the Army to establish a 3-year pilot program in which recruiters from all three components (Regular, Reserve, and National Guard) are authorized to recruit individuals into any of the components, and receive credit toward periodic enlistment goals for each enlistment regardless of component. Not later than 1 year after implementation of the pilot program, the Secretary of the Army shall submit to the Committees on Armed Services of the House of Representatives and the Senate a detailed report on the design of the program. The Secretary would also be required to submit a final report at the conclusion of the pilot period.

Section 5xx—Equal Consideration of Officers for Early Retirement or Discharge

This section would amend section 638a of title 10, United States Code, to provide the Secretaries of the military departments authority to consider officers for involuntary separation below the grade of lieutenant colonel or commander as a single, consolidated year group without distinctions based on retirement eligibility. Such a change allows the military departments to conduct separation boards in a manner consistent with promotion selection board practices.

Section 5xx—Modification of Authority to Drop from Rolls a Commissioned Officer

This section would modify section 1161 of title 10, United States Code, to allow, in addition to the President, the Secretary of Defense, or in the case of a commissioned officer of the Coast Guard, the Secretary of the department in which the Coast Guard is operating when it is not operating in the Navy, to drop from the rolls certain commissioned officers.

SUBTITLE D—GENERAL SERVICE AUTHORITIES

Section 5xx— Establishment Of ROTC Cyber Institutes At Senior Military Colleges

This section would amend chapter 103 of title 10, United States Code, to authorize the Secretary of Defense to carry out a program to establish ROTC Cyber

Institutes at the six Senior Military Colleges for purposes of accelerating the development of foundational expertise in critical cyber operational skills for future military and civilian leaders of the Armed Forces and Department of Defense, to include such leaders of the Reserve Components.

Section 5xx—Entitlement to Leave for Adoption of Child by Dual Military Couples

This section would amend section 701(i) of title 10, United States Code, to provide up to 2 weeks of leave to the second parent of a dual military couple for the purposes of adoption leave.

SUBTITLE F—MEMBER EDUCATION, TRAINING, AND TRANSITION

Section 5xx—Revision to Quality Assurance of Certification Programs and Standards

This section would amend section 2015 of title 10, United States Code, relating to a program to enable members of the Armed Forces to obtain, while serving in the Armed Forces, professional credentials related to military training and skills that translate into civilian occupations. Specifically, this section would amend the requirements of any credentialing program used in connection with the skills program.

Section 5xx—Military-to-Mariner Transition

This section would require the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating to jointly report on the steps the Departments of Defense and Homeland Security have taken to maximize the extent to which Armed Forces service, training, and qualifications are creditable towards United States merchant mariner licenses and certifications and to promote awareness among Armed Forces personnel who serve in vessel operating positions of the requirements for post-service use of training, education, and practical experience from service in the Armed Forces in satisfying requirements for merchant mariner licenses and certifications.

SUBTITLE G—DEFENSE DEPENDENTS' EDUCATION AND MILITARY FAMILY READINESS MATTERS

Section 5xx—Continuation of Authority to Assist Local Educational Agencies That Benefit Dependents of Members of the Armed Forces and Department of Defense Civilian Employees

This section would authorize $30.0 million for the continuation of the Department of Defense assistance in fiscal year 2017 to local educational agencies

that are impacted by the enrollment of dependent children of military members and Department of Defense civilian employees.

SUBTITLE H—DECORATIONS AND AWARDS

Section 5xx—Authorization for Award of the Medal of Honor to Gary M. Rose for Acts of Valor During the Vietnam War

This section would waive the statutory time limitation under section 3744 of title 10, United States Code, to allow the President to award the Medal of Honor to Gary M. Rose, who served in the United States Army during the Vietnam War. The committee takes this action based on the written confirmation by the Secretary of Defense that the actions of Gary M. Rose merit the consideration of award of the Medal of Honor by the President.

Section 5xx—Authorization for Award of the Medal of Honor to Charles S. Kettles for Acts of Valor During the Vietnam War

This section would waive the statutory time limitation under section 3744 of title 10, United States Code, to allow the President to award the Medal of Honor to Charles S. Kettles, who served in the United States Army during the Vietnam War. The committee takes this action based on the written confirmation by the Secretary of Defense that the actions of Charles S. Kettles merit the consideration of award of the Medal of Honor by the President.

SUBTITLE I—REPORTS AND OTHER MATTERS

Section 5xx—Extension of the Requirement for Annual Report Regarding Sexual Assaults and Coordination with Release of Family Advocacy Report

This section would extend the requirement for the Sexual Assault Prevention and Response Office (SAPRO) report through January 31, 2021. In addition, it would require the release of the SAPRO report to be timed to coincide with the release of the Family Advocacy Program Report, as required elsewhere in this Act. This amendment would supersede section 1080 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92).

Section 5xx—Expansion of Authority to Execute Certain Military Instruments

This section would amend section 1044d(c) of title 10, United States Code, to enable notaries to execute military testamentary instruments. This section would also modify section 1044a of title 10, United States Code, to extend Federal notary powers to those civilian paralegals working within military legal assistance offices.

Section 5xx—Burial of Cremated Remains in Arlington National Cemetery of Certain Persons Whose Service Is Deemed To Be Active Service

This section would amend section 2410 of title 10, United States Code, to require the Secretary of the Army to ensure that the cremated remains of an individual, whose service has been determined to be Active Duty service, are eligible for inurnment with military honors in Arlington National Cemetery. Further, this section would require the Secretary, not later than 180 days after enactment of this Act, to submit a report to the Committees on Armed Services of the Senate and the House of Representatives and the Committees on Veterans' Affairs of the Senate and the House of Representatives on the interment and inurnment capacity of Arlington National Cemetery.

Section 5xx—Representation from Members of the Armed Forces on Boards, Councils, and Committees Making Recommendations Relating to Military Personnel Issues

This section would require that enlisted or retired enlisted members of the Armed Forces be represented on all boards, panels, commissions, or task forces established under chapter 7 of title 10, United States Code, to render a recommendation on any aspect of personnel policy directly affecting enlisted personnel.

Section 5xx—Annual Notice to Members of the Armed Forces Regarding Child Custody Protections Guaranteed by the Servicemembers Civil Relief Act

This section would require the Secretaries of the military departments to notify service members with dependents annually, and prior to deployment, of the child custody protections guaranteed under the Servicemembers Civil Relief Act.

Section 5xx—Requirement for Annual Family Advocacy Program Report Regarding Child Abuse and Domestic Violence

This section would require the Secretary of Defense to provide the Committees on Armed Services of the Senate and the House of Representatives an annual report, beginning not later than January 31, 2017, through January 31, 2021, on the child abuse and domestic abuse incident data contained in the Department of Defense Family Advocacy Program central registry for the previous year, and an analysis of the effectiveness of the Family Advocacy Program.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

LEGISLATIVE PROVISIONS

SUBTITLE A—PAY AND ALLOWANCES

Section 6xx—Extension of Authority to Provide Temporary Increase in Rates of Basic Allowance for Housing Under Certain Circumstances

This section would extend for 1 year the authority of the Secretary of Defense to temporarily increase the rates of basic allowance for housing in areas impacted by natural disasters or experiencing a sudden influx of personnel.

Section 6xx—Maximum Reimbursement Amount for Travel Expenses of Members of the Reserves Attending Inactive Duty Training Outside of Normal Commuting Distances

This section would amend section 478a(c) of title 37, United States Code, to authorize the Secretary concerned, on a case-by-case basis, to reimburse travel expenses at a higher amount for Reserve Component members traveling to training from rural areas.

Section 6xx—Annual Adjustment of Monthly Basic Pay

This section would direct that the rates of basic pay under section 203(a) of title 37, United States Code, be increased in accordance with section 1009 of title 37, United States Code, notwithstanding a determination made by the President under subsection (e) of such section 1009.

SUBTITLE B—BONUSES AND SPECIAL AND INCENTIVE PAYS

Section 611—One-Year Extension of Certain Bonus and Special Pay Authorities for Reserve Forces

This section would extend the authority, through December 31, 2017, for the Selected Reserve reenlistment bonus, the Selected Reserve affiliation or enlistment bonus, special pay for enlisted members assigned to certain high-priority units, the Ready Reserve enlistment bonus for persons without prior service, the Ready Reserve enlistment and reenlistment bonus for persons with prior service, the Selected Reserve enlistment and reenlistment bonus for persons with prior service, the authority to reimburse travel expenses for inactive duty training outside of normal commuting distance, and income replacement payments for Reserve Component members experiencing extended and frequent mobilization for Active Duty service.

Section 612—One-Year Extension of Certain Bonus and Special Pay Authorities for Health Care Professionals

This section would extend the authority for the nurse officer candidate accession program, repayment of educational loans for certain health professionals who serve in the Selected Reserve, the accession and retention bonuses for psychologists, the accession bonus for registered nurses, the incentive special pay for nurse anesthetists, the special pay for Selected Reserve health care professionals in critically short wartime specialties, the accession bonus for dental officers, the accession bonus for pharmacy officers, the accession bonus for medical officers in critically short wartime specialties, and the accession bonus for dental specialist officers in critically short wartime specialties, until December 31, 2017.

Section 613—One-Year Extension of Special Pay and Bonus Authorities for Nuclear Officers

This section would extend the authority for the special pay for nuclear-qualified officers extending a period of active service, the nuclear career accession bonus, and the nuclear career annual incentive bonus until December 31, 2017.

Section 614—One-Year Extension of Authorities Relating to Title 37 Consolidated Special Pay, Incentive Pay, and Bonus Authorities

This section would extend the general bonus authority for enlisted members, the general bonus authority for officers, the special bonus and incentive pay authority for nuclear officers, special aviation incentive pay and bonus authorities, the special health professions incentive pay and bonus authorities, contracting bonus for Senior Reserve Officers' Training Corps cadets and midshipmen, hazardous duty pay, assignment pay or special duty pay, skill incentive pay or proficiency bonus, and the retention bonus for members with critical military skills or assigned to high-priority units, until December 31, 2017.

Section 615—One-Year Extension of Authorities Relating to Payment of Other Title 37 Bonuses and Special Pays

This section would extend the authority for the aviation officer retention bonus, assignment incentive pay, the reenlistment bonus for active members, the enlistment bonus for active members, the incentive pay for members of precommissioning programs pursuing foreign language proficiency, the accession bonus for new officers in critical skills, the incentive bonus for conversion to military occupational specialty to ease personnel shortage, the incentive bonus for transfer between Armed Forces, and the accession bonus for officer candidates, until December 31, 2017.

Section 6xx—Conforming Amendment to Consolidation of Special Pay, Incentive Pay, and Bonus Authorities

This section would amend section 332(c) of title 37, United States Code, to conform the consolidated bonus amount to the current amount authorized under section 308j of title 37, United States Code. The National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239) increased the bonus authority to $20,000 under section 308j, but will sunset on September 30, 2017, when the new consolidated bonus authorities take effect pursuant to the National Defense Authorization Act for 2008 (Public Law 110-181).

Section 6xx—Technical and Clerical Amendments Relating to 2008 Consolidation of Certain Special Pay Authorities

This section would make technical and clerical corrections to titles 10, 20, 24, 36, 37, and 42, United States Code, as well as section 586 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181), section 362 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364), and section 112(c)(5)(B) of the Internal Revenue Code of 1986, as part of the Department of Defense's transition to the consolidated authorities in section 661 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181), which provided eight consolidated statutory special and incentive pay authorities for future use to replace those currently in use. This section is consistent with technical corrections included each year in the annual National Defense Authorization Act.

Section 6xx—Increase in Maximum Amount of Aviation Special Pays for Flying Duty

This section would amend section 334(c)(1) of title 37, United States Code, to increase the statutory limits for the aviation incentive pay and retention bonus and allow the Secretary concerned the flexibility to increase the aviation incentive pay limit set forth in regulations issued by the Secretary of Defense under section 374 of title 37, United States Code.

SUBTITLE C—MODERNIZATION OF MILITARY RETIREMENT SYSTEM

Section 6xx—Combat-Related Special Compensation Coordinating Amendment

This section would amend section 1413a(b)(3) of title 10, United States Code, to correct the computation of Combat-Related Special Compensation (CRSC) to match the National Defense Authorization Act for Fiscal Year 2016 enacted military retirement system reduction in the retirement base pay multiplier from 2.5 percent to 2.0 percent for the years of service formula to calculate retired pay to be restored by CRSC.

Section 6xx—Separation Determinations for Members Participating in Thrift Savings Plan

This section would repeal section 632(c)(2) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92) that added an additional definition of separation from government service which addresses cases of separation and/or resumption of service but applies only to military members. The Federal Retirement Thrift Investment Board, which oversees and administers the Thrift Savings Plan, has identified conflicts between section 632(c)(2) and section 211(c) of title 37, United States Code, which applies to the entire Federal Government workforce.

Section 6xx—Continuation Pay for Full Thrift Savings Plan Members Who Have Completed 8 to 12 Years of Service

This section would amend section 356 of title 37, United States Code, to authorize the Department of Defense the flexibility to pay continuation pay at any point between the time the member completes 8 years of service and before the member reaches 12 years of service, in exchange for an agreement to continue serving for a period of not less than 3 additional years.

SUBTITLE D—COMMISSARY AND NONAPPROPRIATED FUND INSTRUMENTALITY BENEFITS AND OPERATIONS

Section 6xx—Protection and Enhancement of Access to and Savings at Commissaries and Exchanges

This section would amend sections 2481(a) and (c), 2483(c), 2484, 2485, and 2487 of title 10, United States Code, to authorize the Secretary of Defense to develop and implement a comprehensive strategy to optimize practices across the defense commissary and exchange system that reduce the reliance of the system on appropriated funds without reducing the benefits to the patrons of the system or the revenue generated by non-appropriated fund entities or instrumentalities of the Department of Defense for the morale, welfare, and recreation of members of the Armed Forces.

TITLE VII—HEALTH CARE PROVISIONS

LEGISLATIVE PROVISIONS

SUBTITLE C—REPORTS AND OTHER MATTERS

Section 7xx—Prospective Payment of Funds Necessary to Provide Medical Care for the Coast Guard

This section would amend chapter 13 of title 14, United States Code, to require the Secretary of Homeland Security to make a prospective payment to the Secretary of Defense of an amount that represents the actuarial valuation of

treatment or care provided to members of the Coast Guard, former members of the Coast Guard, and their dependents at facilities under the jurisdiction of the Department of Defense except for any period during which the Coast Guard operates as a service in the Navy.

TITLE X—GENERAL PROVISIONS

LEGISLATIVE PROVISIONS

SUBTITLE E—MISCELLANEOUS AUTHORITIES AND LIMITATIONS

Section 10xx—Modification of Requirements Relating to Management of Military Technicians

This section would delay the implementation date of section 1053 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92) from January 1, 2017, to October 1, 2017, and align the date of conversion for military technicians (non-dual status) with military technicians (dual status). This section would also clarify that the positions to be converted will be reviewed and determined by leadership from the Army Reserve, the Air Force Reserve, the National Guard Bureau, and the State Adjutants General for purposes of implementation.

This section would also require the Secretary of Defense, in consultation with the Chief of the National Guard Bureau, to submit a report to the Committees on Armed Services of the Senate and the House of Representatives by March 1, 2017, on the feasibility and advisability of converting any remaining military technicians (dual status) to personnel performing Active Guard and Reserve Duty under section 328 of title 32, United States Code, or other applicable provisions of law.

TITLE XIV—OTHER AUTHORIZATIONS

LEGISLATIVE PROVISIONS

SUBTITLE D—OTHER MATTERS

Section 14xx—Authorization of Appropriations for Armed Forces Retirement Home

This section would authorize $64.3 million to be appropriated for the operation of the Armed Forces Retirement Home during fiscal year 2017.

Section 14xx—Authority for Transfer of Funds to Joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund for Captain James A. Lovell Health Care Center, Illinois

This section would authorize the Secretary of Defense to transfer funds from the Defense Health Program to the Joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund created by section 1704 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84).

DIVISION E—MILITARY JUSTICE

TITLE LX—GENERAL PROVISIONS

Section 6001—Definitions

This section would make technical amendments to article 1 of the Uniform Code of Military Justice concerning the definitions of "military judge" and "judge advocate".

Section 6002—Clarification of Persons Subject to UCMJ while on Inactive-Duty Training

This section would amend section 802 of title 10, United States Code (article 2 of the Uniform Code of Military Justice), to clarify jurisdiction over Reserve Component members performing periods of inactive-duty training. The amendment would provide commanders clearer authority to address misconduct that takes place during periods incident to inactive-duty training, and during intervals between inactive-duty training on consecutive days.

Section 6003—Staff Judge Advocate Disqualification Due to Prior Involvement in Case

This section would amend section 806 of title 10, United States Code (article 6 of the Uniform Code of Military Justice), which concerns the assignment for duty of judge advocates and the role of staff judge advocates and legal officers in military justice matters. Article 6(c) currently disqualifies military judges, trial and defense counsel, investigating officers, and panel members from later acting as a staff judge advocate or legal officer to any reviewing authority in a case in which they previously participated. The proposed amendments would expressly cover military magistrates when presiding, with the parties' consent, over cases referred to judge-alone special courts-martial, under article 19. The amendment also would revise the disqualification provision under article 6(c) to include appellate judges and counsel (including victims' counsel) who have participated previously in the same case or in any proceeding before a military judge (to include a military magistrate designated under article 19), preliminary hearing officer, or appellate court in the same case.

Section 6004—Conforming Amendment Relating to Military Magistrates

This section would amend section 806a of title 10, United States Code (article 6a of the Uniform Code of Military Justice), to align the statute with the changes proposed in article 19 and the proposed new article 26a, concerning military magistrates. The amendment would add "military magistrate" to the list of officials whose fitness to perform duties shall be subject to investigation and disposition under regulations prescribed by the President, consistent with Federal law concerning the investigation and disposition of matters relating to the fitness of Federal magistrate judges in the performance of their judicial duties.

Section 6005—Rights of Victim

This section would make amendments to the rights of victims under section 806b of title 10, United States Code (article 6b of the Uniform Code of Military Justice (UCMJ)), that: clarify the procedure for appointment of individuals to assume the rights of a victim who is under 18 years of age, incompetent, incapacitated, or deceased; clarify the relationship between the rights provided to victims under the UCMJ and the exercise of disposition discretion under articles 30 and 34; and move the recently enacted provisions concerning defense counsel interviews of victims of sex-related offenses from article 46(b) into article 6b and would extend those provisions to victims of all offenses.

TITLE LXI—APPREHENSION AND RESTRAINT

Section 6101—Restraint of Persons Charged

This section would amend section 810 of title 10, United States Code (article 10 of the Uniform Code of Military Justice (UCMJ)), concerning restraint of persons charged with offenses and the actions that must be taken by military commanders and convening authorities when persons subject to the UCMJ are held for trial by court-martial. This section would clarify the general provisions concerning restraint under article 10, and would incorporate into article 10, the requirement under article 33, for prompt forwarding of charges in cases involving pretrial confinement. This section would also expand the requirement for prompt forwarding to cover special courts-martial as well as general courts-martial, and would require the establishment of prompt processing time-frames in the Manual for Courts-Martial.

Section 6102—Modification of Prohibition of Confinement of Armed Forces Members with Enemy Prisoners and Certain Others

This section would amend section 812 of title 10, United States Code (article 12 of the Uniform Code of Military Justice) to clarify that no member of the

Armed Forces may be placed in confinement in immediate association with: (1) enemy prisoners of war; or (2) other individuals who are detained under the law of war, are foreign nationals, and are not members of the U.S. Armed Forces.

TITLE LXII—NON-JUDICIAL PUNISHMENT

Section 6201—Modification of Confinement as Non-Judicial Punishment

This section would amend non-judicial punishment under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice), to eliminate punishment in the form of a diet consisting only of bread and water as an option, while retaining the remaining range of disciplinary measures.

TITLE LXIII—COURT-MARTIAL JURISDICTION

Section 6301—Courts-Martial Classified

This section would amend courts-martial classifications under section 816 of title 10, United States Code (article 16 of the Uniform Code of Military Justice). This section would establish standard panel sizes: 12 members in capital general courts-martial, 8 members in non-capital general courts-martial, and 4 members in special courts-martial. As amended, article 16 would include references to article 25a (addressing panel size in capital cases), article 25(d) (addressing the initial detailing of members by the convening authority), and article 29 (addressing the impaneling of members and the impact of excusals on panel composition). Article 16(c) would be amended to require a military judge to be detailed to all special courts-martial, in accordance with current practice. This section also would add the option of referral to a non-jury (judge-alone) special court-martial.

Section 6302—Jurisdiction of General Courts-Martial

This section would make conforming changes to section 818 of title 10, United States Code (article 18 of the Uniform Code of Military Justice), to align the statute with the revised descriptions of types of courts-martial under article 16. The amendments would also modify article 18 to specify the sexual offenses over which general courts-martial have exclusive jurisdiction.

Section 6303—Jurisdiction of Special Courts-Martial

This section would amend section 819 of title 10, United States Code (article 19 of the Uniform Code of Military Justice), to align the statute with proposed changes in article 16 regarding the composition of special courts-martial.

Section 6304—Summary Court-Martial as Non-Criminal Forum

This section would amend section 820 of title 10, United States Code (article 20 of the Uniform Code of Military Justice), to clarify the status of the summary court-martial as a non-criminal forum. This section would clarify that, because of its non-judicial nature, a summary court-martial is not a "criminal prosecution," within the traditional due process understanding of a criminal prosecution (i.e., presided over by a judicial officer, and where the accused has a right to counsel) and that a finding of guilty at a summary court-martial does not constitute a "criminal conviction."

TITLE LXIV—COMPOSITION OF COURTS-MARTIAL

Section 6401—Technical Amendment Relating to Persons Authorized to Convene General Courts-Martial

This section would make a technical amendment to section 822 of title 10, United States Code (article 22 of the Uniform Code of Military Justice), to reflect the current terminology for the title of an officer commanding a naval fleet.

Section 6402—Who May Serve on Courts-Martial; Detail of Members

This section would amend section 825 of title 10, United States Code (article 25 of the Uniform Code of Military Justice), to expand the opportunity for service on a court-martial panel by permitting the detail of enlisted personnel as panel members without requiring a specific request from the accused. This section would also require that the convening authority detail a sufficient number of members for impanelment.

Section 6403—Number of Court-Martial Members in Capital Cases

This section would amend section 825a of title 10, United States Code (article 25a of the Uniform Code of Military Justice), to establish a standard panel size of 12 members in capital cases.

Section 6404—Detailing, Qualifications, etc. of Military Judges

This section would amend section 826 of title 10, United States Code (article 26 of the Uniform Code of Military Justice), to conform to the proposed amendments to article 16 to ensure a military judge is detailed to every general and special court-martial; require the Judge Advocates General select military judges based on statutory criteria and an evaluation of their individual education, training, experience, and judicial temperament; provide for minimum tour length for military judges; expressly authorize cross-service detailing of military judges; codify the position of chief trial judge; and remove the phrase "or his designee" from article 26.

Section 6405—Qualifications of Trial Counsel and Defense Counsel

This section would modify section 827 of title 10, United States Code (article 27 of the Uniform Code of Military Justice), to broaden the disqualification provision to include appellate judges who have participated previously in the same case; extend the qualification requirement to any assistant defense counsel detailed to a general court-martial; require any defense counsel or assistant defense counsel detailed to a special court-martial to be qualified under article 27(b); and require at least one defense counsel detailed to a capital case to be learned in such cases.

Section 6406—Assembly and Impaneling of Members; Detail of New Members and Military Judges

This section would modify section 829 of title 10, United States Code (article 29 of the Uniform Code of Military Justice), to clarify the function of assembly in general and special courts-martial and describe the limited situations in which a member may be absent or excused after assembly; require the military judge to impanel the number of members required; provide for the detail on new members if the membership on the panel is reduced below stated thresholds; address the detailing of a new military judge when the military judge is unable to proceed as a result of disability; and establish the procedure for presenting the prior trial proceedings to the newly detailed members or judge.

Section 6407—Military Magistrates

This section would create a new section, section 826a of title 10, United States Code (article 26a of the Uniform Code of Military Justice), that would set forth minimum qualifications under which the Judge Advocates General could, if so authorized under regulations of the Secretary concerned, certify military magistrates who could preside over proceedings when designated by a military judge.

TITLE LXV—PRE-TRIAL PROCEDURE

Section 6501—Charges and Specifications

This section would amend section 830 of title 10, United States Code (article 30 of the Uniform Code of Military Justice), to improve the functionality of the statute by restructuring it into three subsections and removing the requirement to take "immediate steps" to dispose of charges and specifications, instead requiring the proper authority to, as soon as practicable, determine what disposition should be made.

Section 6502—Preliminary Hearing Required before Referral to General Court-Martial

This section would amend section 832 of title 10, United States Code (article 32 of the Uniform Code of Military Justice). This section would be restructured to clarify the current law concerning the requirement for and the conduct of preliminary hearings before referral of charges and specifications to general courts-martial for trial.

Section 6503—Disposition Guidance

This section would amend section 833 of title 10, United States Code (article 33 of the Uniform Code of Military Justice (UCMJ)) to require the establishment and maintenance of non-binding guidance regarding factors that commanders, convening authorities, staff judge advocates, and judge advocates should take into account when exercising their duties with respect to disposition of charges and specifications in the interest of justice and discipline under articles 30 and 34 of the UCMJ.

Section 6504—Advice to Convening Authority before Referral for Trial

This section would amend section 834 of title 10, United States Code, (article 34 of the Uniform Code of Military Justice), to clarify ambiguities in the existing language, to require judge advocate consultation before referral of charges to special courts-martial, and to expressly tie the staff judge advocate's pre-referral disposition recommendation in general courts-martial to the "in the interest of justice and discipline" standard for disposition of charges and specifications under article 30.

Section 6505—Service of Charges and Commencement of Trial

This section would amend section 835 of title 10, United States Code (article 35 of the Uniform Code of Military Justice), to clarify the accused's right to object, in peacetime, to the commencement of trial before the completion of a statutory period following service of charges; 3 days for special courts-martial and 5 days for general courts-martial.

TITLE LXVI—TRIAL PROCEDURE

Section 6601—Duties of Assistant Defense Counsel

This section would amend section 838 of title 10, United States Code (article 38 of the Uniform Code of Military Justice), to conform it to the amendments to article 27 concerning the requirement for all defense counsel in general and special courts-martial to be qualified under article 27(b).

Section 6602—Sessions

This section would amend section 839 of title 10, United States Code (article 39 of the Uniform Code of Military Justice), to clarify that military judges preside at arraignments.

Section 6603—Technical Amendments Relating to Continuances

This section would amend section 840 of title 10, United States Code (article 40 of the Uniform Code of Military Justice), to clarify that a summary court-martial is the only exception to the general rule that the authority to grant continuances is vested solely in the military judge.

Section 6604—Conforming Amendments Relating to Challenges

This section would amend section 841 of title 10, United States Code, (article 41 of the Uniform Code of Military Justice), to conform the section to the amendments made to article 16 regarding standard panel sizes in general and special courts-martial

Section 6605—Statute of Limitations

This section would amend section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), to extend the statute of limitations applicable to child abuse offenses from the current 5 years or the life of the child, whichever is longer, to 10 years or the life of the child, whichever is longer; extend the statute of limitations on fraudulent enlistment under article 83 from the current 5 years to length of enlistment/appointment, or 5 years, whichever is longer; and extend the statute of limitations if DNA testing implicates an identified person in the commission of an offense punishable by confinement for more than 1 year.

Section 6606—Former Jeopardy

This section would amend section 844 of title 10, United States Code (article 44 of the Uniform Code of Military Justice), by clarifying the circumstances under which jeopardy attaches, and to align it with Federal civilian standards concerning double jeopardy.

Section 6607—Pleas of the Accused

This section would amend section 845 of title 10, United States Code (article 45 of the Uniform Code of Military Justice), to permit an accused to plead guilty in a capital case when the death penalty is not a mandatorily prescribed

punishment and establish a harmless error rule if the variance does not materially prejudice the substantial rights of the accused.

Section 6608—Contempt

This section would amend section 848 of title 10, United States Code (article 48 of the Uniform Code of Military Justice), to clarify those who may exercise contempt authority; transfer the review function for contempt punishment from the convening authority to the appropriate appellate court; and clarify the appeal process.

Section 6609—Depositions

This section would amend section 849 of title 10, United States Code (article 49 of the Uniform Code of Military Justice), to better align deposition practice with the authority to issue and enforce subpoenas for witnesses; ensure parties at a deposition are represented by detailed counsel; and clarify the prohibition on the use of depositions in capital cases by the Government.

Section 6610—Admissibility of Sworn Testimony by Audiotape or Videotape from Records of Courts of Inquiry

This section would amend section 850 of title 10, United States Code (article 50 of the Uniform Code of Military Justice), to permit sworn testimony from a court of inquiry to be played from audiovisual recording if the deposed witness is unavailable at trial and the evidence is otherwise admissible under the rules of evidence.

Section 6611—Conforming Amendment Relating to Defense of Lack of Mental Responsibility

This section would amend section 850a of title 10, United States Code (article 50a of the Uniform Code of Military Justice), to conform to the proposed changes in article 16 to eliminate special courts-martial without a military judge.

Section 6612—Voting and Rulings

This section would amend section 851 of title 10, United States Code (article 51 of the Uniform Code of Military Justice), to remove reference to courts-martial without a military judge to conform with the amended language in article 16.

Section 6613—Votes Required for Conviction, Sentencing, and Other Matters

This section would amend section 852 of title 10, United States Code (article 52 of the Uniform Code of Military Justice (UCMJ)), to standardize the percentage of votes required by a court-martial panel for conviction and for a specific sentence at 75 percent for non-capital cases. In conjunction with standard panel sizes under article 16 of the UCMJ, this would standardize the percentage of votes required in all non-capital cases, and continue to require a unanimous vote on both findings and sentence in capital cases.

Section 6614—Plea Agreements

This section would create section 853a of title 10, United States Code (article 53a of the Uniformed Code of Military Justice (UCMJ)). The new section would contain the statutory authority for plea agreements, which was previously contained in article 60 of the UCMJ. The section would provide rules for the construction and negotiation of plea agreements, allowing the convening authority and the accused to enter into binding agreements regarding the sentence that may be adjudged at a court-martial.

Section 6615—Record of Trial

This section would amend section 854 of title 10, United States Code (article 54 of the Uniformed Code of Military Justice), to require the court reporter, instead of the military judge or prosecutor, to certify the record of trial; require a complete record of trial in any general or special court-martial if the sentence includes death, dismissal, discharge, or confinement or forfeitures for more than 6 months; and provide all victims who testify at a court-martial with access to records of trial, eliminating the distinction in the statute that currently provides such access only to victims of sex-related offenses under article 120.

TITLE LXVII—SENTENCES

Section 6701—Sentencing

This section would amend section 856 of title 10, United States Code (article 56 of the Uniformed Code of Military Justice), to: clarify the factors that must be taken into consideration by a court-martial when fashioning an appropriate sentence; require offense-based sentencing for confinement and fines, rather than unitary sentencing, in all general and special courts-martial; incorporate article 56a (Sentence of confinement for life without eligibility for parole) into article 56 without substantive change; and allow the U.S. Government to appeal a sentence if it violates the law or the sentence is plainly unreasonable.

Section 6702—Effective Date of Sentences

This section would amend section 857 of title 10, United States Code (article 57 of the Uniform Code of Military Justice), to consolidate portions of articles 57, 57a, and 71, so that the effective date for all punishments that could be adjudged at a court-martial are addressed in a single article. In addition, this section would remove the distinction between when a sentence becomes effective and when it is ordered executed. With the exception of death and punitive discharges, sentences would be effective by operation of law, without any additional approval, upon entry of judgment.

Section 6703—Sentence of Reduction in Enlisted Grade

This section would amend section 858a of title 10, United States Code (article 58a of the Uniformed Code of Military Justice), to conform the section to the proposed changes to post-trial procedure under article 60 and the entry of judgment under the proposed article 60c.

TITLE LXVIII—POST-TRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

Section 6801—Post-Trial Processing in General and Special Courts-Martial

This section would amend section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), to provide for the distribution of the trial results and to authorize the filing of post-trial motions with the military judge in general and special courts-martial. The convening authority's role in post-trial processing would be moved to new article 60a and 60b.

Section 6802—Limited Authority to Act on Sentence in Specified Post-Trial Circumstances

This section would create a new section 860a of title 10, United States Code (article 60a of the Uniform Code of Military Justice), which would retain current limitations on the convening authority's post-trial actions in most general and special courts-martial, subject to a limited suspension authority that would be permissible only if specifically recommended by the military judge. In addition, this section would contain a revised authority related to accused who provide substantial assistance to the Government; would allow the accused and a victim of the offense to submit matters to the convening authority for consideration; and would require the decision of the convening authority to be forwarded to the military judge so that the entry of judgment can be updated to reflect any changes to the sentence.

Section 6803—Post-Trial Actions in Summary Courts-Martial and Certain General and Special Courts-Martial

This section would create a new section 860b of title 10, United States Code (article 60b of the Uniform Code of Military Justice), that would retain and clarify the convening authority's post-trial authorities and responsibilities with respect to the findings and sentence of those courts-martial not covered by the new article 60a, namely summary courts-martial and certain general and special courts-martial which, because of the offenses charged and the sentence adjudged, would not be covered under article 60a.

Section 6804—Entry of Judgment

This section would create a new section 860c of title 10, United States Code (article 60c of the Uniform Code of Military Justice), that would establish the entry of judgment, which would require the military judge to enter the judgment of the court-martial into the record in all general and special courts-martial, and would mark the conclusion of trial proceedings.

Section 6805—Waiver of Right to Appeal and Withdrawal of Appeal

This section would amend section 861 of title 10, United States Code (article 61 of the Uniformed Code of Military Justice), to conform the section to the changes proposed in articles 60, 65, and 69 concerning post-trial processing.

Section 6806—Appeal by the United States

This section would amend section 862 of title 10, United States Code (article 62 of the Uniformed Code of Military Justice), to authorize an appeal by the Government when, upon defense motion, the military judge sets aside a panel's finding of guilty because of legally insufficient evidence. In addition, this section would extend interlocutory appeals to all general and special courts-martial.

Section 6807—Rehearings

This section would amend section 863 of title 10, United States Code (article 63 of the Uniformed Code of Military Justice), to remove the sentence limitation at a rehearing in cases in which an accused changes the plea from guilty to not guilty, or otherwise fails to comply with the terms of a pre-trial agreement; or a sentence is set aside based on a Government appeal.

Section 6808—Judge Advocate Review of Finding of Guilty in Summary Court-Martial

This section would amend section 864 of title 10, United States Code (article 64 of the Uniform Code of Military Justice), to make the provision apply only to the initial review of summary courts-martial.

Section 6809—Transmittal and Review of Records

This section would amend section 865 of title 10, United States Code (article 65 of the Uniform Code of Military Justice), to: require the record of trial in all general and special courts-martial in which there is a finding of guilty to be transmitted to the Office of the Judge Advocate General; outline the processing of reviews conducted by the Office of the Judge Advocate General, including those cases not eligible for appellate review by the Court of Criminal Appeals; and outline review procedures if the accused waives the right to appellate review or withdraws an appeal.

Section 6810—Courts of Criminal Appeals

This section would amend section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), to: require the President to establish minimum tour lengths for appellate military judges; establish discretionary review by the Court of Criminal Appeals in cases that are not eligible for an appeal as of right; provide standards of review for appeals; and codify the authority of Courts of criminal Appeals to remand cases and order rehearings.

Section 6811—Review by Court of Appeals for the Armed Forces

This section would amend section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), to conform the section to proposed changes in article 60 and article 66. In addition, the amendment would provide for notification by a Judge Advocate General to the other Judge Advocates General prior to certifying a case for review by the Court of Appeals for the Armed Forces.

Section 6812—Supreme Court Review

This section would make a technical amendment to section 867 of title 10, United States Code (article 67 of the Uniformed Code of Military Justice) to add "United States" before "Court of Appeals for the Armed Forces".

Section 6813—Review by Judge Advocate General

This section would amend section 869 of title 10, United States Code (article 69 of the Uniform Code of Military Justice), to allow the accused a 1-year period in which to file for review under article 69 in the Office of the Judge Advocate General, extendable to 3 years for good cause. A review under this

provision could consider issues of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, error prejudicial to the substantial rights of the accused, or the appropriateness of the sentence.

Section 6814—Appellate Defense Counsel in Death Penalty Cases

This section would amend section 870 of title 10, United States Code (article 70 of the Uniform Code of Military Justice), to require, to the greatest extent practicable, at least one appellate defense counsel to be learned in the law applicable to capital cases in which the death penalty was adjudged at trial.

Section 6815—Authority for Hearing on Vacation of Suspension of Sentence to be Conducted by Qualified Judge Advocate

This section would amend section 872 of title 10, United States Code (article 72 of the Uniform Code of Military Justice), to authorize a special court-martial convening authority to detail a judge advocate qualified under article 27(b) to preside at the vacation hearing, which must be held before a suspended sentence can be vacated.

Section 6816—Extension of Time for Petition for New Trial

This section would amend section 873 of title 10, United States Code (article 73 of the Uniform Code of Military Justice), to increase the time period for an accused to petition for a new trial from 2 years to 3 years.

Section 6817—Restoration

This section would amend section 875 of title 10, United States Code (article 75 of the Uniform Code of Military Justice), to require the President to establish regulations governing when an accused may receive pay and allowances while pending a rehearing.

Section 6818—Leave Requirements Pending Review of Certain Court-Martial Convictions

This section would amend section 876a of title 10, United States Code (article 76a of the Uniform Code of Military Justice), to conform to the proposed changes to article 60 (actions by the convening authority) and article 60c (entry of judgment).

TITLE LXIX—PUNITIVE ARTICLES

Section 6901—Reorganization of Punitive Articles

This section would reorganize the punitive articles by transferring and re-designating 14 articles within subchapter X of the Uniform Code of Military Justice to more closely group related offenses.

Section 6902—Conviction of Offense Charged, Lesser Included Offenses, and Attempts

This section would amend section 879 of title 10, United States Code (article 79 of the Uniform Code of Military Justice (UCMJ)), to authorize the President to designate an authoritative, but non-exhaustive, list of lesser included offenses for each punitive article of the UCMJ in addition to judicially determined lesser included offenses.

Section 6903—Soliciting Commission of Offenses

This section would amend title 882 of section 10, United States Code (article 82 of the Uniform Code of Military Justice), to consolidate the general solicitation offense under article 134 into article 82.

Section 6904—Malingering

This section would amend section 883 of title 10, United States Code (article 83 of the Uniform Code of Military Justice), to relocate article 115 (malingering) to this section, and make a technical correction.

Section 6905—Breach of Medical Quarantine

This section would amend section 884 of title 10, United States Code (article 84 of the Uniform Code of Military Justice), to move the offense of "Quarantine: medical, breaking" from article 134 to this section.

Section 6906—Missing Movement; Jumping from Vessel

This section will amend section 887 of title 10, United States Code (article 87 of the Uniform Code of Military Justice), to incorporate the current article 134 offense of "Jumping from vessel into the water" into the existing article 87 offense of "Missing movement".

Section 6907—Offenses Against Correctional Custody and Restriction

This section would create a new section 887b of title 10, United States Code (article 87b of the Uniform Code of Military Justice), to move and consolidate the offenses of "Restriction, breaking" and "Correctional custody-offenses against" from article 134 to this section.

Section 6908—Disrespect Toward Superior Commissioned Officer; Assault of Superior Commissioned Officer

This section would amend section 889 of title 10, United States Code (article 89 of the Uniform Code of Military Justice), to move and consolidate the closely related offense of "Assaulting a superior commissioned officer" under article 90 to the existing article 89 "Disrespect toward a superior commissioned officer".

Section 6909—Willfully Disobeying Superior Commissioned Officer

This section would amend section 890 of title 10, United States Code (article 90 of the Uniform Code of Military Justice), to transfer the offense of "Assaulting a superior commissioned officer" to article 89 and focus the article as amended on the willful disobedience of a lawful command of a superior commissioned officer.

Section 6910—Prohibited Activities with Military Recruit or Trainee by Person in Position of Special Trust

This section would create a new section 893a of title 10, United States Code (article 93a of the Uniform Code of Military Justice), that would specifically address accountability for sexual misconduct committed by recruiters and trainers during the various phases within the recruiting and basic military training environments.

Section 6911—Offenses by Sentinel or Lookout

This section would amend section 895 of title 10 of the United States Code (article 95 of the Uniform Code of Military Justice), to move the loitering portion of the offense of "Sentinel or lookout: offenses against or by" from article 134 to this section.

Section 6912—Disrespect Toward Sentinel or Lookout

This section would create a new section 895a of title 10, United States Code (article 95a of the Uniform Code of Military Justice), to move the disrespect portion of the offense of "Sentinel or lookout: offenses against or by" from article 134 to this section.

Section 6913—Release of Prisoner without Authority; Drinking with Prisoner

This section would amend section 896 of title 10, United States Code (article 96 of the Uniform Code of Military Justice), to move the separate offense of "Drinking liquor with prisoner" currently under article 134 to this section.

Section 6914—Penalty for Acting as a Spy

This section would amend section 903 of title 10, United States Code (article 103 of the Uniform Code of Military Justice (UCMJ)), as transferred and re-designated elsewhere in this Act, by replacing the mandatory death penalty currently required with a discretionary death penalty similar to that authorized under existing article 106a "Espionage" and for all other capital offenses under the UCMJ.

Section 6915—Public Records Offenses

This section would amend section 904 of title 10, United States Code (article 104 of the Uniform Code of Military Justice), to move the offense of "Public record: altering, concealing, removing, mutilating, obliterating, or destroying" from article 134 to this section and re-designating it "Public records offenses".

Section 6916—False or Unauthorized Pass Offenses

This section would create a new section 905a of title 10, United States Code (article 105a of the Uniform Code of Military Justice), to move the offense of "False or unauthorized pass offenses" from article 134 to this section.

Section 6917—Impersonation Offenses

This section would amend section 906 of title 10, United States Code (article 106 of the Uniform Code of Military Justice), to move the offense of "Impersonating a commissioned, warrant, noncommissioned, petty officer or agent or official" from article 134 to this section.

Section 6918—Insignia Offenses

This section would create a new section 906a of title 10, United States Code (article 106a of the Uniform Code of Military Justice), to move the offense of "Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button" from article 134 to this section.

Section 6919—False Official Statements; False Swearing

This section would amend section 907 of title 10, United States Code (article 107 of the Uniform Code of Military Justice), to move the offense of "False swearing" from article 134 to this section.

Section 6920—Parole Violation

This section would create a new section 907a of title 10, United States Code (article 107a of the Uniform Code of Military Justice), and would move the offense of "Parole, violation of" from article 134 to this new section.

Section 6921—Wrongful Taking, Opening, Etc. of Mail Matter

This section would create a new section 909a of title 10, United States Code (article 109a of the Uniform Code of Military Justice), and move the offense of "Mail: taking, opening, secreting, destroying, or stealing" from article 134 to this new section.

Section 6922—Improper Hazarding of Vessel or Aircraft

This section would amend section 910 of title 10, United States Code (article 110 of the Uniform Code of Military Justice), to prohibit improper hazarding of an aircraft in addition to the existing "Improper hazarding of vessel".

Section 6923—Leaving Scene of Vehicle Accident

This section would amend section 911 of title 10, United States Code (article 111 of the Uniform Code of Military Justice) and re-title the section "Leaving scene of accident". The amended section would move the offense of "Fleeing the scene of an accident" from article 134 to this section.

Section 6924—Drunkenness and Other Incapacitation Offenses

This section would amend section 912 of title 10, United States Code (article 112 of the Uniform Code of Military Justice), and re-title the section as "Drunkenness and other incapacitation offenses". This section would move the offenses of "Drunkenness-incapacitation for performance of duties through prior wrongful indulgence in intoxicating liquor or any drug" and "Drunk prisoner" from article 134 to this section.

Section 6925—Lower Blood Alcohol Content Limits for Conviction of Drunken or Reckless Operation of Vehicle, Aircraft, or Vessel

This section would amend section 913 of title 10, United States Code (article 113 of the Uniform Code of Military Justice), to align the blood alcohol limits in the offense to the prevailing legal standard in the United States.

Section 6926—Endangerment Offenses

This section would amend section 914 of title 10, United States Code (article 114 of the Uniform Code of Military Justice), to move three related offenses from article 134 to this section and re-designating the section "Endangerment offenses".

Section 6927—Communicating Threats

This section would amend section 915 of title 10, United States Code (article 115 of the Uniform Code of Military Justice), and move the offenses of "threat, communicating," and "Threat or hoax designed or intended to cause panic or public fear" from article 134 to this re-designated section.

Section 6928—Technical Amendment Relating to Murder

This section would make a technical amendment to section 918 of title 10, United States Code (article 118 of the Uniform Code of Military Justice), removing the term "forcible sodomy" because the crime of forcible sodomy is already contained in article 120 "Rape and sexual assault generally."

Section 6929—Child Endangerment

This section would create a new section 919b of title 10, United States Code (article 119b of the Uniform Code of Military Justice), and move the offense of "Child endangerment" from article 134 to this new section.

Section 6930—Deposit of Obscene Matter in the Mail

This section would amend section 920a of title 10, United States Code (article 120a of the Uniform Code of Military Justice), and move the offense of "Mails: depositing or causing to be deposited obscene materials in" from article 134 to this re-designated section.

Section 6931—Fraudulent Use of Credit Cards, Debit Cards, and Other Access Devices

This section would create a new section 921a of title 10, United States Code (article 121a of the Uniform Code of Military Justice), to specifically address the misuse of credit cards, debit cards, and other electronic payment technology, also known as "access devices."

Section 6932—False Pretenses to Obtain Services

This section would create a new section 921b of title 10, United States Code (article 121b of the Uniform Code of Military Justice), and move the offense of "False pretenses, obtaining services under" from article 134 to this new section.

Section 6933—Robbery

This section would amend section 922 of title 10, United States Code (article 122 of the Uniform Code of Military Justice), to remove the words "with the intent to steal" from the section, thereby eliminating the requirement to show that the accused intended to permanently deprive the victim of his property.

Section 6934—Receiving Stolen Property

This section would amend section 922a of title 10, United States Code (article 122a of the Uniform Code of Military Justice), and move the offense of "Stolen property: knowingly receiving, buying, concealing" from article 134 to this section.

Section 6935—Offenses Concerning Government Computers

This section would amend section 923 of title 10, United States Code (article 123 of the Uniform Code of Military Justice), and re-designate it "Offenses concerning government computers." This section would create a new punitive article to address computer-related offenses where the gravity of the offense may make punishment under other offenses inappropriately low.

Section 6936—Bribery

This section would create a new section 924a of title 10, United States Code (article 124a of the Uniform Code of Military Justice), and move the offense of "Bribery" from article 134 to this new section.

Section 6937—Graft

This section would create a new section 924b of title 10, United States Code (article 124b of the Uniform Code of Military Justice), and move the offense of "Graft" from article 134 to this new section.

Section 6938—Kidnapping

This section would amend section 925 of title 10, United States Code (article 125 of the Uniform Code of Military Justice), and move the offense of "Kidnapping" from article 134 to this section.

Section 6939—Arson; Burning Property with Intent to Defraud

This section would amend section 926 of title 10, United States Code (article 126 of the Uniform Code of Military Justice), and move the offense of "Burning with intent to defraud" from article 134 to this section.

Section 6940—Assault

This section would amend section 928 of title 10, United States Code (article 128 of the Uniform Code of Military Justice), to establish a standard focused on the intent of the accused to commit bodily harm. This amended section would also move the offense of "Assault-with intent to commit murder, voluntary manslaughter, rape, robbery, sodomy, arson, burglary, or housebreaking" from article 134 to this section.

Section 6941—Burglary and Unlawful Entry

This section would amend section 929 of title 10, United States Code (article 129 of the Uniform Code of Military Justice), and re-title the section "Burglary; unlawful entry". The amended section would remove the common-law "personal dwelling" and "nighttime" elements; the offense of "Housebreaking" would be incorporated into article 129; and the offense of "Unlawful entry" would move from article 134 to this section.

Section 6942—Stalking

This section would amend section 930 of title 10, United States Code (article 130 of the Uniform Code of Military Justice), and re-designate the section as "Stalking". The amended section would update current law to address cyberstalking and threats to intimate partners.

Section 6943—Subornation of Perjury

This section would create a new section 931a of title 10, United States Code (article 131a of the Uniform Code of Military Justice), and move the offense of "Perjury: subornation of" from article 134 to this new section.

Section 6944—Obstructing Justice

This section would create a new section 931b of title 10, United States Code (article 131b of the Uniform Code of Military Justice), and move the offense of "Obstructing justice" from article 134 to this new section.

Section 6945—Misprision of Serious Offense

This section would create a new section 931c of title 10, United States Code (article 131c of the Uniform Code of Military Justice), and move the offense of "Misprision of serious offense" from article 134 to this new section.

Section 6946—Wrongful Refusal to Testify

This section would create a new section 931d of title 10, United States Code (article 131d of the Uniform Code of Military Justice), and move the offense of "Testify: wrongful refusal" from article 134 to this new section.

Section 6947—Prevention of Authorized Seizure of Property

This section would create a new section 931e of title 10, United States Code (article 131e of the Uniform Code of Military Justice), and move the offense of "Seizure: destruction, removal, or disposal of property to prevent" from article 134 to this new section.

Section 6948—Wrongful Interference with Adverse Administrative Proceeding

This section would create a new section 931g of title 10, United States Code (article 131g of the Uniform Code of Military Justice), and move the offense of "Wrongful interference with an adverse administrative proceeding" from article 134 to this new section.

Section 6949—Retaliation

This section would amend section 932 of title 10, United States Code (article 132 of the Uniform Code of Military Justice), to establish a new offense that prohibits retaliation.

Section 6950—Extraterritorial Application of Certain Offenses

This section would amend section 934 of title 10, United States Code (article 134 of the Uniform Code of Military Justice (the general article)), to cover all non-capital Federal crimes of general applicability under clause 3, regardless of where the Federal crime is committed.

Section 6951—Table of Sections

This section would amend the table of sections for the beginning of subchapter X of title 10, United States Code, to reflect all proposed new sections and proposed amendments to section headings.

TITLE LXX—MISCELLANEOUS PROVISIONS

Section 7001—Technical Amendment Relating to Courts of Inquiry

This section would amend section 935 of title 10, United States Code (article 135 of the Uniform Code of Military Justice), to provide individuals employed by the Department of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy, the right to be designated as parties in interest when they have a direct interest in the subject of a court of inquiry convened under article 135, aligning their rights with those of Department of Defense employees.

Section 7002—Technical Amendment to Article 136

This section would make a technical amendment to section 936 of title 10, United States Code (article 136 of the Uniform Code of Military Justice), to remove from the section heading the authority to act as a notary, which is not provided for in the text of the statute.

Section 7003—Articles of Uniform Code of Military Justice to be Explained to Officers Upon Commissioning

This section would amend section 937 of title 10, United States Code (article 137 of the Uniform Code of Military Justice (UCMJ)), to require that officers, in addition to enlisted personnel, receive training on the UCMJ upon entry to service, and periodically thereafter. The amendment would also require specific military justice training for military commanders and convening authorities; require the Secretary of Defense to prescribe regulations for additional specialized training on the UCMJ for combatant commanders and commanders of combined commands; and require the Secretary of Defense to maintain an electronic version of the UCMJ and Manual for Court-Martial that would be updated periodically and made available on the Internet for review by service members and the public.

Section 7004—Military Justice Case Management; Data Collection and Accessibility

This section would create a new section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), which would require the Secretary of Defense to prescribe uniform standards and criteria for case processing and management, military justice data collection, production and distribution of records of trial, and access to case information.

TITLE LXXI—MILITARY JUSTICE REVIEW PANEL AND ANNUAL REPORTS

Section 7101—Military Justice Review Panel

This section would amend section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice (UCMJ)), and re-title the section as "Military Justice Review Panel". The amended section would establish an independent panel of experts tasked to conduct a periodic evaluation of military justice practices and procedures on a regular basis that would replace the current UCMJ Panel.

Section 7102—Annual Reports

This section would create a new section 946a of title 10, United States Code (article 146a of the Uniform Code of Military Justice), to compile the annual reports issued individually by the Court of Appeals for the Armed Forces, the Judge Advocates General, and the Staff Judge Advocate to the Commandant of the Marine Corps into a single volume.

TITLE LXXII—CONFORMING AMENDMENTS AND EFFECTIVE DATES

Section 7201—Amendments to UCMJ Subchapter Tables of Sections

This section would make conforming amendments to the tables of sections for several subchapters of title 10, United States Code (the Uniform Code of Military Justice).

Section 7202—Effective Dates

This section would establish the effective date of amendments contained in this division as 2 years after the date of the enactment of this Act.

BILL LANGUAGE

SEC. 401 [Log 62784]. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2017, as follows:

(1) The Army, 480,000.

(2) The Navy, 322,900.

(3) The Marine Corps, 185,000.

(4) The Air Force, 321,000.

SEC. 402 [Log 62785]. REVISIONS IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following new paragraphs:

"(1) For the Army, 480,000.

"(2) For the Navy, 322,900.

"(3) For the Marine Corps, 185,000.

"(4) For the Air Force, 321,000.".

SEC. 411 [Log 62786]. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2017, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Navy Reserve, 58,000.

(4) The Marine Corps Reserve, 38,500.

(5) The Air National Guard of the United States, 105,700.

(6) The Air Force Reserve, 69,000.

(7) The Coast Guard Reserve, 7,000.

(b) END STRENGTH REDUCTIONS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected

Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

(c) END STRENGTH INCREASES.—Whenever units or individual members of the Selected Reserve for any reserve component are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412 [Log 62788]. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2017, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 30,155.

(2) The Army Reserve, 16,261.

(3) The Navy Reserve, 9,955.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 14,764.

(6) The Air Force Reserve, 2,955.

SEC. 413 [Log 62789]. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2017 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army National Guard of the United States, 25,507.

(2) For the Army Reserve, 7,570.

(3) For the Air National Guard of the United States, 22,103.

(4) For the Air Force Reserve, 10,061.

SEC. 414 [Log 62790]. FISCAL YEAR 2017 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.

(a) LIMITATIONS.—

(1) NATIONAL GUARD.—Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2017, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) ARMY RESERVE.—The number of non-dual status technicians employed by the Army Reserve as of September 30, 2017, may not exceed 420.

(3) AIR FORCE RESERVE.—The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2017, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term ''non-dual status technician'' has the meaning given that term in section 10217(a) of title 10, United States Code.

SEC. 415 [Log 62794]. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.

During fiscal year 2017, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

(1) The Army National Guard of the United States, 17,000.

(2) The Army Reserve, 13,000.

(3) The Navy Reserve, 6,200.

(4) The Marine Corps Reserve, 3,000.

(5) The Air National Guard of the United States, 16,000.

(6) The Air Force Reserve, 14,000.

SEC. 421 [Log 62795]. MILITARY PERSONNEL.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 2017 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for military personnel, as specified in the funding table in section 4401.

(b) CONSTRUCTION OF AUTHORIZATION.—The authorization of appropriations in subsection (a) supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2017.

SEC. 5___[Log 63293]. TECHNICAL CORRECTION TO ANNUAL AUTHORIZATION FOR PERSONNEL STRENGTHS.

Section 115 of title 10, United States Code, is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B), by striking ''502(f)(2)'' and inserting ''502(f)(1)(B)''; and

(B) in subparagraph (C), by striking ''502(f)(2)'' and inserting ''502(f)(1)(B)''; and

(2) in subsection (i)(7), by striking ''502(f)(1)'' and inserting ''502(f)(1)(A)''.

SEC. 5___[Log 63294]. EXTENSION OF REMOVAL OF RESTRICTIONS ON THE TRANSFER OF OFFICERS BETWEEN THE ACTIVE AND INACTIVE NATIONAL GUARD.

Section 512 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 127 Stat. 752; 32 U.S.C. prec. 301 note) is amended—

(1) in subsection (a) in the matter preceding paragraph (1), by striking ''December 31, 2016'' and inserting ''December 31, 2019''; and

(2) in subsection (b) in the matter preceding paragraph (1), by striking ''December 31, 2016'' and inserting ''December 31, 2019''.

SEC. 5___[Log 63295]. EXTENSION OF TEMPORARY AUTHORITY TO USE AIR FORCE RESERVE COMPONENT PERSONNEL TO PROVIDE TRAINING AND INSTRUCTION REGARDING PILOT TRAINING.

Section 514(a)(1) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 810) is amended by inserting ''and fiscal year 2017'' after ''During fiscal year 2016''.

SEC. 5___[Log 63296]. TECHNICAL CORRECTION TO VOLUNTARY SEPARATION PAY AND BENEFITS.

Section 1175a(j) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking ''or 12304'' and inserting ''12304, 12304a, or 12304b''; and

(B) by striking ''502(f)(1)'' and inserting ''502(f)(1)(A)''; and

(2) in paragraph (3), by striking ''502(f)(2)'' and inserting ''502(f)(1)(B)''.

SEC. 5___[Log 63315]. PILOT PROGRAM ON CONSOLIDATED ARMY RECRUITING.

(a) PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall carry out a pilot program to consolidate the recruiting efforts of the Regular Army, Army Reserve, and Army National Guard under which a recruiter in one of the components participating in the pilot program may recruit individuals to enlist in any of the components regardless of the funding source of the recruiting activity. Under the pilot program, the recruiter shall receive credit toward periodic enlistment goals for each enlistment regardless of the component in which the individual enlists.

(2) DURATION.—The Secretary shall carry out the pilot program for a period of not less than three years.

(b) REPORTS.—

(1) INTERIM REPORT.—

(A) IN GENERAL.—Not later than one year after the date on which the pilot program under subsection (a) commences, the Secretary shall

submit to the Committee on Armed Services of the House of Representatives a report on the pilot program.

(B) ELEMENTS.—The report under subparagraph (A) shall include each of the following:

(i) An analysis of the effects that consolidated recruiting efforts has on the overall ability of recruiters to attract and place qualified candidates.

(ii) A determination of the extent to which consolidating recruiting efforts affects efficiency and recruiting costs.

(iii) An analysis of any challenges associated with a recruiter working to recruit individuals to enlist in a component in which the recruiter has not served.

(iv) An analysis of the satisfaction of recruiters and the component recruiting commands with the pilot program.

(2) FINAL REPORT.—Not later than 180 days after the date on which the pilot program under subsection (a) is completed, the Secretary shall submit to the committees specified in paragraph (1)(A) a final report on the pilot program. Such final report

shall include any recommendations of the Secretary with respect to extending or making permanent the pilot program and a description of any related legislative actions that the Secretary considers appropriate.

SEC. 5___[Log 63423]. EQUAL CONSIDERATION OF OFFICERS FOR EARLY RETIREMENT OR DISCHARGE.

Section 638a of title 10, United States Code, is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(4) Convening selection boards under section 611(b) of this title to consider for early retirement or discharge regular officers on the active-duty list in a grade below lieutenant colonel or commander—

"(A) who have served at least one year of active duty in the grade currently held; and

"(B) whose names are not on a list of officers recommended for promotion.";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection (e):

"(e)(1) In the case of action under subsection (b)(4), the Secretary of the military department concerned shall specify the total number of officers described in that subsection that a selection board convened under section 611(b) of this title pursuant to the authority of that sub-

section may recommend for early retirement or discharge. Officers who are eligible, or are within two years of becoming eligible, to be retired under any provision of law (other than by reason of eligibility pursuant to section 4403 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484)), if selected by the board, shall be retired or retained until becoming eligible to retire under sections 3911, 6323, or 8911 of this title, and those officers who are otherwise ineligible to retire under any provision of law shall, if selected by the board, be discharged.

''(2) In the case of action under subsection (b)(4), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

''(A) the names of all eligible officers described in that subsection, whether or not they are eligible to be retired under any provision of law, in a particular grade and competitive category; or

''(B) the names of all eligible officers described in that subsection in a particular grade and competitive category, whether or not they are eligible to be retired under any provision of law, who are also in particular year groups, specialties, or retirement cat-

1 egories, or any combination thereof, with that com-
2 petitive category.
3 ''(3) The number of officers specified under para-
4 graph (1) may not be more than 30 percent of the number
5 of officers considered.
6 ''(4) An officer who is recommended for discharge by
7 a selection board convened pursuant to the authority of
8 subsection (b)(4) and whose discharge is approved by the
9 Secretary concerned shall be discharged on a date speci-
10 fied by the Secretary concerned.
11 ''(5) Selection of officers for discharge under this
12 subsection shall be based on the needs of the service.''.

SEC. 5___[Log 63424]. MODIFICATION OF AUTHORITY TO DROP FROM ROLLS A COMMISSIONED OFFICER.

Section 1161(b) of title 10, United States Code, is amended by inserting ''the Secretary of Defense, or in the case of a commissioned officer of the Coast Guard, the Secretary of the department in which the Coast Guard is operating when it is not operating in the Navy,'' after ''President''.

SEC. 5____[Log 63292]. ESTABLISHMENT OF ROTC CYBER INSTITUTES AT SENIOR MILITARY COLLEGES.

(a) IN GENERAL.—Chapter 103 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2111c. Senior military colleges: ROTC cyber institutes

"(a) PROGRAM AUTHORIZED.—The Secretary of Defense may establish cyber institutes at each of the senior military colleges for the purpose of accelerating the development of foundational expertise in critical cyber operational skills for future military and civilian leaders of the armed forces and the Department of Defense, including such leaders of the reserve components.

"(b) ELEMENTS.—Each cyber institute established under this section shall include each of the following:

"(1) Training for members of the program who possess cyber operational expertise from beginning through advanced skill levels, including instruction and practical experiences that lead to cyber certifications recognized in the field.

"(2) Training in targeted strategic foreign language proficiency designed to significantly enhance

critical cyber operational capabilities and tailored to current and anticipated readiness requirements.

"(3) Training related to mathematical foundations of cryptography and cryptographic theory and practice designed to complement and reinforce cyber education along with the strategic language programs critical to cyber operations.

"(4) Training designed to expand the pool of qualified cyber instructors necessary to support cyber education in regional school systems.

"(c) PARTNERSHIPS WITH DEPARTMENT OF DEFENSE AND THE ARMED FORCES.—Any cyber institute established under this section may enter into a partnership with any active or reserve component of the armed forces or any agency of the Department of Defense to facilitate the development of critical cyber skills.

"(d) PARTNERSHIPS WITH OTHER SCHOOLS.—Any cyber institute established under this section may enter into a partnership with one or more local educational agencies to facilitate the development of critical cyber skills under the program among students attending the elementary and secondary schools of such agencies who may pursue a military career.

1 "(e) SENIOR MILITARY COLLEGES.—The senior mili-
2 tary colleges are the senior military colleges in section
3 2111a(f) of this title.".

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of such chapter is amended by adding
6 at the end the following new item:

"2111c. Senior military colleges: ROTC cyber institutes.".

SEC. 5___[Log 63340]. ENTITLEMENT TO LEAVE FOR ADOPTION OF CHILD BY DUAL MILITARY COUPLES.

Section 701(i) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting ''except as provided in paragraph (3),'' after ''the Secretary of Defense,''; and

(2) in paragraph (3), by striking ''only one such member shall be allowed leave under this subsection'' and inserting ''one of the members shall be allowed up to 21 days of leave under this subsection and the other member shall be allowed up to 14 days of leave under this subsection''.

SEC. 5____. [Log 63412] REVISION TO QUALITY ASSURANCE OF CERTIFICATION PROGRAMS AND STANDARDS.

Section 2015(c) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking ''is accredited by an accreditation body that'' and all that follows and inserting ''meets one of the requirements specified in paragraph (2).''; and

(2) by striking paragraph (2) and inserting the following new paragraph:

''(2) The requirements for a credentialing program specified in this paragraph are that the credentialing program—

''(A) is accredited by a nationally-recognized third-party personnel certification program accreditor;

''(B)(i) is sought or accepted by employers within the industry or sector involved as a recognized, preferred, or required credential for recruitment, screening, hiring, retention, or advancement purposes; and

''(ii) where appropriate, is endorsed by a nationally-recognized trade association or orga-

nization representing a significant part of the industry or sector;

''(C) grants licenses that are recognized by the Federal Government or a State government; or

''(D) meets credential standards of a Federal agency.''.

SEC. 5____. [Log 63496] MILITARY-TO-MARINER TRANSITION.

(a) REPORT.— Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating shall jointly report to the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate on steps the Departments of Defense and Homeland Security have taken or intend to take to—

(1) maximize the extent to which United States armed forces service, training, and qualifications are creditable toward meeting the laws and regulations governing United States merchant mariner license, certification, and document laws and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, including steps to enhance interdepartmental coordination; and

(2) to promote better awareness among armed forces personnel who serve in vessel operating positions of the requirements for post-service use of armed forces training, education, and practical expe-

rience in satisfaction of requirements for merchant mariner credentials under section 11.213 of title 46, Code of Federal Regulation, and the need to document such service in a manner suitable for post-service use.

(b) LIST OF TRAINING PROGRAMS.—The report under subsection (a) shall include a list of Army, Navy, and Coast Guard training programs open to Army, Navy, and Coast Guard vessel operators, respectively, that shows—

(1) which programs have been approved for credit toward merchant mariner credentials;

(2) which programs are under review for such approval;

(3) which programs are not relevant to the training needed for merchant mariner credentials; and

(4) which programs could become eligible for credit toward merchant mariner credentials with minor changes.

SEC. 5___. [Log 62835] CONTINUATION OF AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—Of the amount authorized to be appropriated for fiscal year 2017 by section 301 and available for operation and maintenance for Defense-wide activities as specified in the funding table in division D, $30,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a) of section 572 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 20 U.S.C. 7703b).

(b) LOCAL EDUCATIONAL AGENCY DEFINED.—In this section, the term ''local educational agency'' has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 5___[Log 62803]. AUTHORIZATION FOR AWARD OF THE MEDAL OF HONOR TO GARY M. ROSE FOR ACTS OF VALOR DURING THE VIETNAM WAR.

(a) AUTHORIZATION.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the Armed Forces, the President is authorized to award the Medal of Honor under section 3741 of such title to Gary M. Rose for the acts of valor described in subsection (b).

(b) ACTS OF VALOR DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of Gary M. Rose in Laos from September 11 through 14, 1970, during the Vietnam War while a member of the United States Army, Military Assistance Command Vietnam-Studies and Observation Group (MACVSOG).

SEC. 5___[Log 63338]. AUTHORIZATION FOR AWARD OF THE MEDAL OF HONOR TO CHARLES S. KETTLES FOR ACTS OF VALOR DURING THE VIETNAM WAR.

(a) WAIVER OF TIME LIMITATIONS.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the Armed Forces, the President may award the medal of honor under section 3741 of such title to Charles S. Kettles for the acts of valor during the Vietnam War described in subsection (b).

(b) ACTS OF VALOR DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of Charles S. Kettles during combat operations on May 15, 1967, while serving as Flight Commander, 176th Aviation Company, 14th Aviation Battalion, Task Force Oregon, Republic of Vietnam, for which he was previously awarded the distinguished-service cross.

SEC. 5___[Log 63307]. EXTENSION OF THE REQUIREMENT FOR ANNUAL REPORT REGARDING SEXUAL ASSAULTS AND COORDINATION WITH RELEASE OF FAMILY ADVOCACY REPORT.

Section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4433; 10 U.S.C. 1561 note) is amended—

(1) in subsection (a) by striking ''March 1, 2017'' and inserting ''January 31, 2021''; and

(2) by adding at the end the following new subsection:

''(g) COORDINATION OF RELEASE DATE BETWEEN ANNUAL REPORT REGARDING SEXUAL ASSAULTS AND FAMILY ADVOCACY REPORT.—The Secretary of Defense shall ensure that the report required under subsection (a) for a year is delivered to the Committees on Armed Services of the Senate and House of Representatives simultaneously with the Department of Defense Family Advocacy Report for that year.''.

SEC. 5___[Log 63425]. EXPANSION OF AUTHORITY TO EXECUTE CERTAIN MILITARY INSTRUMENTS.

(a) EXPANSION OF AUTHORITY TO EXECUTE MILITARY TESTAMENTARY INSTRUMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 1044d(c) of title 10, United States Code, is amended to read as follows:

"(2) the execution of the instrument is notarized by—

"(A) a military legal assistance counsel;

"(B) a person who is authorized to act as a notary under section 1044a of this title who—

"(i) is not an attorney; and

"(ii) is supervised by a military legal assistance counsel; or

"(C) a State-licensed notary employed by a military department or the Coast Guard who is supervised by a military legal assistance counsel;".

(2) CLARIFICATION.—Paragraph (3) of such section is amended by striking "presiding attorney" and inserting "person notarizing the instrument in accordance with paragraph (2)".

(b) EXPANSION OF AUTHORITY TO NOTARIZE DOCUMENTS TO CIVILIANS SERVING IN MILITARY LEGAL ASSISTANCE OFFICES.—

(1) IN GENERAL.—Subsection (b) of section 1044a of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(6) All civilian paralegals serving at military legal assistance offices, supervised by a military legal assistance counsel (as defined in section 1044d(g) of this title).''.

SEC. 5___.[Log 63350] BURIAL OF CREMATED REMAINS IN ARLINGTON NATIONAL CEMETERY OF CERTAIN PERSONS WHOSE SERVICE IS DEEMED TO BE ACTIVE SERVICE.

(a) IN GENERAL.—Section 2410 of title 38, United States Code, is amended by adding at the end the following new subsection:

''(c)(1) The Secretary of the Army shall ensure that under such regulations as the Secretary may prescribe, the cremated remains of any person described in paragraph (2) are eligible for inurnment in Arlington National Cemetery with military honors in accordance with section 1491 of title 10.

''(2) A person described in this paragraph is a person whose service has been determined to be active duty service pursuant to section 401 of the GI Bill Improvement Act of 1977 (Public Law 95–202; 38 U.S.C. 106 note) as of the date of the enactment of this paragraph.''.

(b) APPLICABILITY.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply with respect to—

(A) the remains of a person that are not formally interred or inurned as of the date of the enactment of this Act; and

(B) a person who dies on or after the date of the enactment of this Act.

(2) FORMALLY INTERRED OR INURNED DEFINED.—In this subsection, the term ''formally interred or inurned'' means interred or inurned in a cemetery, crypt, mausoleum, columbarium, niche, or other similar formal location.

(c) REPORT ON CAPACITY OF ARLINGTON NATIONAL CEMETERY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the Committees on Veterans' Affairs and the Committees on Armed Services of the House of Representatives and the Senate a report on the interment and inurnment capacity of Arlington National Cemetery, including—

(1) the estimated date that the Secretary determines the cemetery will reach maximum interment and inurnment capacity; and

(2) in light of the unique and iconic meaning of the cemetery to the United States, recommendations for legislative actions and nonlegislative options that the Secretary determines necessary to ensure that the maximum interment and inurnment capacity of the cemetery is not reached until well into the fu-

ture, including such actions and options with respect to—

(A) redefining eligibility criteria for interment and inurnment in the cemetery; and

(B) considerations for additional expansion opportunities beyond the current boundaries of the cemetery.

SEC. 5___[Log 63308]. REPRESENTATION FROM MEMBERS OF THE ARMED FORCES ON BOARDS, COUNCILS, AND COMMITTEES MAKING RECOMMENDATIONS RELATING TO MILITARY PERSONNEL ISSUES.

(a) IN GENERAL.—Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 190. Representation on boards, councils, and committees making recommendations relating to military personnel issues

''(a) REPRESENTATION REQUIRED.—Notwithstanding any other provision of law, any board, council, or committee established under this chapter that is responsible for making any recommendation relating to any military personnel issue affecting enlisted members of the armed forces shall include representation on the board, council, or committee from enlisted members of the armed forces or retired enlisted members of the armed forces.

''(b) MILITARY PERSONNEL ISSUES.—For purposes of this section, military personnel issues include issues relating to health care, retirement benefits, pay, direct and indirect compensation, and entitlements for members of the armed forces.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"190. Representation on boards, councils, and committees making recommendations relating to military personnel issues.".

SEC. 5___[Log 63303]. ANNUAL NOTICE TO MEMBERS OF THE ARMED FORCES REGARDING CHILD CUSTODY PROTECTIONS GUARANTEED BY THE SERVICEMEMBERS CIVIL RELIEF ACT.

The Secretaries of each of the military departments shall ensure that each member of the Armed Forces with dependents receives annually, and prior to each deployment, notice of the child custody protections afforded to members of the Armed Forces under the Servicemembers Civil Relief Act (50 U.S.C. 3901 et seq.).

SEC. 5___[Log 63886]. REQUIREMENT FOR ANNUAL FAMILY ADVOCACY PROGRAM REPORT REGARDING CHILD ABUSE AND DOMESTIC VIOLENCE.

(a) ANNUAL REPORT ON CHILD ABUSE AND DOMESTIC VIOLENCE.—Not later than January 31, 2017, and annually thereafter through January 31, 2021, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the child abuse and domestic abuse incident data from the Department of Defense Family Advocacy Program central registry of child abuse and domestic abuse incidents for the preceding calendar year.

(b) CONTENTS.—The report shall contain each of the following:

(1) The number of incidents reported during the year covered by the report involving—

(A) spouse physical or sexual abuse;

(B) intimate partner physical or sexual abuse;

(C) child physical or sexual abuse; and

(D) child or domestic abuse resulting in a fatality.

(2) An analysis of the number of such incidents that met the criteria for substantiation.

(3) An analysis of—

(A) the types of abuse reported;

(B) for cases involving children as the reported victims of the abuse, the ages of the abused children; and

(C) other relevant characteristics of the reported victims.

(4) An analysis of the military status, sex, and pay grade of the alleged perpetrator of the child or domestic abuse.

(5) An analysis of the effectiveness of the Family Advocacy Program.

(c) COORDINATION OF RELEASE DATE BETWEEN ANNUAL REPORT REGARDING SEXUAL ASSAULTS AND FAMILY ADVOCACY PROGRAM REPORT.—The Secretary of Defense shall ensure that the sexual assault report required under 【section 5XX】 of this Act, is delivered to the Committees on Armed Services of the House of Representatives simultaneously with the report required under this section.

SEC. 6____. [Log 62796] EXTENSION OF AUTHORITY TO PROVIDE TEMPORARY INCREASE IN RATES OF BASIC ALLOWANCE FOR HOUSING UNDER CERTAIN CIRCUMSTANCES.

Section 403(b)(7)(E) of title 37, United States Code, is amended by striking ''December 31, 2016'' and inserting ''December 31, 2017''.

SEC. 6___. [Log 63457] MAXIMUM REIMBURSEMENT AMOUNT FOR TRAVEL EXPENSES OF MEMBERS OF THE RESERVES ATTENDING INACTIVE DUTY TRAINING OUTSIDE OF NORMAL COMMUTING DISTANCES.

Section 478a(c) of title 37, United States Code, is amended—

(1) by striking ''The amount'' and inserting the following: ''(1) Except as provided by paragraph (2), the amount''; and

(2) by adding at the end the following new paragraph:

''(2) The Secretary concerned may authorize, on a case-by-case basis, a higher reimbursement amount for a member under subsection (a) when the member—

''(A) resides—

''(i) in the same State as the training location; and

''(ii) outside of an urbanized area with a population of 50,000 or more, as determined by the Bureau of the Census; and

''(B) is required to commute to a training location—

"(i) using an aircraft or boat on account of limited or nonexistent vehicular routes to the training location or other geographical challenges; or

"(ii) from a permanent residence located more than 75 miles from the training location.".

SEC. 6___. [Log 63534] ANNUAL ADJUSTMENT OF MONTHLY BASIC PAY.

The adjustment in the rates of monthly basic pay required by subsection (a) of section 1009 of title 37, United States Code, to be made on January 1, 2017, shall take effect, notwithstanding any determination made by the President under subsection (e) of such section with respect to an alternative pay adjustment to be made on such date.

SEC. 611 [Log 62659]. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

The following sections of title 37, United States Code, are amended by striking ''December 31, 2016'' and inserting ''December 31, 2017'':

(1) Section 308b(g), relating to Selected Reserve reenlistment bonus.

(2) Section 308c(i), relating to Selected Reserve affiliation or enlistment bonus.

(3) Section 308d(c), relating to special pay for enlisted members assigned to certain high-priority units.

(4) Section 308g(f)(2), relating to Ready Reserve enlistment bonus for persons without prior service.

(5) Section 308h(e), relating to Ready Reserve enlistment and reenlistment bonus for persons with prior service.

(6) Section 308i(f), relating to Selected Reserve enlistment and reenlistment bonus for persons with prior service.

(7) Section 478a(e), relating to reimbursement of travel expenses for inactive-duty training outside of normal commuting distance.

(8) Section 910(g), relating to income replacement payments for reserve component members experiencing extended and frequent mobilization for active duty service.

SEC. 612 [Log 62660]. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR HEALTH CARE PROFESSIONALS.

(a) TITLE 10 AUTHORITIES.—The following sections of title 10, United States Code, are amended by striking "December 31, 2016" and inserting "December 31, 2017":

(1) Section 2130a(a)(1), relating to nurse officer candidate accession program.

(2) Section 16302(d), relating to repayment of education loans for certain health professionals who serve in the Selected Reserve.

(b) TITLE 37 AUTHORITIES.—The following sections of title 37, United States Code, are amended by striking "December 31, 2016" and inserting "December 31, 2017":

(1) Section 302c-1(f), relating to accession and retention bonuses for psychologists.

(2) Section 302d(a)(1), relating to accession bonus for registered nurses.

(3) Section 302e(a)(1), relating to incentive special pay for nurse anesthetists.

(4) Section 302g(e), relating to special pay for Selected Reserve health professionals in critically short wartime specialties.

(5) Section 302h(a)(1), relating to accession bonus for dental officers.

(6) Section 302j(a), relating to accession bonus for pharmacy officers.

(7) Section 302k(f), relating to accession bonus for medical officers in critically short wartime specialties.

(8) Section 302l(g), relating to accession bonus for dental specialist officers in critically short wartime specialties.

SEC. 613 [Log 62661]. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

The following sections of title 37, United States Code, are amended by striking ''December 31, 2016'' and inserting ''December 31, 2017'':

(1) Section 312(f), relating to special pay for nuclear-qualified officers extending period of active service.

(2) Section 312b(c), relating to nuclear career accession bonus.

(3) Section 312c(d), relating to nuclear career annual incentive bonus.

SEC. 614 [Log 62662]. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO TITLE 37 CONSOLIDATED SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES.

The following sections of title 37, United States Code, are amended by striking ''December 31, 2016'' and inserting ''December 31, 2017'':

(1) Section 331(h), relating to general bonus authority for enlisted members.

(2) Section 332(g), relating to general bonus authority for officers.

(3) Section 333(i), relating to special bonus and incentive pay authorities for nuclear officers.

(4) Section 334(i), relating to special aviation incentive pay and bonus authorities for officers.

(5) Section 335(k), relating to special bonus and incentive pay authorities for officers in health professions.

(6) Section 336(g), relating to contracting bonus for cadets and midshipmen enrolled in the Senior Reserve Officers' Training Corps.

(7) Section 351(h), relating to hazardous duty pay.

(8) Section 352(g), relating to assignment pay or special duty pay.

(9) Section 353(i), relating to skill incentive pay or proficiency bonus.

(10) Section 355(h), relating to retention incentives for members qualified in critical military skills or assigned to high priority units.

SEC. 615 [Log 62663]. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER TITLE 37 BONUSES AND SPECIAL PAYS.

The following sections of title 37, United States Code, are amended by striking ''December 31, 2016'' and inserting ''December 31, 2017'':

(1) Section 301b(a), relating to aviation officer retention bonus.

(2) Section 307a(g), relating to assignment incentive pay.

(3) Section 308(g), relating to reenlistment bonus for active members.

(4) Section 309(e), relating to enlistment bonus.

(5) Section 316a(g), relating to incentive pay for members of precommissioning programs pursuing foreign language proficiency.

(6) Section 324(g), relating to accession bonus for new officers in critical skills.

(7) Section 326(g), relating to incentive bonus for conversion to military occupational specialty to ease personnel shortage.

(8) Section 327(h), relating to incentive bonus for transfer between Armed Forces.

(9) Section 330(f), relating to accession bonus for officer candidates.

SEC. 6___. [Log 63297] CONFORMING AMENDMENT TO CONSOLIDATION OF SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES.

Section 332(c)(1)(B) of title 37, United States Code, is amended by striking ''$12,000'' and inserting ''$20,000''.

SEC. 6___.[Log 63372] TECHNICAL AND CLERICAL AMENDMENTS RELATING TO 2008 CONSOLIDATION OF CERTAIN SPECIAL PAY AUTHORITIES.

(a) FAMILY CARE PLANS.—Section 586 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 991 note) is amended by inserting ''or 351'' after ''section 310''.

(b) DEPENDENTS' MEDICAL CARE.—Section 1079(g)(1) of title 10, United States Code, is amended by inserting ''or 351'' after ''section 310''.

(c) RETENTION ON ACTIVE DUTY DURING DISABILITY EVALUATION PROCESS.—Section 1218(d)(1) of title 10, United States Code, is amended by inserting ''or 351'' after ''section 310''.

(d) STORAGE SPACE.—Section 362(1) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 10 U.S.C. 2825 note) is amended by inserting '', or paragraph (1) or (3) of section 351(a),'' after ''section 310''.

(e) STUDENT ASSISTANCE PROGRAMS.—Sections 455(o)(3)(B) and 465(a)(2)(D) of the Higher Education Act of 1965 (20 U.S.C. 1087e(o)(3)(B), 1087ee(a)(2)(D)) are amended by inserting ''or paragraph (1) or (3) of section 351(a).'' after ''section 310''.

(f) ARMED FORCES RETIREMENT HOME.—Section 1512(a)(3)(A) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 412(a)(3)(A)) is amended by inserting ''or 351'' after ''section 310''.

(g) VETERANS OF FOREIGN WARS MEMBERSHIP.—Section 230103(3) of title 36, United States Code, is amended by inserting ''or 351'' after ''section 310''.

(h) MILITARY PAY AND ALLOWANCES.—Title 37, United States Code, is amended—

(1) in section 212(a), by inserting '', or paragraph (1) or (3) of section 351(a),'' after ''section 310'';

(2) in section 402a(b)(3)(B), by inserting ''or 351'' after ''section 310'';

(3) in section 481a(a), by inserting ''or 351'' after ''section 310'';

(4) in section 907(d)(1)(H), by inserting ''or 351'' after ''section 310''; and

(5) in section 910(b)(2)(B), by inserting '', or paragraph (1) or (3) of section 351(a),'' after ''section 310''.

(i) EXCLUSIONS FROM INCOME FOR PURPOSE OF SUPPLEMENTAL SECURITY INCOME.—Section 1612(b)(20) of the Social Security Act (42 U.S.C.

1382a(b)(20)) is amended by inserting ", or paragraph (1) or (3) of section 351(a)," after "section 310".

(j) EXCLUSIONS FROM INCOME FOR PURPOSE OF HEAD START PROGRAM.—Section 645(a)(3)(B)(i) of the Head Start Act (42 U.S.C. 9840(a)(3)(B)(i)) is amended by inserting "or 351" after "section 310".

(k) EXCLUSIONS FROM GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES.—Section 112(c)(5)(B) of the Internal Revenue Code of 1986 is amended by inserting ", or paragraph (1) or (3) of section 351(a)," after "section 310".

SEC. 6____. [Log 63779] INCREASE IN MAXIMUM AMOUNT OF AVIATION SPECIAL PAYS FOR FLYING DUTY.

Section 334(c)(1) of title 37, United States Code, is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) aviation incentive pay under subsection (a) shall be paid at a monthly rate not to exceed $1,000 per month; and

"(B) an aviation bonus under subsection (b) may not exceed $60,000 for each 12-month period of obligated service agreed to under subsection (d).".

SEC. 6___. [Log 63408] COMBAT-RELATED SPECIAL COMPENSATION COORDINATING AMENDMENT.

Subparagraph (B) of section 1413a(b)(3) of title 10, United States Code, is amended by striking ''the amount equal to'' and all that follows through ''creditable service multiplied'' and inserting the following: ''the amount equal to the retired pay multiplier determined for the member under section 1409 of this title multiplied''.

SEC. 6____. [Log 63409] SEPARATION DETERMINATIONS FOR MEMBERS PARTICIPATING IN THRIFT SAVINGS PLAN.

The amendment to be made by section 632(c)(2) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 847) shall not take effect.

SEC. 6___. [Log 63414] CONTINUATION PAY FOR FULL THRIFT SAVINGS PLAN MEMBERS WHO HAVE COMPLETED 8 TO 12 YEARS OF SERVICE.

(a) CONTINUATION PAY.—Section 356 of title 37, United States Code, which shall take effect on January 1, 2018, pursuant to section 635 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 851), is amended—

(1) in the heading, by striking "**12 years**" and inserting "**8 to 12 years**";

(2) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

"(1) has completed not less than 8 and not more than 12 years of service in a uniformed service; and"; and

(B) in paragraph (2), by striking "an additional 4 years" and inserting "not less than 3 additional years";

(3) by amending subsection (b) to read as follows:

"(b) PAYMENT AMOUNT.—The Secretary concerned shall determine the payment amount under this section as a multiple of a full TSP member's monthly basic pay

but shall not be less than 2.5 times the member's monthly basic pay. The maximum amount the Secretary concerned may pay the member under this section is—

"(1) in the case of a member of a regular component or in a reserve component if the member is performing active Guard and Reserve duty (as defined in section 101(d)(6) of title 10), 13 times the amount of the monthly basic pay payable to the member for the month during which the agreement under subsection (a)(2) is entered into; and

"(2) in the case of any member not covered by paragraph (1), 6 times the amount of monthly basic pay to which the member would be entitled for the month during which the agreement under subsection (a)(2) is entered into if the member were serving on active duty at the time the agreement is entered into."; and

(4) by amending subsection (d) to read as follows:

"(d) TIMING OF PAYMENT.—The Secretary concerned shall pay continuation pay under subsection (a) to a full TSP member when the member has completed not less than 8 and not more than 12 years of service in a uniformed service.".

(b) CLERICAL AMENDMENT.—The item relating to section 356 in the table of sections at the beginning of chapter 5 of title 37, United States Code, which shall take effect on January 1, 2018, pursuant to section 635 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 851), is amended by striking ''12 years'' and inserting ''8 to 12 years''.

SEC. 6___. [Log 62799] PROTECTION AND ENHANCEMENT OF ACCESS TO AND SAVINGS AT COMMISSARIES AND EXCHANGES.

(a) OPTIMIZATION STRATEGY.—Section 2481(c) of title 10, United States Code, is amended by adding at the end the following paragraph:

''(3)(A) The Secretary of Defense shall develop and implement a comprehensive strategy to optimize management practices across the defense commissary system and the exchange system that reduce reliance of those systems on appropriated funding without reducing benefits to the patrons of those systems or the revenue generated by nonappropriated fund entities or instrumentalities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

''(B) The Secretary shall ensure that savings generated due to such optimization practices are shared by the defense commissary system and the exchange system through contracts or agreements that appropriately reflect the participation of the systems in the development and implementation of such practices.

''(C) If the Secretary determines that the reduced reliance on appropriated funding pursuant to subparagraph (A) is insufficient to maintain the benefits to the patrons

of the defense commissary system, and if the Secretary converts the defense commissary system to a non-appropriated fund entity or instrumentality pursuant to paragraph (1) of section 2484(j) of this title, the Secretary shall transfer appropriated funds pursuant to paragraph (2) of such section to ensure the maintenance of such benefits.

''(4) On not less than a quarterly basis, the Secretary shall provide to the congressional defense committees a briefing on the defense commissary system, including—

''(A) an assessment of the savings the system provides patrons;

''(B) the status of implementing section 2484(i) of this title;

''(C) the status of implementing section 2484(j), including whether the system requires any appropriated funds pursuant to paragraph (2) of such section;

''(D) the status of carrying out a program for such system to sell private label merchandise; and

''(E) any other matters the Secretary considers appropriate.''.

(b) AUTHORIZATION TO SUPPLEMENT APPROPRIATIONS THROUGH BUSINESS OPTIMIZATION.—Section 2483(c) of such title is amended by adding at the end the

following new sentence: ''Such appropriated amounts may also be supplemented with additional funds derived from improved management practices implemented pursuant to sections 2481(c)(3) and 2487(c) of this title and the variable pricing program implemented pursuant to section 2484(i) of this title.''.

(c) VARIABLE PRICING PILOT PROGRAM.—Section 2484 of such title is amended by adding at the end the following new subsections:

''(i) VARIABLE PRICING PROGRAM.—(1) Notwithstanding subsection (e), and subject to subsection (k), the Secretary may establish a variable pricing program pursuant to which prices may be established in response to market conditions and customer demand, in accordance with the requirements of this subsection. Notwithstanding the amount of the uniform surcharge assessed in subsection (d), the Secretary may provide for an alternative surcharge of not more than five percent of sales proceeds under such variable pricing program to be made available for the purposes specified in subsection (h).

''(2) Subject to subsection (k), before establishing a variable pricing program under this subsection, the Secretary shall establish the following:

''(A) Specific, measurable benchmarks for success in the provision of high quality grocery mer-

chandise, discount savings to patrons, and levels of customer satisfaction while achieving savings for the Department of Defense.

"(B) A baseline of overall savings to patrons achieved by commissary stores prior to the initiation of the variable pricing program, based on a comparison of prices charged by those stores on a regional basis with prices charged by relevant local competitors for a representative market basket of goods.

"(3) The Secretary shall ensure that the defense commissary system implements the variable pricing program by conducting price comparisons using the methodology established for paragraph (2)(B) and adjusting pricing as necessary to ensure that pricing in the variable pricing program achieves overall savings to patrons that are consistent with the baseline savings established for the relevant region pursuant to such paragraph.

"(j) CONVERSION TO NONAPPROPRIATED FUND ENTITY OR INSTRUMENTALITY.—(1) Subject to subsection (k), if the Secretary determines that the variable pricing program has met the benchmarks for success established pursuant to paragraph (2)(A) of subsection (i) and the savings requirements established pursuant to paragraph (3) of such subsection over a period of at least six months, the Secretary may convert the defense commissary system

1 to a nonappropriated fund entity or instrumentality, with
2 operating expenses financed in whole or in part by receipts
3 from the sale of products and the sale of services. Upon
4 such conversion, appropriated funds shall be transferred
5 to the defense commissary system only in accordance with
6 paragraph (2) or section 2491 of this title. The require-
7 ments of section 2483 shall not apply to the defense com-
8 missary system operating as a nonappropriated fund enti-
9 ty or instrumentality.

10 ''(2) If the Secretary determines that the defense
11 commissary system operating as a nonappropriated fund
12 entity or instrumentality is likely to incur a loss in any
13 fiscal year as a result of compliance with the savings re-
14 quirement established in subsection (i), the Secretary shall
15 authorize a transfer of appropriated funds available for
16 such purpose to the commissary system in an amount suf-
17 ficient to offset the anticipated loss. Any funds so trans-
18 ferred shall be considered to be nonappropriated funds for
19 such purpose.

20 ''(3)(A) The Secretary of Defense may identify posi-
21 tions of employees in the defense commissary system who
22 are paid with appropriated funds whose status may be
23 converted to the status of an employee of a non-
24 appropriated fund entity or instrumentality.

1 "(B) The status and conversion of employees in a po-
2 sition identified by the Secretary under subparagraph (A)
3 shall be addressed as provided in section 2491(c) for em-
4 ployees in morale, welfare, and recreation programs, in-
5 cluding with respect to requiring the consent of such em-
6 ployee to be so converted.

7 "(C) No individual who is an employee of the defense
8 commissary system as of the date of the enactment of this
9 subsection shall suffer any loss of or decrease in pay as
10 a result of a conversion made under this paragraph.

11 "(k) OVERSIGHT REQUIRED TO ENSURE CONTINUED
12 BENEFIT TO PATRONS.—(1) With respect to each action
13 described in paragraph (2), the Secretary may not carry
14 out such action until—

15 "(A) the Secretary provides to the congressional
16 defense committees a briefing on such action, includ-
17 ing a justification for such action; and

18 "(B) a period of 30 days has elapsed following
19 such briefing.

20 "(2) The actions described in this paragraph are the
21 following:

22 "(A) Establishing the representative market
23 basket of goods pursuant to subsection (i)(2)(B).

24 "(B) Establishing the variable pricing program
25 under subsection (i)(1).

"(C) Converting the defense commissary system to a nonappropriated fund entity or instrumentality under subsection (j)(1).".

(d) ESTABLISHMENT OF COMMON BUSINESS PRACTICES.—Section 2487 of such title is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) COMMON BUSINESS PRACTICES.—(1) Notwithstanding subsections (a) and (b), the Secretary of Defense may establish common business processes, practices, and systems—

"(A) to exploit synergies between the defense commissary system and the exchange system; and

"(B) to optimize the operations of the defense retail systems as a whole and the benefits provided by the commissaries and exchanges.

"(2) The Secretary may authorize the defense commissary system and the exchange system to enter into contracts or other agreements—

"(A) for products and services that are shared by the defense commissary system and the exchange system; and

"(B) for the acquisition of supplies, resale goods, and services on behalf of both the defense commissary system and the exchange system.

"(3) For the purpose of a contract or agreement authorized under paragraph (2), the Secretary may—

"(A) use funds appropriated pursuant to section 2483 of this title to reimburse a nonappropriated fund entity or instrumentality for the portion of the cost of a contract or agreement entered by the nonappropriated fund entity or instrumentality that is attributable to the defense commissary system; and

"(B) authorize the defense commissary system to accept reimbursement from a nonappropriated fund entity or instrumentality for the portion of the cost of a contract or agreement entered by the defense commissary system that is attributable to the nonappropriated fund entity or instrumentality.".

(e) AUTHORITY FOR EXPERT COMMERCIAL ADVICE.—Section 2485 of such title is amended by adding at the end the following new subsection:

"(h) EXPERT COMMERCIAL ADVICE.—The Secretary of Defense may enter into a contract with an entity to obtain expert commercial advice, commercial assistance, or other similar services not otherwise carried out by the De-

1 fense Commissary Agency, to implement section 2481(c),
2 subsections (i) and (j) of section 2484, and section
3 2487(c) of this title.''.

4 (f) CLARIFICATION OF REFERENCES TO ''THE EX-
5 CHANGE SYSTEM''.—Section 2481(a) of title 10, United
6 States Code, is amended by adding at the end the fol-
7 lowing new sentence: ''Any reference in this chapter to 'the
8 exchange system' shall be treated as referring to each sep-
9 arate administrative entity within the Department of De-
10 fense through which the Secretary of Defense has imple-
11 mented the requirement under this subsection for a world-
12 wide system of exchange stores.''.

13 (g) OPERATION OF DEFENSE COMMISSARY SYSTEM
14 AS A NONAPPROPRIATED FUND ENTITY.—In the event
15 that the defense commissary system is converted to a non-
16 appropriated fund entity or instrumentality as authorized
17 by section 2484(j)(1) of title 10, United States Code, as
18 added by subsection (c) of this section, the Secretary
19 may—

20 (1) provide for the transfer of commissary as-
21 sets, including inventory and available funds, to the
22 nonappropriated fund entity or instrumentality; and

23 (2) ensure that revenues accruing to the de-
24 fense commissary system are appropriately credited

1 to the nonappropriated fund entity or instrumen-
2 tality.

3 (h) CONFORMING CHANGE.—Section 2643(b) of such
4 title is amended by adding at the end the following new
5 sentence: ''Such appropriated funds may be supplemented
6 with additional funds derived from improved management
7 practices implemented pursuant to sections 2481(c)(3)
8 and 2487(c) of this title.''.

SEC. 7___. [Log 63746] PROSPECTIVE PAYMENT OF FUNDS NECESSARY TO PROVIDE MEDICAL CARE FOR THE COAST GUARD.

(a) IN GENERAL.—Chapter 13 of title 14, United States Code, is amended by adding at the end the following:

"§ 519. Prospective payment of funds necessary to provide medical care

"(a) PROSPECTIVE PAYMENT REQUIRED.—In lieu of the reimbursement required under section 1085 of title 10, the Secretary of Homeland Security shall make a prospective payment to the Secretary of Defense of an amount that represents the actuarial valuation of treatment or care—

"(1) that the Department of Defense shall provide to members of the Coast Guard, former members of the Coast Guard, and dependents of such members and former members (other than former members and dependents of former members who are a Medicare-eligible beneficiary or for whom the payment for treatment or care is made from the Medicare-Eligible Retiree Health Care Fund) at facilities under the jurisdiction of the Department of Defense or a military department; and

"(2) for which a reimbursement would otherwise be made under section 1085.

"(b) AMOUNT.—The amount of the prospective payment under subsection (a) shall be—

"(1) in the case of treatment or care to be provided to members of the Coast Guard and their dependents, derived from amounts appropriated for the operating expenses of the Coast Guard;

"(2) in the case of treatment or care to be provided former members of the Coast Guard and their dependents, derived from amounts appropriated for retired pay;

"(3) determined under procedures established by the Secretary of Defense;

"(4) paid during the fiscal year in which treatment or care is provided; and

"(5) subject to adjustment or reconciliation as the Secretaries determine appropriate during or promptly after such fiscal year in cases in which the prospective payment is determined excessive or insufficient based on the services actually provided.

"(c) NO PROSPECTIVE PAYMENT WHEN SERVICE IN NAVY.—No prospective payment shall be made under this section for any period during which the Coast Guard operates as a service in the Navy.

1 "(d) RELATIONSHIP TO TRICARE.—This section
2 shall not be construed to require a payment for, or the
3 prospective payment of an amount that represents the
4 value of, treatment or care provided under any TRICARE
5 program.".

6 (b) CLERICAL AMENDMENT.—The analysis for chap-
7 ter 13 of title 14, United States Code, is amended by add-
8 ing at the end the following:

"519. Prospective payment of funds necessary to provide medical care.".

9 (c) REPEAL.—Section 217 of the Coast Guard Au-
10 thorization Act of 2016 (Public Law 114–120), as amend-
11 ed by [section __03 of this subtitle], and the item relating
12 to that section in the table of contents in section 2 of such
13 Act, are repealed.

SEC. 10___[Log 63313]. MODIFICATION OF REQUIREMENTS RELATING TO MANAGEMENT OF MILITARY TECHNICIANS.

(a) CONVERSION OF CERTAIN MILITARY TECHNICIAN (DUAL STATUS) POSITIONS.—Subsection (a) of section 1053 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 129 Stat. 981; 10 U.S.C. 10216 note) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph (1):

"(1) IN GENERAL.—By not later than October 1, 2017, the Secretary of Defense shall convert not fewer than 20 percent of all military technician positions to positions filled by individuals who are employed under section 3101 of title 5, United States Code, or section 1601 of title 10, United States Code, or serving under section 328 of title 32, United States Code, and are not military technicians. The positions to be converted are described in paragraph (2).";

(2) in paragraph (2), by striking "the report" and all that follows and inserting "by the Army Reserve, the Air Force Reserve, the National Guard Bureau, and the State adjutants general in the

course of reviewing all military technician positions for purposes of implementing this section.''; and

(3) in paragraph (3), by striking ''may fill'' and inserting ''shall fill''.

(b) CONVERSION OF ARMY RESERVE, AIR FORCE RESERVE, AND NATIONAL GUARD NON-DUAL STATUS POSITIONS.—Subsection (e) of section 10217 of title 10, United States Code, is amended is amended to read as follows:

''(e) CONVERSION OF POSITIONS.—(1) No individual may be newly hired or employed, or rehired or reemployed, as a non-dual status technician for purposes of this section after September 30, 2017.

''(2) On October 1, 2017, the Secretary of Defense shall convert all non-dual status technicians to positions filled by individuals who are employed under section 3101 of title 5 or section 1601 of this title and are not military technicians.

''(3) In the case of a position converted under paragraph (2) for which there is an incumbent employee on October 1, 2017, the Secretary shall fill that position, as converted, with the incumbent employee without regard to any requirement concerning competition or competitive hiring procedures.

"(4) Any individual newly hired or employed, or rehired or employed, to a position required to be filled by reason of paragraph (1) shall an individual employed in such position under section 3101 of title 5 or section 1601 of this title.".

(c) REPORT ON CONVERSION OF MILITARY TECHNICIAN POSITIONS TO PERSONNEL PERFORMING ACTIVE GUARD AND RESERVE DUTY.—

(1) IN GENERAL.—Not later than March 1, 2017, the Secretary of Defense, shall in consultation with the Chief of the National Guard Bureau, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the feasibility and advisability of converting any remaining military technicians (dual status) to personnel performing active Guard and Reserve duty under section 328 of title 32, United States Code, or other applicable provisions of law. The report shall include the following:

(A) An analysis of the fully-burdened costs of the conversion taking into account the new modernized military retirement system.

(B) An assessment of the ratio of members of the Armed Forces performing active Guard and Reserve duty and civilian employees of the

Department of Defense under title 5, United States Code, required to best contribute to the readiness of the National Guard and the Reserves.

(2) ACTIVE GUARD AND RESERVE DUTY DEFINED.—In this subsection, the term ''active Guard and Reserve duty'' has the meaning given that term in section 101(d)(6) of title 10, United States Code.

SEC. 14___[Log 63347]. AUTHORIZATION OF APPROPRIATIONS FOR ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2017 from the Armed Forces Retirement Home Trust Fund the sum of $64,300,000 for the operation of the Armed Forces Retirement Home.

SEC. 14___[Log 63685]. AUTHORITY FOR TRANSFER OF FUNDS TO JOINT DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITY DEMONSTRATION FUND FOR CAPTAIN JAMES A. LOVELL HEALTH CARE CENTER, ILLINOIS.

(a) AUTHORITY FOR TRANSFER OF FUNDS.—Of the funds authorized to be appropriated for section 506 and available for the Defense Health Program for operation and maintenance, $122,375,000 may be transferred by the Secretary of Defense to the Joint Department of Defense–Department of Veterans Affairs Medical Facility Demonstration Fund established by subsection (a)(1) of section 1704 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2571). For purposes of subsection (a)(2) of such section 1704, any funds so transferred shall be treated as amounts authorized and appropriated specifically for the purpose of such a transfer.

(b) USE OF TRANSFERRED FUNDS.—For the purposes of subsection (b) of such section 1704, facility operations for which funds transferred under subsection (a) may be used are operations of the Captain James A. Lovell Federal Health Care Center, consisting of the

1 North Chicago Veterans Affairs Medical Center, the Navy
2 Ambulatory Care Center, and supporting facilities des-
3 ignated as a combined Federal medical facility under an
4 operational agreement covered by section 706 of the Dun-
5 can Hunter National Defense Authorization Act for Fiscal
6 Year 2009 (Public Law 110-417; 122 Stat. 4500).

TITLE LX—GENERAL PROVISIONS

SEC. 6001 [Log 63156]. DEFINITIONS.

(a) DEFINITION OF MILITARY JUDGE.—Paragraph (10) of section 801 of title 10, United States Code (article 1 of the Uniform Code of Military Justice), is amended to read as follows:

"(10) The term 'military judge' means a judge advocate designated under section 826(c) of this title (article 26(c)) who is detailed under section 826(a) of this title (article 26(a)).".

(b) DEFINITION OF JUDGE ADVOCATE.—Paragraph (13) of such section (article) is amended—

(1) in subparagraph (A), by striking "the Army or the Navy" and inserting "the Army, the Navy, or the Air Force"; and

(2) in subparagraph (B), by striking "the Air Force or".

SEC. 6002 [Log 63157]. CLARIFICATION OF PERSONS SUBJECT TO UCMJ WHILE ON INACTIVE-DUTY TRAINING.

Paragraph (3) of section 802(a) of title 10, United States Code (article 2(a) of the Uniform Code of Military Justice), is amended to read as follows:

"(3)(A) While on inactive-duty training and during any of the periods specified in subparagraph (B)—

"(i) members of a reserve component; and

"(ii) members of the Army National Guard of the United States or the Air National Guard of the United States, but only when in Federal service.

"(B) The periods referred to in subparagraph (A) are the following:

"(i) Travel to and from the inactive-duty training site of the member, pursuant to orders or regulations.

"(ii) Intervals between consecutive periods of inactive-duty training on the same day, pursuant to orders or regulations.

"(iii) Intervals between inactive-duty training on consecutive days, pursuant to orders or regulations.".

SEC. 6003 [Log 63158]. STAFF JUDGE ADVOCATE DISQUALIFICATION DUE TO PRIOR INVOLVEMENT IN CASE.

Subsection (c) of section 806 of title 10, United States Code (article 6 of the Uniform Code of Military Justice), is amended to read as follows:

''(c)(1) No person who, with respect to a case, serves in a capacity specified in paragraph (2) may later serve as a staff judge advocate or legal officer to any reviewing or convening authority upon the same case.

''(2) The capacities referred to in paragraph (1) are, with respect to the case involved, any of the following:

''(A) Preliminary hearing officer, court member, military judge, military magistrate, or appellate judge.

''(B) Counsel who have acted in the same case or appeared in any proceeding before a military judge, military magistrate, preliminary hearing officer, or appellate court.''.

SEC. 6004 [Log 63160]. CONFORMING AMENDMENT RELATING TO MILITARY MAGISTRATES.

The first sentence of section 806a(a) of title 10, United States Code (article 6a(a) of the Uniform Code of Military Justice), is amended by striking ''military judge'' and all that follows through the end of the sentence and inserting ''military appellate judge, military judge, or military magistrate to perform the duties of the position involved.''.

SEC. 6005 [Log 63161]. RIGHTS OF VICTIM.

(a) DESIGNATION OF REPRESENTATIVE.—Subsection (c) of section 806b of title 10, United States Code (article 6b of the Uniform Code of Military Justice), is amended in the first sentence by striking ''the military judge'' and all that follows through the end of the sentence and inserting the following: ''the legal guardians of the victim or the representatives of the victim's estate, family members, or any other person designated as suitable by the military judge, may assume the rights of the victim under this section.''.

(b) RULE OF CONSTRUCTION.—Subsection (d) of such section (article) is amended—

(1) by striking ''or'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; or''; and

(3) by adding at the end the following new paragraph:

''(3) to impair the exercise of discretion under sections 830 and 834 of this title (articles 30 and 34).''.

(c) INTERVIEW OF VICTIM.—Such section (article) is amended by adding at the end the following new subsection:

1 ''(f) COUNSEL FOR ACCUSED INTERVIEW OF VICTIM
2 OF ALLEGED OFFENSE.—(1) Upon notice by counsel for
3 the Government to counsel for the accused of the name
4 of an alleged victim of an offense under this chapter who
5 counsel for the Government intends to call as a witness
6 at a proceeding under this chapter, counsel for the accused
7 shall make any request to interview the victim through the
8 Special Victim's Counsel or other counsel for the victim,
9 if applicable.

10 ''(2) If requested by an alleged victim who is subject
11 to a request for interview under paragraph (1), any inter-
12 view of the victim by counsel for the accused shall take
13 place only in the presence of the counsel for the Govern-
14 ment, a counsel for the victim, or, if applicable, a victim
15 advocate.''.

TITLE LXI—APPREHENSION AND RESTRAINT

SEC. 6101 [Log 63162]. RESTRAINT OF PERSONS CHARGED.

Section 810 of title 10, United States Code (article 10 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 810. Art. 10. Restraint of person charged

''(a) IN GENERAL.—(1) Subject to paragraph (2), any person subject to this chapter who is charged with an offense under this chapter may be ordered into arrest or confinement as the circumstances require.

''(2) When a person subject to this chapter is charged only with an offense that is normally tried by summary court-martial, the person ordinarily shall not be ordered into confinement.

''(b) NOTIFICATION TO ACCUSED AND RELATED PROCEDURES.—(1) When a person subject to this chapter is ordered into arrest or confinement before trial, immediate steps shall be taken—

''(A) to inform the person of the specific offense of which the person is accused; and

''(B) to try the person or to dismiss the charges and release the person.

''(2) To facilitate compliance with paragraph (1), the President shall prescribe regulations setting forth proce-

1 dures relating to referral for trial, including procedures
2 for prompt forwarding of the charges and specifications
3 and, if applicable, the preliminary hearing report sub-
4 mitted under section 832 of this title (article 32).''.

SEC. 6102 [Log 63163]. MODIFICATION OF PROHIBITION OF CONFINEMENT OF ARMED FORCES MEMBERS WITH ENEMY PRISONERS AND CERTAIN OTHERS.

Section 812 of title 10, United States Code (article 12 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 812. Art. 12. Prohibition of confinement of armed forces members with enemy prisoners and certain others

''No member of the armed forces may be placed in confinement in immediate association with—

''(1) enemy prisoners; or

''(2) other individuals—

''(A) who are detained under the law of war and are foreign nationals; and

''(B) who are not members of the armed forces.''.

TITLE LXII—NON-JUDICIAL PUNISHMENT

SEC. 6201 [Log 63164]. MODIFICATION OF CONFINEMENT AS NON-JUDICIAL PUNISHMENT.

Section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice), is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A), by striking ''on bread and water or diminished rations''; and

(B) in the undesignated matter after paragraph (2), by striking ''on bread and water or diminished rations'' in the sentence beginning ''No two or more''; and

(2) in subsection (d), by striking ''on bread and water or diminished rations'' in paragraphs (2) and (3).

TITLE LXIII—COURT-MARTIAL JURISDICTION

SEC. 6301 [Log 63165]. COURTS-MARTIAL CLASSIFIED.

Section 816 of title 10, United States Code (article 16 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 816. Art 16. Courts-martial classified

''(a) IN GENERAL.—The three kinds of courts-martial in each of the armed forces are the following:

''(1) General courts-martial, as described in subsection (b).

''(2) Special courts-martial, as described in subsection (c).

''(3) Summary courts-martial, as described in subsection (d).

''(b) GENERAL COURTS-MARTIAL.—General courts-martial are of the following three types:

''(1) A general court-martial consisting of a military judge and eight members, subject to sections 825(d)(3) and 829 of this title (articles 25(d)(3) and 29).

''(2) In a capital case, a general court-martial consisting of a military judge and the number of members determined under section 825a of this title

(article 25a), subject to sections 825(d)(3) and 829 of this title (articles 25(d)(3) and 29).

''(3) A general court-martial consisting of a military judge alone, if, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests, orally on the record or in writing, a court composed of a military judge alone and the military judge approves the request.

''(c) SPECIAL COURTS-MARTIAL.—Special courts-martial are of the following two types:

''(1) A special court-martial, consisting of a military judge and four members, subject to sections 825(d)(3) and 829 of this title (articles 25(d)(3) and 29).

''(2) A special court-martial consisting of a military judge alone—

''(A) if the case is so referred by the convening authority, subject to section 819 of this title (article 19) and such limitations as the President may prescribe by regulation; or

''(B) if the case is referred under paragraph (1) and, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense

1 counsel, requests, orally on the record or in
2 writing, a court composed of a military judge
3 alone and the military judge approves the re-
4 quest.

5 ''(d) SUMMARY COURT-MARTIAL.—A summary court-
6 martial consists of one commissioned officer.''.

SEC. 6302 [Log 63166]. JURISDICTION OF GENERAL COURTS-MARTIAL.

Section 818 of title 10, United States Code (article 18 of the Uniform Code of Military Justice), is amended—

(1) in subsection (b), by striking ''section 816(1)(B) of this title (article 16(1)(B))'' and inserting ''section 816(b)(3) of this title (article 16(b)(3))''; and

(2) by striking subsection (c) and inserting the following:

''(c) Consistent with sections 819 and 820 of this title (articles 19 and 20), only general courts-martial have jurisdiction over the following offenses:

''(1) A violation of subsection (a) or (b) of section 920 of this title (article 120).

''(2) A violation of subsection (a) or (b) of section 920b of this title (article 120b).

''(3) An attempt to commit an offense specified in paragraph (1) or (2) that is punishable under section 880 of this title (article 80).''.

SEC. 6303 [Log 63167]. JURISDICTION OF SPECIAL COURTS-MARTIAL.

Section 819 of title 10, United States Code (article 19 of the Uniform Code of Military Justice), is amended—

(1) by striking ''Subject to'' in the first sentence and inserting the following:

''(a) IN GENERAL.—Subject to'';

(2) by striking ''A bad-conduct discharge'' and all that follows through the end; and

(3) by adding after subsection (a), as designated by paragraph (1), the following new subsections:

''(b) ADDITIONAL LIMITATION.—Neither a bad-conduct discharge, nor confinement for more than six months, nor forfeiture of pay for more than six months may be adjudged if charges and specifications are referred to a special court-martial consisting of a military judge alone under section 816(c)(2)(A) of this title (article 16(c)(2)(A)).

''(c) MILITARY MAGISTRATE.—If charges and specifications are referred to a special court-martial consisting of a military judge alone under section 816(c)(2)(A) of this title (article 16(c)(2)(A)), the military judge, with the consent of the parties, may designate a military magistrate to preside over the special court-martial.''.

SEC. 6304 [Log 63168]. SUMMARY COURT-MARTIAL AS NON-CRIMINAL FORUM.

Section 820 of title 10, United States Code (article 20 of the Uniform Code of Military Justice), is amended—

(1) by inserting ''(a) **IN GENERAL**.—'' before ''Subject to''; and

(2) by adding at the end the following new subsection:

''(b) NON-CRIMINAL FORUM.—A summary court-martial is a non-criminal forum. A finding of guilty at a summary court-martial does not constitute a criminal conviction.''.

TITLE LXIV—COMPOSITION OF COURTS-MARTIAL

SEC. 6401 [Log 63169]. TECHNICAL AMENDMENT RELATING TO PERSONS AUTHORIZED TO CONVENE GENERAL COURTS-MARTIAL.

Section 822(a)(6) of title 10, United States Code (article 22(a)(6) of the Uniform Code of Military Justice), is amended by striking ''in chief''.

SEC. 6402 [Log 63170]. WHO MAY SERVE ON COURTS-MARTIAL; DETAIL OF MEMBERS.

(a) WHO MAY SERVE ON COURTS-MARTIAL.—Subsection (c) of section 825 of title 10, United States Code (article 25 of the Uniform Code of Military Justice), is amended to read as follows:

''(c)(1) Any enlisted member on active duty is eligible to serve on a general or special court-martial for the trial of any other enlisted member.

''(2) Before a court-martial with a military judge and members is assembled for trial, an enlisted member who is an accused may personally request, orally on the record or in writing, that—

''(A) the membership of the court-martial be comprised entirely of officers; or

''(B) enlisted members comprise at least one-third of the membership of the court-martial, regardless of whether enlisted members have been detailed to the court-martial.

''(3) Except as provided in paragraph (4), after such a request, the accused may not be tried by a general or special court-martial if the membership of the court-martial is inconsistent with the request.

''(4) If, because of physical conditions or military exigencies, a sufficient number of eligible officers or enlisted members, as the case may be, are not available to carry

out paragraph (2), the trial may nevertheless be held. In that event, the convening authority shall make a detailed written statement of the reasons for nonavailability. The statement shall be appended to the record.''.

(b) DETAIL OF MEMBERS.—Subsection (d) of such section (article) is amended by adding at the end the following new paragraph:

''(3) The convening authority shall detail not less than the number of members necessary to impanel the court-martial under section 829 of this title (article 29).''.

SEC. 6403 [Log 63171]. NUMBER OF COURT-MARTIAL MEMBERS IN CAPITAL CASES.

Section 825a of title 10, United States Code (article 25a of the Uniform Code of Military Justice), is amended to read as follows:

"§ 825a. Art. 25a. Number of court-martial members in capital cases

''(a) IN GENERAL.—In a case in which the accused may be sentenced to death, the number of members shall be 12.

''(b) CASE NO LONGER CAPITAL.—Subject to section 829 of this title (article 29)—

''(1) if a case is referred for trial as a capital case and, before the members are impaneled, the accused may no longer be sentenced to death, the number of members shall be eight; and

''(2) if a case is referred for trial as a capital case and, after the members are impaneled, the accused may no longer be sentenced to death, the number of members shall remain 12.''.

SEC. 6404 [Log 63172]. DETAILING, QUALIFICATIONS, ETC. OF MILITARY JUDGES.

(a) SPECIAL COURTS-MARTIAL.—Subsection (a) of section 826 of title 10, United States Code (article 26 of the Uniform Code of Military Justice), is amended—

(1) in the first sentence, by inserting after ''each general'' the following: ''and special''; and

(2) by striking the second sentence.

(b) QUALIFICATIONS.—Subsection (b) of such section (article) is amended by striking ''qualified for duty'' and inserting ''qualified, by reason of education, training, experience, and judicial temperament, for duty''.

(c) DETAIL AND ASSIGNMENT.—Subsection (c) of such section (article) is amended to read as follows:

''(c)(1) In accordance with regulations prescribed under subsection (a), a military judge of a general or special court-martial shall be designated for detail by the Judge Advocate General of the armed force of which the military judge is a member.

''(2) Neither the convening authority nor any member of the staff of the convening authority shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed, which relates to the military judge's performance of duty as a military judge.

"(3) A commissioned officer who is certified to be qualified for duty as a military judge of a general court-martial—

"(A) may perform such duties only when the officer is assigned and directly responsible to the Judge Advocate General of the armed force of which the military judge is a member; and

"(B) may perform duties of a judicial or non-judicial nature other than those relating to the officer's primary duty as a military judge of a general court-martial when such duties are assigned to the officer by or with the approval of that Judge Advocate General.

"(4) In accordance with regulations prescribed by the President, assignments of military judges under this section (article) shall be for appropriate minimum periods, subject to such exceptions as may be authorized in the regulations.".

(d) DETAIL TO A DIFFERENT ARMED FORCE.—Such section (article) is further amended by adding at the end the following new subsection:

"(f) A military judge may be detailed under subsection (a) to a court-martial that is convened in a different armed force, when so permitted by the Judge Advo-

1 cate General of the armed force of which the military
2 judge is a member.''.
3 (e) CHIEF TRIAL JUDGES.—Such section (article), as
4 amended by subsection (d), is further amended by adding
5 at the end the following new subsection:
6 ''(g) In accordance with regulations prescribed by the
7 President, each Judge Advocate General shall designate
8 a chief trial judge from among the members of the applica-
9 ble trial judiciary.''.

SEC. 6405 [Log 63173]. QUALIFICATIONS OF TRIAL COUNSEL AND DEFENSE COUNSEL.

Section 827 of title 10, United States Code (article 27 of the Uniform Code of Military Justice), is amended—

(1) in the first sentence of paragraph (2) of subsection (a), by striking ''No person'' and all that follows through ''trial counsel,'' the first place it appears and inserting the following: ''No person who, with respect to a case, has served as a preliminary hearing officer, court member, military judge, military magistrate, or appellate judge, may later serve as trial counsel,'';

(2) in the first sentence of subsection (b), by striking ''Trial counsel or defense counsel'' and inserting ''Trial counsel, defense counsel, or assistant defense counsel''; and

(3) by striking subsection (c) and inserting the following new subsections:

''(c)(1) Defense counsel and assistant defense counsel detailed for a special court-martial shall have the qualifications set forth in subsection (b).

''(2) Trial counsel and assistant trial counsel detailed for a special court-martial and assistant trial counsel detailed for a general court-martial must be determined to be competent to perform such duties by the Judge Advo-

1 cate General, under such rules as the President may pre-
2 scribe.
3 ''(d) To the greatest extent practicable, in any capital
4 case, at least one defense counsel shall, as determined by
5 the Judge Advocate General, be learned in the law applica-
6 ble to such cases. If necessary, this counsel may be a civil-
7 ian and, if so, may be compensated in accordance with
8 regulations prescribed by the Secretary of Defense.''.

SEC. 6406 [Log 63174]. ASSEMBLY AND IMPANELING OF MEMBERS; DETAIL OF NEW MEMBERS AND MILITARY JUDGES.

Section 829 of title 10, United States Code (article 29 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 829. Art 29. Assembly and impaneling of members; detail of new members and military judges

''(a) ASSEMBLY.—The military judge shall announce the assembly of a general or special court-martial with members. After such a court-martial is assembled, no member may be absent, unless the member is excused—

''(1) as a result of a challenge;

''(2) under subsection (b)(1)(B); or

''(3) by order of the military judge or the convening authority for disability or other good cause.

''(b) IMPANELING.—(1) Under rules prescribed by the President, the military judge of a general or special court-martial with members shall—

''(A) after determination of challenges, impanel the court-martial; and

''(B) excuse the members who, having been assembled, are not impaneled.

''(2) In a general court-martial, the military judge shall impanel—

1 ''(A) 12 members in a capital case; and

2 ''(B) eight members in a noncapital case.

3 ''(3) In a special court-martial, the military judge
4 shall impanel four members.

5 ''(c) ALTERNATE MEMBERS.—In addition to mem-
6 bers under subsection (b), the military judge shall impanel
7 alternate members, if the convening authority authorizes
8 alternate members.

9 ''(d) DETAIL OF NEW MEMBERS.—(1) If, after mem-
10 bers are impaneled, the membership of the court-martial
11 is reduced to—

12 ''(A) fewer than 12 members with respect to a
13 general court-martial in a capital case;

14 ''(B) fewer than six members with respect to a
15 general court-martial in a noncapital case; or

16 ''(C) fewer than four members with respect to
17 a special court-martial;

18 the trial may not proceed unless the convening au-
19 thority details new members and, from among the
20 members so detailed, the military judge impanels
21 new members sufficient in number to provide the
22 membership specified in paragraph (2).

23 ''(2) The membership referred to in paragraph
24 (1) is as follows:

"(A) 12 members with respect to a general court-martial in a capital case.

"(B) At least six but not more than eight members with respect to a general court-martial in a noncapital case.

"(C) Four members with respect to a special court-martial.

"(e) DETAIL OF NEW MILITARY JUDGE.—If the military judge is unable to proceed with the trial because of disability or otherwise, a new military judge shall be detailed to the court-martial.

"(f) EVIDENCE.—(1) In the case of new members under subsection (d), the trial may proceed with the new members present after the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, in the presence of the new members, the military judge, the accused, and counsel for both sides.

"(2) In the case of a new military judge under subsection (e), the trial shall proceed as if no evidence had been introduced, unless the evidence previously introduced is read or, in the case of audiotape, videotape, or similar recording, is played, in the presence of the new military judge, the accused, and counsel for both sides.".

SEC. 6407 [Log 63175]. MILITARY MAGISTRATES.

Subchapter V of chapter 47 of title 10, United States Code, is amended by inserting after section 826 (article 26 of the Uniform Code of Military Justice) the following new section (article):

"§ 826a. Art. 26a. Military magistrates

''(a) QUALIFICATIONS.—A military magistrate shall be a commissioned officer of the armed forces who—

''(1) is a member of the bar of a Federal court or a member of the bar of the highest court of a State; and

''(2) is certified to be qualified, by reason of education, training, experience, and judicial temperament, for duty as a military magistrate by the Judge Advocate General of the armed force of which the officer is a member.

''(b) DUTIES.—In accordance with regulations prescribed by the Secretary concerned, in addition to duties when designated under section 819 of this title (article 19), a military magistrate may be assigned to perform other duties of a nonjudicial nature.''.

TITLE LXV—PRE-TRIAL PROCEDURE

SEC. 6501 [Log 63176]. CHARGES AND SPECIFICATIONS.

Section 830 of title 10, United States Code (article 30 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 830. Art 30. Charges and specifications

''(a) IN GENERAL.—Charges and specifications—

''(1) may be preferred only by a person subject to this chapter; and

''(2) shall be preferred by presentment in writing, signed under oath before a commissioned officer of the armed forces who is authorized to administer oaths.

''(b) REQUIRED CONTENT.—The writing under subsection (a) shall state that—

''(1) the signer has personal knowledge of, or has investigated, the matters set forth in the charges and specifications; and

''(2) the charges and specifications are true, to the best of the knowledge and belief of the signer.

''(c) DUTY OF PROPER AUTHORITY.—When charges and specifications are preferred under subsection (a), the proper authority shall, as soon as practicable—

1 ''(1) inform the person accused of the charges
2 and specifications; and
3 ''(2) determine what disposition should be made
4 of the charges and specifications in the interest of
5 justice and discipline.''.

SEC. 6502 [Log 63177]. PRELIMINARY HEARING REQUIRED BEFORE REFERRAL TO GENERAL COURT-MARTIAL.

(a) IN GENERAL.—Section 832 of title 10, United States Code (article 32 of the Uniform Code of Military Justice), is amended by striking the section heading and subsections (a), (b), and (c), and inserting the following:

"§ 832. Art. 32. Preliminary hearing required before referral to general court-martial

"(a) IN GENERAL.—(1)(A) Except as provided in subparagraph (B), a preliminary hearing shall be held before referral of charges and specifications for trial by general court-martial. The preliminary hearing shall be conducted by an impartial hearing officer, detailed by the convening authority in accordance with subsection (b).

"(B) Under regulations prescribed by the President, a preliminary hearing need not be held if the accused submits a written waiver to the convening authority and the convening authority determines that a hearing is not required.

"(2) The issues for determination at a preliminary hearing are limited to the following:

"(A) Whether or not the specification alleges an offense under this chapter.

"(B) Whether or not there is probable cause to believe that the accused committed the offense charged.

"(C) Whether or not the convening authority has court-martial jurisdiction over the accused and over the offense.

"(D) A recommendation as to the disposition that should be made of the case.

"(b) HEARING OFFICER.—(1) A preliminary hearing under this section shall be conducted by an impartial hearing officer, who—

"(A) whenever practicable, shall be a judge advocate who is certified under section 827(b)(2) of this title (article 27(b)(2)); or

"(B) in exceptional circumstances, shall be an impartial hearing officer, who is not a judge advocate so certified.

"(2) In the case of a hearing officer under paragraph (1)(B), a judge advocate who is certified under section 827(b)(2) of this title (article 27(b)(2)) shall be available to provide legal advice to the hearing officer.

"(3) Whenever practicable, the hearing officer shall be equal in grade or senior in grade to military counsel who are detailed to represent the accused or the Government at the preliminary hearing.

"(c) REPORT TO CONVENING AUTHORITY.—After a preliminary hearing under this section, the hearing officer shall submit to the convening authority a written report (accompanied by a recording of the preliminary hearing under subsection (e)) that includes the following:

"(1) For each specification, a statement of the reasoning and conclusions of the hearing officer with respect to determinations under subsection (a)(2), including a summary of relevant witness testimony and documentary evidence presented at the hearing and any observations of the hearing officer concerning the testimony of witnesses and the availability and admissibility of evidence at trial.

"(2) Recommendations for any necessary modifications to the form of the charges or specifications.

"(3) An analysis of any additional information submitted after the hearing by the parties or by a victim of an offense, that, under such rules as the President may prescribe, is relevant to disposition under sections 830 and 834 of this title (articles 30 and 34).

"(4) A statement of action taken on evidence adduced with respect to uncharged offenses, as described in subsection (f).".

(b) SUNDRY AMENDMENTS.—Subsection (d) of such section (article) is amended—

(1) in paragraph (1), by striking ''subsection (a)'' in the first sentence and inserting ''this section'';

(2) in paragraph (2), by striking ''in defense'' and all that follows through the end and inserting ''that is relevant to the issues for determination under subsection (a)(2).'';

(3) in paragraph (3), by adding at the end the following new sentence: ''A declination under this paragraph shall not serve as the sole basis for ordering a deposition under section 849 of this title (article 49).''; and

(4) in paragraph (4), by striking ''the limited purposes of the hearing, as provided in subsection (a)(2).'' and inserting the following: ''determinations under subsection (a)(2).''.

(c) REFERENCE TO MCM.—Subsection (e) of such section (article) is amended by striking ''as prescribed by the Manual for Courts-Martial'' in the second sentence and inserting ''under such rules as the President may prescribe''.

(d) EFFECT OF VIOLATION.—Subsection (g) of such section (article) is amended by adding at the end the fol-

1 lowing new sentence: ''A defect in a report under sub-
2 section (c) is not a basis for relief if the report is in sub-
3 stantial compliance with that subsection.''.

SEC. 6503 [Log 63178]. DISPOSITION GUIDANCE.

Section 833 of title 10, United States Code (article 33 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 833. Art 33. Disposition guidance

''The President shall direct the Secretary of Defense to issue, in consultation with the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy, non-binding guidance regarding factors that commanders, convening authorities, staff judge advocates, and judge advocates should take into account when exercising their duties with respect to disposition of charges and specifications in the interest of justice and discipline under sections 830 and 834 of this title (articles 30 and 34). Such guidance shall take into account, with appropriate consideration of military requirements, the principles contained in official guidance of the Attorney General to attorneys for the Government with respect to disposition of Federal criminal cases in accordance with the principle of fair and even-handed administration of Federal criminal law.''.

SEC. 6504 [Log 63179]. ADVICE TO CONVENING AUTHORITY BEFORE REFERRAL FOR TRIAL.

Section 834 of title 10, United States Code (article 34 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 834. Art. 34. Advice to convening authority before referral for trial

"(a) GENERAL COURT-MARTIAL.—

"(1) STAFF JUDGE ADVOCATE ADVICE REQUIRED BEFORE REFERRAL.—Before referral of charges and specifications to a general court-martial for trial, the convening authority shall submit the matter to the staff judge advocate for advice, which the staff judge advocate shall provide to the convening authority in writing. The convening authority may not refer a specification under a charge to a general court-martial unless the staff judge advocate advises the convening authority in writing that—

"(A) the specification alleges an offense under this chapter;

"(B) there is probable cause to believe that the accused committed the offense charged; and

"(C) a court-martial would have jurisdiction over the accused and the offense.

"(2) STAFF JUDGE ADVOCATE RECOMMENDATION AS TO DISPOSITION.—Together with the writ-

1 ten advice provided under paragraph (1), the staff
2 judge advocate shall provide a written recommenda-
3 tion to the convening authority as to the disposition
4 that should be made of the specification in the inter-
5 est of justice and discipline.

6 "(3) STAFF JUDGE ADVOCATE ADVICE AND
7 RECOMMENDATION TO ACCOMPANY REFERRAL.—
8 When a convening authority makes a referral for
9 trial by general court-martial, the written advice of
10 the staff judge advocate under paragraph (1) and
11 the written recommendation of the staff judge advo-
12 cate under paragraph (2) with respect to each speci-
13 fication shall accompany the referral.

14 "(b) SPECIAL COURT-MARTIAL; CONVENING AU-
15 THORITY CONSULTATION WITH JUDGE ADVOCATE.—Be-
16 fore referral of charges and specifications to a special
17 court-martial for trial, the convening authority shall con-
18 sult a judge advocate on relevant legal issues.

19 "(c) GENERAL AND SPECIAL COURTS-MARTIAL; COR-
20 RECTION OF CHARGES AND SPECIFICATIONS BEFORE RE-
21 FERRAL.—Before referral for trial by general court-mar-
22 tial or special court-martial, changes may be made to
23 charges and specifications—

24 "(1) to correct errors in form; and

1 ''(2) when applicable, to conform to the sub-
2 stance of the evidence contained in a report under
3 section 832(c) of this title (article 32(c)).
4 ''(d) DEFINITION.—In this section, the term 'refer-
5 ral' means the order of a convening authority that charges
6 and specifications against an accused be tried by a speci-
7 fied court-martial.''.

SEC. 6505 [Log 63180]. SERVICE OF CHARGES AND COMMENCEMENT OF TRIAL.

Section 835 of title 10, United States Code (article 35 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 835. Art. 35. Service of charges; commencement of trial

"(a) IN GENERAL.—Trial counsel detailed for a court-martial under section 827 of this title (article 27) shall cause to be served upon the accused a copy of the charges and specifications referred for trial.

"(b) COMMENCEMENT OF TRIAL.—(1) Subject to paragraphs (2) and (3), no trial or other proceeding of a general court-martial or a special court-martial (including any session under section 839(a) of this title (article 39(a)) may be held over the objection of the accused—

"(A) with respect to a general court-martial, from the time of service through the fifth day after the date of service; or

"(B) with respect to a special court-martial, from the time of service through the third day after the date of service.

"(2) An objection under paragraph (1) may be raised only at the first session of the trial or other proceeding and only if the first session occurs before the end of the applicable period under paragraph (1)(A) or (1)(B). If the

first session occurs before the end of the applicable period, the military judge shall, at that session, inquire as to whether the defense objects under this subsection.

''(3) This subsection shall not apply in time of war.''.

TITLE LXVI—TRIAL PROCEDURE

SEC. 6601 [Log 63181]. DUTIES OF ASSISTANT DEFENSE COUNSEL.

Subsection (e) of section 838 of title 10, United States Code (article 38 of the Uniform Code of Military Justice), is amended by striking ‘‘, under the direction’’ and all that follows through ‘‘(article 27),’’.

SEC. 6602 [Log 63182]. SESSIONS.

Section 839 of title 10, United States Code (article 39 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by striking paragraph (3) and inserting the following new paragraphs:

''(3) holding the arraignment and receiving the pleas of the accused;

''(4) conducting a sentencing proceeding and sentencing the accused; and''; and

(2) in the second sentence of subsection (c), by striking '', in cases in which a military judge has been detailed to the court,''.

SEC. 6603 [Log 63183]. TECHNICAL AMENDMENT RELATING TO CONTINUANCES.

Section 840 of title 10, United States Code (article 40 of the Uniform Code of Military Justice), is amended by striking ''court-martial without a military judge'' and inserting ''summary court-martial''.

SEC. 6604 [Log 63184]. CONFORMING AMENDMENTS RELATING TO CHALLENGES.

Section 841 of title 10, United States Code (article 41 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)(1), by striking ", or, if none, the court," in the second sentence;

(2) in subsection (a)(2) by striking "minimum" in the first sentence; and

(3) in subsection (b)(2), by striking "minimum".

SEC. 6605 [Log 63185]. STATUTE OF LIMITATIONS.

(a) INCREASE IN PERIOD FOR CHILD ABUSE OFFENSES.—Subsection (b)(2)(A) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended by striking ''five years'' and inserting ''ten years''.

(b) INCREASE IN PERIOD FOR FRAUDULENT ENLISTMENT OR APPOINTMENT OFFENSES.—Such section (article) is further amended by adding at the end the following new subsection:

''(h) FRAUDULENT ENLISTMENT OR APPOINTMENT.—A person charged with fraudulent enlistment or fraudulent appointment under section 904a(1) of this title (article 104a(1)) may be tried by court-martial if the sworn charges and specifications are received by an officer exercising summary court-martial jurisdiction with respect to that person, as follows:

''(1) In the case of an enlisted member, during the period of the enlistment or five years, whichever provides a longer period.

''(2) In the case of an officer, during the period of the appointment or five years, whichever provides a longer period.''.

(c) DNA EVIDENCE.—Such section (article), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(i) DNA EVIDENCE.—If DNA testing implicates an identified person in the commission of an offense punishable by confinement for more than one year, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.".

(d) CONFORMING AMENDMENTS.—Such section (article) is further amended in subsection (b)(2)(B) by striking clauses (i) through (v) and inserting the following:

"(i) Any offense in violation of section 920, 920a, 920b, 920c, or 930 of this title (article 120, 120a, 120b, 120c, or 130), unless the offense is covered by subsection (a).

"(ii) Maiming in violation of section 928a of this title (article 128a).

"(iii) Aggravated assault, assault consummated by a battery, or assault with intent to commit specified offenses in viola-

tion of section 928 of this title (article 128).

"(iv) Kidnapping in violation of section 925 of this title (article 125).".

(e) APPLICATION.—The amendments made by subsections (a), (b), (c), and (d) shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this subsection if the applicable limitation period has not yet expired.

SEC. 6606 [Log 63186]. FORMER JEOPARDY.

Subsection (c) of section 844 of title 10, United States Code (article 44 of the Uniform Code of Military Justice), is amended to read as follows:

''(c)(1) A court-martial with a military judge alone is a trial in the sense of this section (article) if, without fault of the accused—

''(A) after introduction of evidence; and

''(B) before announcement of findings under section 853 of this title (article 53);

the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.

''(2) A court-martial with a military judge and members is a trial in the sense of this section (article) if, without fault of the accused—

''(A) after the members, having taken an oath as members under section 842 of this title (article 42) and after completion of challenges under section 841 of this title (article 41), are impaneled; and

''(B) before announcement of findings under section 853 of this title (article 53);

the case is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses.''.

SEC. 6607 [Log 63187]. PLEAS OF THE ACCUSED.

(a) PLEAS OF GUILTY.—Subsection (b) of section 845 of title 10, United States Code (article 45 of the Uniform Code of Military Justice), is amended—

(1) in the first sentence, by striking ''may be adjudged'' and inserting ''is mandatory''; and

(2) in the second sentence—

(A) by striking ''or by a court-martial without a military judge''; and

(B) by striking '', if permitted by regulations of the Secretary concerned,''.

(b) HARMLESS ERROR.—Such section (article) is further amended by adding at the end the following new subsection:

''(c) HARMLESS ERROR.—A variance from the requirements of this article is harmless error if the variance does not materially prejudice the substantial rights of the accused.''.

SEC. 6608 [Log 63190]. CONTEMPT.

(a) AUTHORITY TO PUNISH.—Subsection (a) of section 848 of title 10, United States Code (article 48 of the Uniform Code of Military Justice), is amended to read as follows:

"(a) AUTHORITY TO PUNISH.—(1) With respect to any proceeding under this chapter, a judicial officer specified in paragraph (2) may punish for contempt any person who—

"(A) uses any menacing word, sign, or gesture in the presence of the judicial officer during the proceeding;

"(B) disturbs the proceeding by any riot or disorder; or

"(C) willfully disobeys a lawful writ, process, order, rule, decree, or command issued with respect to the proceeding.

"(2) A judicial officer referred to in paragraph (1) is any of the following:

"(A) Any judge of the Court of Appeals for the Armed Forces and any judge of a Court of Criminal Appeals under section 866 of this title (article 66).

"(B) Any military judge detailed to a court-martial, a provost court, a military commission, or any other proceeding under this chapter.

"(C) Any military magistrate designated to preside under section 819 of this title (article 19).".

(b) REVIEW.—Such section (article) is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) REVIEW.—A punishment under this section—

"(1) if imposed by a military judge or military magistrate, may be reviewed by the Court of Criminal Appeals in accordance with the uniform rules of procedure for the Courts of Criminal Appeals under section 866(g) of this title (article 66(g)); and

"(2) if imposed by a judge of the Court of Appeals for the Armed Forces or a judge of a Court of Criminal Appeals, shall constitute a judgment of the court, subject to review under the applicable provisions of section 867 or 867a of this title (article 67 or 67a).".

(c) SECTION HEADING.—The heading for such section (article) is amended to read as follows:

"§ 848. Art. 48. Contempt".

SEC. 6609 [Log 63191]. DEPOSITIONS.

Section 849 of title 10, United States Code (article 49 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 849. Art. 49. Depositions

''(a) IN GENERAL.—(1) Subject to paragraph (2), a convening authority or a military judge may order depositions at the request of any party.

''(2) A deposition may be ordered under paragraph (1) only if the requesting party demonstrates that, due to exceptional circumstances, it is in the interest of justice that the testimony of a prospective witness be preserved for use at a court-martial, military commission, court of inquiry, or other military court or board.

''(3) A party who requests a deposition under this section shall give to every other party reasonable written notice of the time and place for the deposition.

''(4) A deposition under this section shall be taken before, and authenticated by, an impartial officer, as follows:

''(A) Whenever practicable, by an impartial judge advocate certified under section 827(b) of this title (article 27(b)).

''(B) In exceptional circumstances, by an impartial military or civil officer authorized to administer oaths by (i) the laws of the United States or

(ii) the laws of the place where the deposition is taken.

''(b) REPRESENTATION BY COUNSEL.—Representation of the parties with respect to a deposition shall be by counsel detailed in the same manner as trial counsel and defense counsel are detailed under section 827 of this title (article 27). In addition, the accused shall have the right to be represented by civilian or military counsel in the same manner as such counsel are provided for in section 838(b) of this title (article 38(b)).

''(c) ADMISSIBILITY AND USE AS EVIDENCE.—A deposition order under subsection (a) does not control the admissibility of the deposition in a court-martial or other proceeding under this chapter. Except as provided by subsection (d), a party may use all or part of a deposition as provided by the rules of evidence.

''(d) CAPITAL CASES.—Testimony by deposition may be presented in capital cases only by the defense.''.

SEC. 6610 [Log 63192]. ADMISSIBILITY OF SWORN TESTIMONY BY AUDIOTAPE OR VIDEOTAPE FROM RECORDS OF COURTS OF INQUIRY.

(a) IN GENERAL.—Section 850 of title 10, United States Code (article 50 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

''(d) AUDIOTAPE OR VIDEOTAPE.—Sworn testimony that—

''(1) is recorded by audiotape, videotape, or similar method; and

''(2) is contained in the duly authenticated record of proceedings of a court of inquiry;

is admissible before a court-martial, military commission, court of inquiry, or military board, to the same extent as sworn testimony may be read in evidence before any such body under subsection (a), (b), or (c).''.

(b) SECTION HEADING.—The heading for such section (article) is amended to read as follows:

''§ 850. Art. 50. Admissibility of sworn testimony from records of courts of inquiry''.

SEC. 6611 [Log 63193]. CONFORMING AMENDMENT RELATING TO DEFENSE OF LACK OF MENTAL RESPONSIBILITY.

Section 850a(c) of title 10, United States Code (article 50a(c) of the Uniform Code of Military Justice), is amended by striking ", or the president of a court-martial without a military judge,".

SEC. 6612 [Log 63194]. VOTING AND RULINGS.

Section 851 of title 10, United States Code (article 51 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a), by striking ", and by members of a court-martial without a military judge upon questions of challenge," in the first sentence;

(2) in subsection (b)—

(A) by striking "and, except for questions of challenge, the president of a court-martial without a military judge" in the first sentence; and

(B) by striking ", or by the president" in the second sentence and all that follows through the end of the subsection and inserting "is final and constitutes the ruling of the court, except that the military judge may change a ruling at any time during trial."; and

(3) in subsection (c), by striking "or the president of a court-martial without a military judge" in the matter before paragraph (1).

SEC. 6613 [Log 63195]. VOTES REQUIRED FOR CONVICTION, SENTENCING, AND OTHER MATTERS.

Section 852 of title 10, United States Code (article 52 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 852. Art. 52. Votes required for conviction, sentencing, and other matters

"(a) IN GENERAL.—No person may be convicted of an offense in a general or special court-martial, other than—

"(1) after a plea of guilty under section 845(b) of this title (article 45(b));

"(2) by a military judge in a court-martial with a military judge alone, under section 816 of this title (article 16); or

"(3) in a court-martial with members under section 816 of this title (article 16), by the concurrence of at least three-fourths of the members present when the vote is taken.

"(b) LEVEL OF CONCURRENCE REQUIRED.—

"(1) IN GENERAL.—Except as provided in subsection (a) and in paragraph (2), all matters to be decided by members of a general or special court-martial shall be determined by a majority vote, but a reconsideration of a finding of guilty or reconsideration of a sentence, with a view toward decreasing

the sentence, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence.

''(2) SENTENCING.—A sentence of death requires (A) a unanimous finding of guilty of an offense in this chapter expressly made punishable by death and (B) a unanimous determination by the members that the sentence for that offense shall include death. All other sentences imposed by members shall be determined by the concurrence of at least three-fourths of the members present when the vote is taken.''.

SEC. 6614 [Log 63197]. PLEA AGREEMENTS.

Subchapter VII of chapter 47 of title 10, United States Code, is amended by inserting after section 853 (article 53 of the Uniform Code of Military Justice) the following:

"§ 853a. Art. 53a. Plea agreements

''(a) IN GENERAL.—(1) At any time before the announcement of findings under section 853 of this title (article 53), the convening authority and the accused may enter into a plea agreement with respect to such matters as—

''(A) the manner in which the convening authority will dispose of one or more charges and specifications; and

''(B) limitations on the sentence that may be adjudged for one or more charges and specifications.

''(2) The military judge of a general or special court-martial may not participate in discussions between the parties concerning prospective terms and conditions of a plea agreement.

''(b) ACCEPTANCE OF PLEA AGREEMENT.—Subject to subsection (c), the military judge of a general or special court-martial shall accept a plea agreement submitted by the parties, except that the military judge may reject a plea agreement that proposes a sentence if the military

1 judge determines that the proposed sentence is plainly un-
2 reasonable.

3 "(c) LIMITATION ON ACCEPTANCE OF PLEA AGREE-
4 MENTS.—The military judge of a general or special court-
5 martial shall reject a plea agreement that—

6 "(1) contains a provision that has not been ac-
7 cepted by both parties;

8 "(2) contains a provision that is not understood
9 by the accused; or

10 "(3) except as provided in subsection (d), con-
11 tains a provision for a sentence that is less than the
12 mandatory minimum sentence applicable to an of-
13 fense referred to in section 856(b)(2) of this title
14 (article 56(b)(2)).

15 "(d) LIMITED CONDITIONS FOR ACCEPTANCE OF
16 PLEA AGREEMENT FOR SENTENCE BELOW MANDATORY
17 MINIMUM FOR CERTAIN OFFENSES.—With respect to an
18 offense referred to in section 856(b)(2) of this title (article
19 56(b)(2))—

20 "(1) the military judge may accept a plea
21 agreement that provides for a sentence of bad con-
22 duct discharge; and

23 "(2) upon recommendation of the trial counsel,
24 in exchange for substantial assistance by the accused
25 in the investigation or prosecution of another person

who has committed an offense, the military judge may accept a plea agreement that provides for a sentence that is less than the mandatory minimum sentence for the offense charged.

''(e) BINDING EFFECT OF PLEA AGREEMENT.—Upon acceptance by the military judge of a general or special court-martial, a plea agreement shall bind the parties and the military judge.''.

SEC. 6615 [Log 63198]. RECORD OF TRIAL.

Section 854 of title 10, United States Code (article 54 of the Uniform Code of Military Justice), is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL AND SPECIAL COURTS-MARTIAL.—Each general or special court-martial shall keep a separate record of the proceedings in each case brought before it. The record shall be certified by a court-reporter, except that in the case of death, disability, or absence of a court reporter, the record shall be certified by an official selected as the President may prescribe by regulation.'';

(2) in subsection (b)—

(A) by striking ''(b) Each special and summary court-martial'' and inserting''(b) SUMMARY COURT-MARTIAL.—Each summary court-martial''; and

(B) by striking ''authenticated'' and inserting ''certified'';

(3) by striking subsection (c) and inserting the following:

''(c) CONTENTS OF RECORD.—(1) Except as provided in paragraph (2), the record shall contain such matters as the President may prescribe by regulation.

''(2) In accordance with regulations prescribed by the President, a complete record of proceedings and testimony

shall be prepared in any case of a sentence of death, dismissal, discharge, confinement for more than six months, or forfeiture of pay for more than six months.''.

(4) in subsection (d)—

(A) by striking ''(d) A copy'' and inserting ''(d) EVIDENCE.—A copy''; and

(B) by striking ''authenticated'' and inserting ''certified''; and

(5) in subsection (e)—

(A) by striking ''involving a sexual assault or other offense covered by section 920 of this title (article 120)'' in the first sentence and inserting ''upon request,''; and

(B) by striking ''authenticated'' in the second sentence and inserting ''certified''.

TITLE LXVII—SENTENCES

SEC. 6701 [Log 63933]. SENTENCING.

(a) IN GENERAL.—Section 856 of title 10, United States Code (article 56 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 856. Art. 56. Sentencing

''(a) SENTENCE MAXIMUMS.—The punishment which a court-martial may direct for an offense may not exceed such limits as the President may prescribe for that offense.

''(b) SENTENCE MINIMUMS FOR CERTAIN OFFENSES.—(1) Except as provided in subsection (d) of section 853a of this title (article 53a), punishment for any offense specified in paragraph (2) shall include dismissal or dishonorable discharge, as applicable.

''(2) The offenses referred to in paragraph (1) are as follows:

''(A) Rape under subsection (a) of section 920 of this title (article 120).

''(B) Sexual assault under subsection (b) of such section (article).

''(C) Rape of a child under subsection (a) of section 920b of this title (article 120b).

''(D) Sexual assault of a child under subsection (b) of such section (article).

1 ''(E) An attempt to commit an offense specified
2 in subparagraph (A), (B), (C), or (D) that is pun-
3 ishable under section 880 of this title (article 80).
4 ''(c) IMPOSITION OF SENTENCE.—
5 ''(1) IN GENERAL.—In sentencing an accused
6 under section 853 of this title (article 53), a court-
7 martial shall impose punishment that is sufficient,
8 but not greater than necessary, to promote justice
9 and to maintain good order and discipline in the
10 armed forces, taking into consideration—
11 ''(A) the nature and circumstances of the
12 offense and the history and characteristics of
13 the accused;
14 ''(B) the impact of the offense on—
15 ''(i) the financial, social, psychological,
16 or medical well-being of any victim of the
17 offense; and
18 ''(ii) the mission, discipline, or effi-
19 ciency of the command of the accused and
20 any victim of the offense;
21 ''(C) the need for the sentence—
22 ''(i) to reflect the seriousness of the
23 offense;
24 ''(ii) to promote respect for the law;

"(iii) to provide just punishment for the offense;

"(iv) to promote adequate deterrence of misconduct;

"(v) to protect others from further crimes by the accused;

"(vi) to rehabilitate the accused; and

"(vii) to provide, in appropriate cases, the opportunity for retraining and return to duty to meet the needs of the service; and

"(D) the sentences available under this chapter.

"(2) OFFENSE BASED SENTENCING IN GENERAL AND SPECIAL COURTS-MARTIAL.—In announcing the sentence under section 853 of this title (article 53) in a general or special court-martial, the court-martial shall, with respect to each offense of which the accused is found guilty, specify the term of confinement, if any, and the amount of the fine, if any. If the accused is sentenced to confinement for more than one offense, the court-martial shall specify whether the terms of confinement are to run consecutively or concurrently.

"(3) SENTENCE OF CONFINEMENT FOR LIFE WITHOUT ELIGIBILITY FOR PAROLE.—(A) If an offense is subject to a sentence of confinement for life, a court-martial may impose a sentence of confinement for life without eligibility for parole.

"(B) An accused who is sentenced to confinement for life without eligibility for parole shall be confined for the remainder of the accused's life unless—

"(i) the sentence is set aside or otherwise modified as a result of—

"(I) action taken by the convening authority or the Secretary concerned; or

"(II) any other action taken during post-trial procedure and review under any other provision of subchapter IX of this chapter;

"(ii) the sentence is set aside or otherwise modified as a result of action taken by a Court of Criminal Appeals, the Court of Appeals for the Armed Forces, or the Supreme Court; or

"(iii) the accused is pardoned.

"(d) APPEAL OF SENTENCE BY THE UNITED STATES.—(1) With the approval of the Judge Advocate

1 General concerned, the Government may appeal a sentence
2 to the Court of Criminal Appeals, on the grounds that—
3 "(A) the sentence violates the law; or
4 "(B) the sentence is plainly unreasonable.
5 "(2) An appeal under this subsection must be filed
6 within 60 days after the date on which the judgment of
7 a court-martial is entered into the record under section
8 860c of this title (article 60c).".
9 (b) CONFORMING AMENDMENT.—Section 856a of
10 title 10, United States Code (article 56a of the Uniform
11 Code of Military Justice), is repealed.

SEC. 6702 [Log 63200]. EFFECTIVE DATE OF SENTENCES.

(a) IN GENERAL.—Section 857 of title 10, United States Code (article 57 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 857. Art. 57. Effective date of sentences

"(a) EXECUTION OF SENTENCES.—A court-martial sentence shall be executed and take effect as follows:

"(1) FORFEITURE AND REDUCTION.—A forfeiture of pay or allowances shall be applicable to pay and allowances accruing on and after the date on which the sentence takes effect. Any forfeiture of pay or allowances or reduction in grade that is included in a sentence of a court-martial takes effect on the earlier of—

"(A) the date that is 14 days after the date on which the sentence is adjudged; or

"(B) in the case of a summary court-martial, the date on which the sentence is approved by the convening authority.

"(2) CONFINEMENT.—Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement.

"(3) APPROVAL OF SENTENCE OF DEATH.—If the sentence of the court-martial extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as the President sees fit. That part of the sentence providing for death may not be suspended.

"(4) APPROVAL OF DISMISSAL.—If in the case of a commissioned officer, cadet, or midshipman, the sentence of a court-martial extends to dismissal, that part of the sentence providing for dismissal may not be executed until approved by the Secretary concerned or such Under Secretary or Assistant Secretary as may be designated by the Secretary concerned. In such a case, the Secretary, Under Secretary, or Assistant Secretary, as the case may be, may commute, remit, or suspend the sentence, or any part of the sentence, as the Secretary sees fit. In time of war or national emergency he may commute a sentence of dismissal to reduction to any enlisted grade. A person so reduced may be required to serve for the duration of the war or emergency and six months thereafter.

"(5) COMPLETION OF APPELLATE REVIEW.—If a sentence extends to death, dismissal, or a dishonorable or bad-conduct discharge, that part of the sentence extending to death, dismissal, or a dishonorable or bad-conduct discharge may be executed, in accordance with service regulations, after completion of appellate review (and, with respect to death or dismissal, approval under paragraph (3) or (4), as appropriate).

"(6) OTHER SENTENCES.—Except as otherwise provided in this subsection, a general or special court-martial sentence is effective upon entry of judgment and a summary court-martial sentence is effective when the convening authority acts on the sentence.

"(b) DEFERRAL OF SENTENCES.—(1) On application by an accused, the convening authority or, if the accused is no longer under his jurisdiction, the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may, in his or her sole discretion, defer the effective date of a sentence of confinement, reduction, or forfeiture. The deferment shall terminate upon entry of judgment or, in the case of a summary court-martial, when the convening authority acts on the sentence. The deferment may be rescinded at

any time by the officer who granted it or, if the accused is no longer under his jurisdiction, by the officer exercising general court-martial jurisdiction over the command to which the accused is currently assigned.

"(2) In any case in which a court-martial sentences a person referred to in paragraph (3) to confinement, the convening authority may defer the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the armed forces by a State or foreign country referred to in that paragraph.

"(3) Paragraph (2) applies to a person subject to this chapter who—

"(A) while in the custody of a State or foreign country is temporarily returned by that State or foreign country to the armed forces for trial by court-martial; and

"(B) after the court-martial, is returned to that State or foreign country under the authority of a mutual agreement or treaty, as the case may be.

"(4) In this subsection, the term 'State' includes the District of Columbia and any Commonwealth, territory, or possession of the United States.

"(5) In any case in which a court-martial sentences a person to confinement, but in which review of the case

under section 867(a)(2) of this title (article 67(a)(2)) is pending, the Secretary concerned may defer further service of the sentence to confinement while that review is pending.

"(c) APPELLATE REVIEW.—(1) Appellate review is complete under this section when—

"(A) a review under section 865 of this title (article 65) is completed; or

"(B) a review under section 866 of this title (article 66) is completed by a Court of Criminal Appeals and—

"(i) the time for the accused to file a petition for review by the Court of Appeals for the Armed Forces has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court;

"(ii) such a petition is rejected by the Court of Appeals for the Armed Forces; or

"(iii) review is completed in accordance with the judgment of the Court of Appeals for the Armed Forces and—

"(I) a petition for a writ of certiorari is not filed within the time limits prescribed by the Supreme Court;

1 "(II) such a petition is rejected by the
2 Supreme Court; or
3 "(III) review is otherwise completed in
4 accordance with the judgment of the Su-
5 preme Court.
6 "(2) The completion of appellate review shall con-
7 stitute a final judgment as to the legality of the pro-
8 ceedings.".
9 (b) CONFORMING AMENDMENTS.—(1) Subchapter
10 VIII of chapter 47 of title 10, United States Code, is
11 amended by striking section 857a (article 57a of the Uni-
12 form Code of Military Justice).
13 (2) Subchapter IX of chapter 47 of title 10, United
14 States Code, is amended by striking section 871 (article
15 71 of the Uniform Code of Military Justice).
16 (3) The second sentence of subsection (a)(1) of sec-
17 tion 858b of title 10, United States Code (article 58b of
18 the Uniform Code of Military Justice), is amended by
19 striking "section 857(a) of this title (article 57(a))" and
20 inserting "section 857 of this title (article 57)".

SEC. 6703 [Log 63201]. SENTENCE OF REDUCTION IN ENLISTED GRADE.

Section 858a of title 10, United States Code (article 58a of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)—

(A) by striking ''Unless otherwise provided in regulations to be prescribed by the Secretary concerned, a'' and inserting ''A'';

(B) by striking ''as approved by the convening authority'' and inserting ''as set forth in the judgment of the court-martial entered into the record under section 860c of this title (article 60c)''; and

(C) in the matter after paragraph (3), by striking ''of that approval'' and inserting ''on which the judgment is so entered''; and

(2) in subsection (b), by striking ''disapproved, or, as finally approved'' and inserting ''reduced, or, as finally affirmed''.

TITLE LXVIII—POST-TRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

SEC. 6801 [Log 63202]. POST-TRIAL PROCESSING IN GENERAL AND SPECIAL COURTS-MARTIAL.

Section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 860. Art 60. Post-trial processing in general and special courts-martial

''(a) STATEMENT OF TRIAL RESULTS.—(1) The military judge of a general or special court-martial shall enter into the record of trial a document entitled 'Statement of Trial Results', which shall set forth—

''(A) each plea and finding;

''(B) the sentence, if any; and

''(C) such other information as the President may prescribe by regulation.

''(2) Copies of the Statement of Trial Results shall be provided promptly to the convening authority, the accused, and any victim of the offense.

''(b) POST-TRIAL MOTIONS.—In accordance with regulations prescribed by the President, the military judge in a general or special court-martial shall address all post-trial motions and other post-trial matters that—

1 ''(1) may affect a plea, a finding, the sentence,
2 the Statement of Trial Results, the record of trial,
3 or any post-trial action by the convening authority;
4 and
5 ''(2) are subject to resolution by the military
6 judge before entry of judgment.''.

SEC. 6802 [Log 63203]. LIMITED AUTHORITY TO ACT ON SENTENCE IN SPECIFIED POST-TRIAL CIRCUMSTANCES.

Subchapter IX of chapter 47 of title 10, United States Code, is amended by inserting after section 860 (article 60 of the Uniform Code of Military Justice), as amended by section 6801, the following new section (article):

"§ 860a. Art. 60a. Limited authority to act on sentence in specified post-trial circumstances

''(a) IN GENERAL.—(1) The convening authority of a general or special court-martial described in paragraph (2)—

''(A) may act on the sentence of the court-martial only as provided in subsection (b), (c), or (d); and

''(B) may not act on the findings of the court-martial.

''(2) The courts-martial referred to in paragraph (1) are the following:

''(A) A general or special court-martial in which the maximum sentence of confinement established under subsection (a) of section 856 of this title (article 56) for any offense of which the accused is found guilty is more than two years.

"(B) A general or special court-martial in which the total of the sentences of confinement imposed, running consecutively, is more than six months.

"(C) A general or special court-martial in which the sentence imposed includes a dismissal, dishonorable discharge, or bad-conduct discharge.

"(D) A general or special court-martial in which the accused is found guilty of a violation of subsection (a) or (b) of section 920 of this title (article 120), section 920b of this title (article 120b), or such other offense as the Secretary of Defense may specify by regulation.

"(3) Except as provided in subsection (d), the convening authority may act under this section only before entry of judgment.

"(4) Under regulations prescribed by the Secretary concerned, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority.

"(b) REDUCTION, COMMUTATION, AND SUSPENSION OF SENTENCES GENERALLY.—(1) Except as provided in subsection (c) or (d), the convening authority may not reduce, commute, or suspend any of the following sentences:

1 "(A) A sentence of confinement, if the total pe-
2 riod of confinement imposed for all offenses involved,
3 running consecutively, is greater than six months.
4 "(B) A sentence of dismissal, dishonorable dis-
5 charge, or bad-conduct discharge.
6 "(C) A sentence of death.
7 "(2) The convening authority may reduce, commute,
8 or suspend any sentence not specified in paragraph (1).
9 "(c) SUSPENSION OF CERTAIN SENTENCES UPON
10 RECOMMENDATION OF MILITARY JUDGE.—(1) Upon rec-
11 ommendation of the military judge, as included in the
12 Statement of Trial Results, together with an explanation
13 of the facts supporting the recommendation, the convening
14 authority may suspend—
15 "(A) a sentence of confinement, in whole or in
16 part; or
17 "(B) a sentence of dismissal, dishonorable dis-
18 charge, or bad-conduct discharge.
19 "(2) The convening authority may not, under para-
20 graph (1)—
21 "(A) suspend a mandatory minimum sentence;
22 or
23 "(B) suspend a sentence to an extent in excess
24 of the suspension recommended by the military
25 judge.

1 "(d) REDUCTION OF SENTENCE FOR SUBSTANTIAL
2 ASSISTANCE BY ACCUSED.—(1) Upon a recommendation
3 by the trial counsel, if the accused, after sentencing and
4 before entry of judgment, provides substantial assistance
5 in the investigation or prosecution of another person, the
6 convening authority may reduce, commute, or suspend a
7 sentence, in whole or in part, including any mandatory
8 minimum sentence.

9 "(2) Upon a recommendation by a trial counsel, des-
10 ignated in accordance with rules prescribed by the Presi-
11 dent, if the accused, after entry of judgment, provides sub-
12 stantial assistance in the investigation or prosecution of
13 another person, a convening authority, designated under
14 such regulations, may reduce, commute, or suspend a sen-
15 tence, in whole or in part, including any mandatory min-
16 imum sentence.

17 "(3) In evaluating whether the accused has provided
18 substantial assistance under this subsection, the convening
19 authority may consider the presentence assistance of the
20 accused.

21 "(e) SUBMISSIONS BY ACCUSED AND VICTIM.—(1) In
22 accordance with rules prescribed by the President, in de-
23 termining whether to act under this section, the convening
24 authority shall consider matters submitted in writing by

the accused or any victim of an offense. Such rules shall include—

"(A) procedures for notice of the opportunity to make such submissions;

"(B) the deadlines for such submissions; and

"(C) procedures for providing the accused and any victim of an offense with a copy of the recording of any open sessions of the court-martial and copies of, or access to, any admitted, unsealed exhibits.

"(2) The convening authority shall not consider under this section any submitted matters that relate to the character of a victim unless such matters were presented as evidence at trial and not excluded at trial.

"(f) DECISION OF CONVENING AUTHORITY.—(1) The decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.

"(2) If, under this section, the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall include a written explanation of the reasons for such action.

"(3) If, under subsection (d)(2), the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall be forwarded to the chief trial judge for appropriate modification of the

1 entry of judgment, which shall be transmitted to the
2 Judge Advocate General for appropriate action.''.

SEC. 6803 [Log 63204]. POST-TRIAL ACTIONS IN SUMMARY COURTS-MARTIAL AND CERTAIN GENERAL AND SPECIAL COURTS-MARTIAL.

Subchapter IX of chapter 47 of title 10, United States Code, is amended by inserting after section 860a (article 60a of the Uniform Code of Military Justice), as amended by section 6802, the following new section (article):

"§ 860b. Art. 60b. Post-trial actions in summary courts-martial and certain general and special courts-martial

''(a) IN GENERAL.—(1) In a court-martial not specified in subsection (a)(2) of section 860a of this title (article 60a), the convening authority may—

''(A) dismiss any charge or specification by setting aside the finding of guilty;

''(B) change a finding of guilty to a charge or specification to a finding of guilty to a lesser included offense;

''(C) disapprove the findings and the sentence and dismiss the charges and specifications;

''(D) disapprove the findings and the sentence and order a rehearing as to the findings and the sentence;

''(E) disapprove, commute, or suspend the sentence, in whole or in part; or

1 ''(F) disapprove the sentence and order a re-
2 hearing as to the sentence.
3 ''(2) In a summary court-martial, the convening au-
4 thority shall approve the sentence or take other action on
5 the sentence under paragraph (1).
6 ''(3) Except as provided in paragraph (4), the con-
7 vening authority may act under this section only before
8 entry of judgment.
9 ''(4) The convening authority may act under this sec-
10 tion after entry of judgment in a general or special court-
11 martial in the same manner as the convening authority
12 may act under subsection (d)(2) of section 860a of this
13 title (article 60a). Such action shall be forwarded to the
14 chief trial judge, who shall ensure appropriate modifica-
15 tion to the entry of judgment and shall transmit the entry
16 of judgment to the Judge Advocate General for appro-
17 priate action.
18 ''(5) Under regulations prescribed by the Secretary
19 concerned, a commissioned officer commanding for the
20 time being, a successor in command, or any person exer-
21 cising general court-martial jurisdiction may act under
22 this section in place of the convening authority.
23 ''(b) LIMITATIONS ON REHEARINGS.—The convening
24 authority may not order a rehearing under this section—

"(1) as to the findings, if there is insufficient evidence in the record to support the findings;

"(2) to reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty; or

"(3) to reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of this chapter.

"(c) SUBMISSIONS BY ACCUSED AND VICTIM.—In accordance with rules prescribed by the President, in determining whether to act under this section, the convening authority shall consider matters submitted in writing by the accused or any victim of the offense. Such rules shall include the matter required by subsection (e) of section 860a of this title (article 60a).

"(d) DECISION OF CONVENING AUTHORITY.—(1) In a general or special court-martial, the decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.

"(2) If the convening authority acts on the findings or the sentence under subsection (a)(1), the decision of

1 the convening authority shall include a written explanation
2 of the reasons for such action.''.

SEC. 6804 [Log 63205]. ENTRY OF JUDGMENT.

Subchapter IX of chapter 47 of title 10, United States Code, is amended by inserting after section 860b (article 60b of the Uniform Code of Military Justice), as added by section 903, the following new section (article):

"§ 860c. Art. 60c. Entry of judgment

"(a) ENTRY OF JUDGMENT OF GENERAL OR SPECIAL COURT-MARTIAL.—(1) In accordance with rules prescribed by the President, in a general or special court-martial, the military judge shall enter into the record of trial the judgment of the court. The judgment of the court shall consist of the following:

"(A) The Statement of Trial Results under section 860 of this title (article 60).

"(B) Any modifications of, or supplements to, the Statement of Trial Results by reason of—

"(i) any post-trial action by the convening authority; or

"(ii) any ruling, order, or other determination of the military judge that affects a plea, a finding, or the sentence.

"(2) Under rules prescribed by the President, the judgment under paragraph (1) shall be—

"(A) provided to the accused and to any victim of the offense; and

"(B) made available to the public.

1 "(b) SUMMARY COURT-MARTIAL JUDGMENT.—The
2 findings and sentence of a summary court-martial, as
3 modified by any post-trial action by the convening author-
4 ity under section 860b of this title (article 60b), con-
5 stitutes the judgment of the court-martial and shall be re-
6 corded and distributed under rules prescribed by the
7 President.".

SEC. 6805 [Log 63206]. WAIVER OF RIGHT TO APPEAL AND WITHDRAWAL OF APPEAL.

Section 861 of title 10, United States Code (article 61 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 861. Art. 61. Waiver of right to appeal; withdrawal of appeal

"(a) WAIVER OF RIGHT TO APPEAL.—After entry of judgment in a general or special court-martial, under procedures prescribed by the Secretary concerned, the accused may waive the right to appellate review in each case subject to such review under section 866 (article 66). Such a waiver shall be—

"(1) signed by the accused and by defense counsel; and

"(2) attached to the record of trial.

"(b) WITHDRAWAL OF APPEAL.—In a general or special court-martial, the accused may withdraw an appeal at any time.

"(c) DEATH PENALTY CASE EXCEPTION.—Notwithstanding subsections (a) and (b), an accused may not waive the right to appeal or withdraw an appeal with respect to a judgment that includes a sentence of death.

"(d) WAIVER OR WITHDRAWAL AS BAR.—A waiver or withdrawal under this section bars review under section 866 of this title (article 66).".

SEC. 6806 [Log 63207]. APPEAL BY THE UNITED STATES.

Section 862 of title 10, United States Code (article 62 of the Uniform Code of Military Justice), is amended—

(1) in paragraph (1) of subsection (a)—

(A) in the matter before subparagraph (A), by striking ''court-martial'' and all that follows through the colon at the end and inserting ''general or special court-martial, the United States may appeal the following:''; and

(B) by adding at the end the following new subparagraph:

''(G) An order or ruling of the military judge entering a finding of not guilty with respect to a charge or specification following the return of a finding of guilty by the members.'';

(2) in paragraph (2) of subsection (a)—

(A) by striking ''(2)'' and inserting ''(2)(A)''; and

(B) by adding at the end the following new subparagraph:

''(B) An appeal of an order or ruling may not be taken when prohibited by section 844 of this title (article 44).''; and

(3) by adding at the end the following:

''(d) The United States may appeal a ruling or order of a military magistrate in the same manner as had the

1 ruling or order been made by a military judge, except that
2 the issue shall first be presented to the military judge who
3 designated the military magistrate or to a military judge
4 detailed to hear the issue.

5 ''(e) The provisions of this article shall be liberally
6 construed to effect its purposes.''.

SEC. 6807 [Log 63208]. REHEARINGS.

Section 863 of title 10, United States Code (article 63 of the Uniform Code of Military Justice), is amended—

(1) by inserting ''(a)'' before ''Each rehearing'';

(2) in the second sentence, by striking ''may be approved'' and inserting ''may be adjudged'';

(3) by striking the third sentence; and

(4) by adding at the end the following new subsections:

''(b) If the sentence adjudged by the first court-martial was in accordance with a plea agreement under section 853a of this title (article 53a) and the accused at the rehearing does not comply with the agreement, or if a plea of guilty was entered for an offense at the first court-martial and a plea of not guilty was entered at the rehearing, the sentence as to those charges or specifications may include any punishment not in excess of that which could have been adjudged at the first court-martial.

''(c) If, after appeal by the Government under section 856(d) of this title (article 56(d)), the sentence adjudged is set aside and a rehearing on sentence is ordered by the Court of Criminal Appeals or Court of Appeals for the Armed Forces, the court-martial may impose any sentence that is in accordance with the order or ruling setting aside the adjudged sentence.''.

SEC. 6808 [Log 63209]. JUDGE ADVOCATE REVIEW OF FINDING OF GUILTY IN SUMMARY COURT-MARTIAL.

(a) IN GENERAL.—Subsection (a) of section 864 of title 10, United States Code (article 64 of the Uniform Code of Military Justice), is amended by striking the first two sentences and inserting the following:

''(a) IN GENERAL.—Under regulations prescribed by the Secretary concerned, each summary court-martial in which there is a finding of guilty shall be reviewed by a judge advocate. A judge advocate may not review a case under this subsection if the judge advocate has acted in the same case as an accuser, preliminary hearing officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The heading for such section (article) is amended to read as follows:

''§ 864. Art. 64. Judge advocate review of finding of guilty in summary court-martial''.

(2) Subsection (b) of such section is amended—

(A) by striking ''(b) The record'' and inserting ''RECORD.—The record'';

(B) by inserting ''or'' at the end of paragraph (1);

(C) by striking paragraph (2); and

1 (D) by redesignating paragraph (3) as para-
2 graph (2).
3 (3) Subsection (c)(3) of such section (article) is
4 amended by striking ''section 869(b) of this title (article
5 69(b)).'' and inserting ''section 869 of this title (article
6 69).''.

SEC. 6809 [Log 63210]. TRANSMITTAL AND REVIEW OF RECORDS.

Section 865 of title 10, United States Code (article 65 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 865. Art. 65. Transmittal and review of records

"(a) TRANSMITTAL OF RECORDS.—(1) If the judgment of a general or special court-martial entered under section 860c of this title (article 60c) includes a finding of guilty, the record shall be transmitted to the Judge Advocate General.

"(2) In all other cases, records of trial by court-martial and related documents shall be transmitted and disposed of as the Secretary concerned may prescribe by regulation.

"(b) REVIEW BY JUDGE ADVOCATE GENERAL.—

"(1) BY WHOM.—A review conducted under this subsection may be conducted by an attorney within the Office of the Judge Advocate General or another attorney designated under regulations prescribed by the Secretary concerned.

"(2) REVIEW OF CASES NOT ELIGIBLE FOR APPELLATE REVIEW BY A COURT OF CRIMINAL APPEALS.—

"(A) A review under subparagraph (B) shall be completed in each general and special

1 court-martial that is not eligible for appellate
2 review under paragraph (1) or (2) of section
3 866(b) of this title (article 66(b)).
4 ''(B) A review referred to in subparagraph
5 (A) shall include a written decision providing
6 each of the following:
7 ''(i) A conclusion as to whether the
8 court had jurisdiction over the accused and
9 the offense.
10 ''(ii) A conclusion as to whether the
11 charge and specification stated an offense.
12 ''(iii) A conclusion as to whether the
13 sentence was within the limits prescribed
14 as a matter of law.
15 ''(iv) A response to each allegation of
16 error made in writing by the accused.
17 ''(3) REVIEW WHEN APPELLATE REVIEW BY A
18 COURT OF CRIMINAL APPEALS IS WAIVED OR WITH-
19 DRAWN.—
20 ''(A) A review under subparagraph (B)
21 shall be completed in each general and special
22 court-martial if the accused waives the right to
23 appellate review or withdraws appeal under sec-
24 tion 861 of this title (article 61).

"(B) A review referred to in subparagraph (A) shall include a written decision limited to providing conclusions on the matters specified in clauses (i), (ii), and (iii) of paragraph (2)(B).

"(c) REMEDY.—(1) If after a review of a record under subsection (b), the attorney conducting the review believes corrective action may be required, the record shall be forwarded to the Judge Advocate General, who may set aside the findings or sentence, in whole or in part.

"(2) In setting aside findings or sentence, the Judge Advocate General may order a rehearing, except that a rehearing may not be ordered in violation of section 844 of this title (article 44).

"(3)(A) If the Judge Advocate General sets aside findings and sentence and does not order a rehearing, the Judge Advocate General shall dismiss the charges.

"(B) If the Judge Advocate General sets aside findings and orders a rehearing and the convening authority determines that a rehearing would be impractical, the convening authority shall dismiss the charges.".

SEC. 6810 [Log 63211]. COURTS OF CRIMINAL APPEALS.

(a) APPELLATE MILITARY JUDGES.—Subsection (a) of section 866 of chapter 47 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), is amended—

(1) in the second sentence, by striking ''subsection (f)'' and inserting ''subsection (g)'';

(2) in the fourth sentence, by inserting after ''highest court of a State'' the following: ''and must be certified by the Judge Advocate General as qualified, by reason of education, training, experience, and judicial temperament, for duty as an appellate military judge''; and

(3) by adding at the end the following new sentence: ''In accordance with regulations prescribed by the President, assignments of appellate military judges under this section (article) shall be for appropriate minimum periods, subject to such exceptions as may be authorized in the regulations.''.

(b) REVISION OF APPELLATE PROCEDURES.—Such section (article) is further amended—

(1) by redesignating subsections (e), (f), (g), and (h) as subsections (f), (g), (h), and (i), respectively; and

(2) by striking subsections (b), (c), and (d) and inserting the following new subsections:

1 "(b) REVIEW.—(1) The Judge Advocate General
2 shall refer to a Court of Criminal Appeals the record in
3 any of the following cases of trial by court-martial:
4 "(A) A case in which the judgment entered into
5 the record under section 860c of this title (article
6 60c) includes a sentence of death, dismissal of a
7 commissioned officer, cadet, or midshipman, dishon-
8 orable or bad-conduct discharge, or confinement for
9 more than six months.
10 "(B) A case in which the Government pre-
11 viously filed an appeal under sections 856(d) or 862
12 of this title (articles 56(d) or 62).
13 "(C) A case in which the right to appellate re-
14 view has not been waived or an appeal has not been
15 withdrawn under section 861 of this title (article
16 61), except in the case of a sentence extending to
17 death.
18 "(2) A Court of Criminal Appeals shall have jurisdic-
19 tion to review the judgment of a court-martial, entered
20 into the record under section 860c of this title (article
21 60c), in a case in which the accused filed an application
22 for review with the Court under section 869(d)(1)(B) of
23 this title (article 69(d)(1)(B)) and the application has
24 been granted by the Court.

1 "(c) DUTIES.—(1) In a case referred to it, the Court
2 of Criminal Appeals may act only with respect to the find-
3 ings and sentence as entered into the record under section
4 860c of this title (article 60c). It may affirm only such
5 findings of guilty, and the sentence or such part or
6 amount of the sentence, as it finds correct in law and fact
7 and determines, on the basis of the entire record, should
8 be approved. In considering the record, it may weigh the
9 evidence, judge the credibility of witnesses, and determine
10 controverted questions of fact, recognizing that the trial
11 court saw and heard the witnesses.

12 "(2) In any case before the Court of Criminal Ap-
13 peals under paragraph (1) or (2) of subsection (b), the
14 Court may provide appropriate relief if the accused dem-
15 onstrates error or excessive delay in the processing of the
16 court-martial after the judgment was entered into the
17 record under section 860c of this title (article 60c).

18 "(3) In review of a sentence to death or to life in
19 prison without eligibility for parole determined by the
20 members in a capital case under section 853(c) of this title
21 (article 53(c)), the Court of Criminal Appeals must con-
22 sider whether the sentence is otherwise appropriate, under
23 rules prescribed by the President.

24 "(4) If the Court of Criminal Appeals sets aside the
25 findings and sentence, it may, except where the setting

aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If it sets aside the findings and sentence and does not order a rehearing, it shall order that the charges be dismissed.

"(d) CONSIDERATION OF APPEAL OF SENTENCE BY THE UNITED STATES.—(1) In considering a sentence on appeal, other than as provided in section 856(d) of this title (article 56(d)), the Court of Criminal Appeals may consider—

"(A) whether the sentence violates the law; and

"(B) whether the sentence is plainly unreasonable.

"(2) In an appeal under section 856(d) of this title (article 56(d)), the record on appeal shall consist of—

"(A) any portion of the record in the case that is designated as pertinent by either of the parties;

"(B) the information submitted during the sentencing proceeding; and

"(C) any information required by rule or order of the Court of Criminal Appeals.

"(e) LIMITS OF AUTHORITY.—(1)(A) If the Court of Criminal Appeals sets aside the findings, the Court—

"(i) may affirm any lesser included offense; and

"(ii) may, except when prohibited by section 844 of this title (article 44), order a rehearing.

"(B) If the Court of Criminal Appeals orders a rehearing on a charge and the convening authority finds a rehearing impracticable, the convening authority may dismiss the charge.

"(C) If the Court of Criminal Appeals sets aside the findings and does not order a rehearing, the Court shall order that the charges be dismissed.

"(2) If the Court of Criminal Appeals sets aside the sentence, the Court may—

"(A) modify the sentence to a lesser sentence; or

"(B) order a rehearing.

"(3) If the Court determines that additional proceedings are warranted, the Court may order a hearing as may be necessary to address a substantial issue, subject to such limitations as the Court may direct and under such regulations as the President may prescribe.".

(c) ACTION WHEN REHEARING IMPRACTICABLE AFTER REHEARING ORDER.—Subsection (f) of such section (article), as redesignated by subsection (b)(1), is amended—

(1) in the first sentence, by striking ''convening authority'' and inserting ''appropriate authority''; and

(2) by striking the last sentence.

(d) ELIGIBILITY TO REVIEW THE RECORD.—Subsection (i) of such section (article), as redesignated by subsection (b)(1), is amended by striking ''an investigating officer'' and inserting ''an investigating or a preliminary hearing officer''.

(e) SECTION HEADING.—The heading for such section (article) is amended to read as follows:

''§ 866. Art. 66. Courts of Criminal Appeals''.

SEC. 6811 [Log 63212]. REVIEW BY COURT OF APPEALS FOR THE ARMED FORCES.

(a) JAG NOTIFICATION.—Subsection (a)(2) of section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by inserting after ''the Judge Advocate General'' the following: '', after appropriate notification to the other Judge Advocates General,''.

(b) BASIS FOR REVIEW.—Subsection (c) of such section (article) is amended—

(1) by inserting ''(1)'' after ''(c)'';

(2) by designating the second sentence as paragraph (2);

(3) by designating the third sentence as paragraph (3);

(4) by designating the fourth sentence as paragraph (4); and

(5) in paragraph (1), as designated by paragraph (1) of this subsection, by striking ''only with respect to'' and all that follows through the end of the sentence and inserting the following:

''(1) ''only with respect to—

''(A) the findings and sentence set forth in the entry of judgment, as affirmed or set aside as incorrect in law by the Court of Criminal Appeals; or

1 ''(B) a decision, judgment, or order by a
2 military judge, as affirmed or set aside as in-
3 correct in law by the Court of Criminal Ap-
4 peals.''.

1 **SEC. 6812 [Log 63213]. SUPREME COURT REVIEW.**

2 The second sentence of subsection (a) of section 867a
3 of title 10, United States Code (article 67a of the Uniform
4 Code of Military Justice), is amended by inserting before
5 ''Court of Appeals'' the following: ''United States''.

SEC. 6813 [Log 63214]. REVIEW BY JUDGE ADVOCATE GENERAL.

Section 869 of title 10, United States Code (article 69 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 869. Art. 69. Review by Judge Advocate General

''(a) IN GENERAL.—Upon application by the accused and subject to subsections (b), (c), and (d), the Judge Advocate General may modify or set aside, in whole or in part, the findings and sentence in a court-martial that is not reviewed under section 866 of this title (article 66).

''(b) TIMING.—To qualify for consideration, an application under subsection (a) must be submitted to the Judge Advocate General not later than one year after the date of completion of review under section 864 or 865 of this title (article 64 or 65), as the case may be. The Judge Advocate General may, for good cause shown, extend the period for submission of an application, but may not consider an application submitted more than three years after such completion date.

''(c) SCOPE.—(1)(A) In a case reviewed under section 864 or section 865(b) of this title (article 64 or 65(b)), the Judge Advocate General may set aside the findings or sentence, in whole or in part on the grounds of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, error prejudicial to the

1 substantial rights of the accused, or the appropriateness
2 of the sentence.

3 ''(B) In setting aside findings or sentence, the Judge
4 Advocate General may order a rehearing, except that a
5 rehearing may not be ordered in violation of section 844
6 of this title (Article 44).

7 ''(C) If the Judge Advocate General sets aside find-
8 ings and sentence and does not order a rehearing, the
9 Judge Advocate General shall dismiss the charges.

10 ''(D) If the Judge Advocate General sets aside find-
11 ings and orders a rehearing and the convening authority
12 determines that a rehearing would be impractical, the con-
13 vening authority shall dismiss the charges.

14 ''(2) In a case reviewed under section 865(b) of this
15 title (article 65(b)), review under this section is limited
16 to the issue of whether the waiver or withdrawal of an
17 appeal was invalid under the law. If the Judge Advocate
18 General determines that the waiver or withdrawal of an
19 appeal was invalid, the Judge Advocate General shall
20 order appropriate corrective action under rules prescribed
21 by the President.

22 ''(d) COURT OF CRIMINAL APPEALS.—(1) A Court
23 of Criminal Appeals may review the action taken by the
24 Judge Advocate General under subsection (c)—

"(A) in a case sent to the Court of Criminal Appeals by order of the Judge Advocate General; or

"(B) in a case submitted to the Court of Criminal Appeals by the accused in an application for review.

"(2) The Court of Criminal Appeals may grant an application under paragraph (1)(B) only if—

"(A) the application demonstrates a substantial basis for concluding that the action on review under subsection (c) constituted prejudicial error; and

"(B) the application is filed not later than the earlier of—

"(i) 60 days after the date on which the accused is notified of the decision of the Judge Advocate General; or

"(ii) 60 days after the date on which a copy of the decision of the Judge Advocate General is deposited in the United States mails for delivery by first-class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest address listed for the accused in his official service record.

"(3) The submission of an application for review under this subsection does not constitute a proceeding be-

1 fore the Court of Criminal Appeals for purposes of section
2 870(c)(1) of this title (article 70(c)(1)).
3 "(e) Notwithstanding section 866 of this title (article
4 66), in any case reviewed by a Court of Criminal Appeals
5 under subsection (d), the Court may take action only with
6 respect to matters of law.".

SEC. 6814 [Log 63215]. APPELLATE DEFENSE COUNSEL IN DEATH PENALTY CASES.

Section 870 of title 10, United States Code (article 70 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

''(f) To the greatest extent practicable, in any capital case, at least one defense counsel under subsection (c) shall, as determined by the Judge Advocate General, be learned in the law applicable to such cases. If necessary, this counsel may be a civilian and, if so, may be compensated in accordance with regulations prescribed by the Secretary of Defense.''.

SEC. 6815 [Log 63216]. AUTHORITY FOR HEARING ON VACATION OF SUSPENSION OF SENTENCE TO BE CONDUCTED BY QUALIFIED JUDGE ADVOCATE.

(a) IN GENERAL.—Subsection (a) of section 872 of title 10, United States Code (article 72) of the Uniform Code of Military Justice), is amended by inserting after the first sentence the following new sentence: ''The special court-martial convening authority may detail a judge advocate, who is certified under section 827(b) of this title (article 27(b)), to conduct the hearing.''.

(b) TECHNICAL AMENDMENTS.—Such section (article) is further amended—

(1) in the last sentence of subsection (a), by striking ''if he so desires'' and inserting ''if the probationer so desires''; and

(2) in the second sentence of subsection (b)—

(A) by striking ''If he'' and inserting ''If the officer exercising general court-martial jurisdiction''; and

(B) by striking ''section 871(c) of this title (article 71(c)).'' and inserting ''section 857 of this title (article 57)).''.

SEC. 6816 [Log 63217]. EXTENSION OF TIME FOR PETITION FOR NEW TRIAL.

The first sentence of section 873 of title 10, United States Code (article 73 of the Uniform Code of Military Justice), is amended by striking ''two years after approval by the convening authority of a court-martial sentence,'' and inserting ''three years after the date of the entry of judgment under section 860c of this title (article 60c),''.

SEC. 6817 [Log 63218]. RESTORATION.

Section 875 of title 10, United States Code (article 75 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

''(d) The President shall prescribe regulations, with such limitations as the President considers appropriate, governing eligibility for pay and allowances for the period after the date on which an executed part of a court-martial sentence is set aside.''.

SEC. 6818 [Log 63219]. LEAVE REQUIREMENTS PENDING REVIEW OF CERTAIN COURT-MARTIAL CONVICTIONS.

Section 876a of title 10, United States Code (article 76a of the Uniform Code of Military Justice), is amended—

(1) in the first sentence, by striking ", as approved under section 860 of this title (article 60),"; and

(2) in the second sentence, by striking "on which the sentence is approved under section 860 of this title (article 60)" and inserting "of the entry of judgment under section 860c of this title (article 60c)".

TITLE LXIX—PUNITIVE ARTICLES

SEC. 6901 [Log 63220]. REORGANIZATION OF PUNITIVE ARTICLES.

Sections of subchapter X of chapter 47 of title 10, United States Code (articles of the Uniform Code of Military Justice), are transferred within subchapter X and redesignated as follows:

(1) ENLISTMENT AND SEPARATION.—Sections 883 and 884 (articles 83 and 84) are transferred so as to appear (in that order) after section 904 (article 104) and are redesignated as sections 904a and 904b (articles 104a and 104b), respectively.

(2) RESISTANCE, FLIGHT, BREACH OF ARREST, AND ESCAPE.—Section 895 (article 95) is transferred so as to appear after section 887 (article 87) and is redesignated as section 887a (article 87a).

(3) NONCOMPLIANCE WITH PROCEDURAL RULES.—Section 898 (article 98) is transferred so as to appear after section 931 (article 131) and is redesignated as section 931f (article 131f).

(4) CAPTURED OR ABANDONED PROPERTY.—Section 903 (article 103) is transferred so as to appear after section 908 (article 108) and is redesignated as section 908a (article 108a).

(5) AIDING THE ENEMY.—Section 904 (article 104) is redesignated as section 903b (article 103b).

(6) MISCONDUCT AS PRISONER.—Section 905 (article 105) is transferred so as to appear after section 897 (article 97) and is redesignated as section 898 (article 98).

(7) SPIES; ESPIONAGE.—Sections 906 and 906a (articles 106 and 106a) are transferred so as to appear (in that order) after section 902 (article 102) and are redesignated as sections 903 and 903a (articles 103 and 103a), respectively.

(8) MISBEHAVIOR OF SENTINEL.—Section 913 (article 113) is transferred so as to appear after section 894 (article 94) and is redesignated as section 895 (article 95).

(9) DRUNKEN OR RECKLESS OPERATION OF A VEHICLE, AIRCRAFT, OR VESSEL.—Section 911 (article 111) is transferred so as to appear after section 912a (article 912a) and is redesignated as section 913 (article 113).

(10) HOUSEBREAKING.—Section 930 (article 130) is redesignated as section 929a (article 129a).

(11) STALKING.—Section 920a (article 120a) is transferred so as to appear after section 929a (arti-

cle 129a), as redesignated by paragraph (10), and is redesignated as section 930 (article 130).

(12) FORGERY.—Section 923 (article 123) is transferred so as to appear after section 904b (article 104b), as transferred and redesignated by paragraph (1), and is redesignated as section 905 (article 105).

(13) MAIMING.—Section 924 (article 124) is transferred so as to appear after section 928 (article 128) and is redesignated as section 928a (article 128a).

(14) FRAUDS AGAINST THE UNITED STATES.—Section 932 of (article 132) is transferred so as to appear after section 923a (article 123a) and is redesignated as section 924 (article 124).

SEC. 6902 [Log 63221]. CONVICTION OF OFFENSE CHARGED, LESSER INCLUDED OFFENSES, AND ATTEMPTS.

Section 879 of title 10, United States Code (article 79 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 879. Art. 79. Conviction of offense charged, lesser included offenses, and attempts

''(a) IN GENERAL.—An accused may be found guilty of any of the following:

''(1) The offense charged.

''(2) A lesser included offense.

''(3) An attempt to commit the offense charged.

''(4) An attempt to commit a lesser included offense, if the attempt is an offense in its own right.

''(b) DEFINITION.—In this section (article), the term 'lesser included offense' means—

''(1) an offense that is necessarily included in the offense charged; and

''(2) any lesser included offense so designated by regulation prescribed by the President.

''(c) REGULATORY AUTHORITY.—Any designation of a lesser included offense in a regulation referred to in subsection (b) shall be reasonably included in the greater offense.''.

SEC. 6903 [Log 63222]. SOLICITING COMMISSION OF OFFENSES.

Section 882 of title 10, United States Code (article 82 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 882. Art. 82. Soliciting commission of offenses

''(a) SOLICITING COMMISSION OF OFFENSES GENERALLY.—Any person subject to this chapter who solicits or advises another to commit an offense under this chapter (other than an offense specified in subsection (b)) shall be punished as a court-martial may direct.

''(b) SOLICITING DESERTION, MUTINY, SEDITION, OR MISBEHAVIOR BEFORE THE ENEMY.—Any person subject to this chapter who solicits or advises another to violate section 885 of this title (article 85), section 894 of this title (article 94), or section 899 of this title (article 99)—

''(1) if the offense solicited or advised is attempted or is committed, shall be punished with the punishment provided for the commission of the offense; and

''(2) if the offense solicited or advised is not attempted or committed, shall be punished as a court-martial may direct.''.

SEC. 6904 [Log 63223]. MALINGERING.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 882 (article 82 of the Uniform Code of Military Justice), as amended by section 6903, the following new section (article):

"§ 883. Art. 83. Malingering

''Any person subject to this chapter who, with the intent to avoid work, duty, or service—

''(1) feigns illness, physical disablement, mental lapse, or mental derangement; or

''(2) intentionally inflicts self-injury;

shall be punished as a court-martial may direct.''.

SEC. 6905 [Log 63224]. BREACH OF MEDICAL QUARANTINE.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 883 (article 83 of the Uniform Code of Military Justice), as added by section 6904, the following new section (article):

"§ 884. Art. 84. Breach of medical quarantine

''Any person subject to this chapter—

''(1) who is ordered into medical quarantine by a person authorized to issue such order; and

''(2) who, with knowledge of the quarantine and the limits of the quarantine, goes beyond those limits before being released from the quarantine by proper authority;

shall be punished as a court-martial may direct.''.

SEC. 6906 [Log 63225]. MISSING MOVEMENT; JUMPING FROM VESSEL.

Section 887 of title 10, United States Code (article 87 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 887. Art. 87. Missing movement; jumping from vessel

''(a) MISSING MOVEMENT.—Any person subject to this chapter who, through neglect or design, misses the movement of a ship, aircraft, or unit with which the person is required in the course of duty to move shall be punished as a court-martial may direct.

''(b) JUMPING FROM VESSEL INTO THE WATER.—Any person subject to this chapter who wrongfully and intentionally jumps into the water from a vessel in use by the armed forces shall be punished as a court-martial may direct.''.

SEC. 6907 [Log 63226]. OFFENSES AGAINST CORRECTIONAL CUSTODY AND RESTRICTION.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 887a (article 87a of the Uniform Code of Military Justice), as transferred and redesignated by section 6901(2), the following new section (article):

"§ 887b. Art. 87b. Offenses against correctional custody and restriction

"(a) ESCAPE FROM CORRECTIONAL CUSTODY.—Any person subject to this chapter—

"(1) who is placed in correctional custody by a person authorized to do so;

"(2) who, while in correctional custody, is under physical restraint; and

"(3) who escapes from the physical restraint before being released from the physical restraint by proper authority;

shall be punished as a court-martial may direct.

"(b) BREACH OF CORRECTIONAL CUSTODY.—Any person subject to this chapter—

"(1) who is placed in correctional custody by a person authorized to do so;

"(2) who, while in correctional custody, is under restraint other than physical restraint; and

"(3) who goes beyond the limits of the restraint before being released from the correctional custody or relieved of the restraint by proper authority;

shall be punished as a court-martial may direct.

"(c) BREACH OF RESTRICTION.—Any person subject to this chapter—

"(1) who is ordered to be restricted to certain limits by a person authorized to do so; and

"(2) who, with knowledge of the limits of the restriction, goes beyond those limits before being released by proper authority;

shall be punished as a court-martial may direct.".

SEC. 6908 [Log 63227]. DISRESPECT TOWARD SUPERIOR COMMISSIONED OFFICER; ASSAULT OF SUPERIOR COMMISSIONED OFFICER.

Section 889 of title 10, United States Code (article 89 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 889. Art. 89. Disrespect toward superior commissioned officer; assault of superior commissioned officer

''(a) DISRESPECT.—Any person subject to this chapter who behaves with disrespect toward that person's superior commissioned officer shall be punished as a court-martial may direct.

''(b) ASSAULT.—Any person subject to this chapter who strikes that person's superior commissioned officer or draws or lifts up any weapon or offers any violence against that officer while the officer is in the execution of the officer's office shall be punished—

''(1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and

''(2) if the offense is committed at any other time, by such punishment, other than death, as a court-martial may direct.''.

SEC. 6909 [Log 63228]. WILLFULLY DISOBEYING SUPERIOR COMMISSIONED OFFICER.

Section 890 of title 10, United States Code (article 90 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 890. Art. 90. Willfully disobeying superior commissioned officer

''Any person subject to this chapter who willfully disobeys a lawful command of that person's superior commissioned officer shall be punished—

''(1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and

''(2) if the offense is committed at any other time, by such punishment, other than death, as a court-martial may direct.''.

SEC. 6910 [Log 63229]. PROHIBITED ACTIVITIES WITH MILITARY RECRUIT OR TRAINEE BY PERSON IN POSITION OF SPECIAL TRUST.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 893 (article 93 of the Uniform Code of Military Justice), the following new section (article):

"§ 893a. Art. 93a. Prohibited activities with military recruit or trainee by person in position of special trust

''(a) ABUSE OF TRAINING LEADERSHIP POSITION.—Any person subject to this chapter—

''(1) who is an officer, a noncommissioned officer, or a petty officer;

''(2) who is in a training leadership position with respect to a specially protected junior member of the armed forces; and

''(3) who engages in prohibited sexual activity with such specially protected junior member of the armed forces;

shall be punished as a court-martial may direct.

''(b) ABUSE OF POSITION AS MILITARY RECRUITER.—Any person subject to this chapter—

''(1) who is a military recruiter and engages in prohibited sexual activity with an applicant for military service; or

"(2) who is a military recruiter and engages in prohibited sexual activity with a specially protected junior member of the armed forces who is enlisted under a delayed entry program;

shall be punished as a court-martial may direct.

"(c) CONSENT.—Consent is not a defense for any conduct at issue in a prosecution under this section (article).

"(d) DEFINITIONS.—In this section (article):

"(1) SPECIALLY PROTECTED JUNIOR MEMBER OF THE ARMED FORCES.—The term 'specially protected junior member of the armed forces' means—

"(A) a member of the armed forces who is assigned to, or is awaiting assignment to, basic training or other initial active duty for training, including a member who is enlisted under a delayed entry program;

"(B) a member of the armed forces who is a cadet, a midshipman, an officer candidate, or a student in any other officer qualification program; and

"(C) a member of the armed forces in any program that, by regulation prescribed by the Secretary concerned, is identified as a training program for initial career qualification.

"(2) TRAINING LEADERSHIP POSITION.—The term 'training leadership position' means, with respect to a specially protected junior member of the armed forces, any of the following:

"(A) Any drill instructor position or other leadership position in a basic training program, an officer candidate school, a reserve officers' training corps unit, a training program for entry into the armed forces, or any program that, by regulation prescribed by the Secretary concerned, is identified as a training program for initial career qualification.

"(B) Faculty and staff of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy.

"(3) APPLICANT FOR MILITARY SERVICE.—The term 'applicant for military service' means a person who, under regulations prescribed by the Secretary concerned, is an applicant for original enlistment or appointment in the armed forces.

"(4) MILITARY RECRUITER.—The term 'military recruiter' means a person who, under regula-

1 tions prescribed by the Secretary concerned, has the
2 primary duty to recruit persons for military service.
3 ''(5) PROHIBITED SEXUAL ACTIVITY.—The
4 term 'prohibited sexual activity' means, as specified
5 in regulations prescribed by the Secretary concerned,
6 inappropriate physical intimacy under circumstances
7 described in such regulations.''.

SEC. 6911 [Log 63230]. OFFENSES BY SENTINEL OR LOOKOUT.

Section 895 of title 10, United States Code (article 95 of the Uniform Code of Military Justice), as transferred and redesignated by section 6901(8), is amended to read as follows:

"§ 895. Art. 95. Offenses by sentinel or lookout

''(a) DRUNK OR SLEEPING ON POST, OR LEAVING POST BEFORE BEING RELIEVED.—Any sentinel or lookout who is drunk on post, who sleeps on post, or who leaves post before being regularly relieved, shall be punished—

''(1) if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; and

''(2) if the offense is committed other than in time of war, by such punishment, other than death, as a court-martial may direct.

''(b) LOITERING OR WRONGFULLY SITTING ON POST.—Any sentinel or lookout who loiters or wrongfully sits down on post shall be punished as a court-martial may direct.''.

SEC. 6912 [Log 63231]. DISRESPECT TOWARD SENTINEL OR LOOKOUT.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 895 (article 95 of the Uniform Code of Military Justice), as amended by section 6911, the following new section (article):

"§ 895a. Art. 95a. Disrespect toward sentinel or lookout

''(a) DISRESPECTFUL LANGUAGE TOWARD SENTINEL OR LOOKOUT.—Any person subject to this chapter who, knowing that another person is a sentinel or lookout, uses wrongful and disrespectful language that is directed toward and within the hearing of the sentinel or lookout, who is in the execution of duties as a sentinel or lookout, shall be punished as a court-martial may direct.

''(b) DISRESPECTFUL BEHAVIOR TOWARD SENTINEL OR LOOKOUT.—Any person subject to this chapter who, knowing that another person is a sentinel or lookout, behaves in a wrongful and disrespectful manner that is directed toward and within the sight of the sentinel or lookout, who is in the execution of duties as a sentinel or lookout, shall be punished as a court-martial may direct.''.

SEC. 6913 [Log 63232]. RELEASE OF PRISONER WITHOUT AUTHORITY; DRINKING WITH PRISONER.

Section 896 of title 10, United States Code (article 96 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 896. Art. 96. Release of prisoner without authority; drinking with prisoner

''(a) RELEASE OF PRISONER WITHOUT AUTHORITY.—Any person subject to this chapter—

''(1) who, without authority to do so, releases a prisoner; or

''(2) who, through neglect or design, allows a prisoner to escape;

shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with the law.

''(b) DRINKING WITH PRISONER.—Any person subject to this chapter who unlawfully drinks any alcoholic beverage with a prisoner shall be punished as a court-martial may direct.''.

SEC. 6914 [Log 63233]. PENALTY FOR ACTING AS A SPY.

Section 903 of title 10, United States Code (article 103 of the Uniform Code of Military Justice), as transferred and redesignated by section 6901(7), is amended by inserting before the period at the end of the first sentence the following: ''or such other punishment as a court-martial or a military commission may direct''.

SEC. 6915 [Log 63234]. PUBLIC RECORDS OFFENSES.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 903b (article 103b of the Uniform Code of Military Justice), as redesignated by section 6901(5), the following new section (article):

"§ 904. Art. 104. Public records offenses

''Any person subject to this chapter who, willfully and unlawfully—

''(1) alters, conceals, removes, mutilates, obliterates, or destroys a public record; or

''(2) takes a public record with the intent to alter, conceal, remove, mutilate, obliterate, or destroy the public record;

shall be punished as a court-martial may direct.''.

SEC. 6916 [Log 63235]. FALSE OR UNAUTHORIZED PASS OFFENSES.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 905 (article 105 of the Uniform Code of Military Justice), as transferred and redesignated by section 6901(12), the following new section (article):

"§ 905a. Art. 105a. False or unauthorized pass offenses

''(a) WRONGFUL MAKING, ALTERING, ETC.—Any person subject to this chapter who, wrongfully and falsely, makes, alters, counterfeits, or tampers with a military or official pass, permit, discharge certificate, or identification card shall be punished as a court-martial may direct.

''(b) WRONGFUL SALE, ETC.—Any person subject to this chapter who wrongfully sells, gives, lends, or disposes of a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification card is false or unauthorized, shall be punished as a court-martial may direct.

''(c) WRONGFUL USE OR POSSESSION.—Any person subject to this chapter who wrongfully uses or possesses a false or unauthorized military or official pass, permit, discharge certificate, or identification card, knowing that the pass, permit, discharge certificate, or identification

1 card is false or unauthorized, shall be punished as a court-
2 martial may direct.''.

SEC. 6917 [Log 63236]. IMPERSONATION OFFENSES.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 905a (article 105a of the Uniform Code of Military Justice), as added by section 6916, the following new section (article):

"§ 906. Art. 106. Impersonation of officer, noncommissioned or petty officer, or agent or official

''(a) IN GENERAL.—Any person subject to this chapter who, wrongfully and willfully, impersonates—

''(1) an officer, a noncommissioned officer, or a petty officer;

''(2) an agent of superior authority of one of the armed forces; or

''(3) an official of a government;

shall be punished as a court-martial may direct.

''(b) IMPERSONATION WITH INTENT TO DEFRAUD.—Any person subject to this chapter who, wrongfully, willfully, and with intent to defraud, impersonates any person referred to in paragraph (1), (2), or (3) of subsection (a) shall be punished as a court-martial may direct.

''(c) IMPERSONATION OF GOVERNMENT OFFICIAL WITHOUT INTENT TO DEFRAUD.—Any person subject to this chapter who, wrongfully, willfully, and without intent to defraud, impersonates an official of a government by committing an act that exercises or asserts the authority

1 of the office that the person claims to have shall be pun-
2 ished as a court-martial may direct.''.

SEC. 6918 [Log 63237]. INSIGNIA OFFENSES.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 906 (article 106 of the Uniform Code of Military Justice), as added by section 6917, the following new section (article):

"§ 906a. Art. 106a. Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button

''Any person subject to this chapter—

''(1) who is not authorized to wear an insignia, decoration, badge, ribbon, device, or lapel button; and

''(2) who wrongfully wears such insignia, decoration, badge, ribbon, device, or lapel button upon the person's uniform or civilian clothing;

shall be punished as a court-martial may direct.''.

SEC. 6919 [Log 63238]. FALSE OFFICIAL STATEMENTS; FALSE SWEARING.

Section 907 of title 10, United States Code (article 107 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 907. Art. 107. False official statements; false swearing

''(a) FALSE OFFICIAL STATEMENTS.—Any person subject to this chapter who, with intent to deceive—

''(1) signs any false record, return, regulation, order, or other official document, knowing it to be false; or

''(2) makes any other false official statement knowing it to be false;

shall be punished as a court-martial may direct.

''(b) FALSE SWEARING.—Any person subject to this chapter—

''(1) who takes an oath that—

''(A) is administered in a matter in which such oath is required or authorized by law; and

''(B) is administered by a person with authority to do so; and

''(2) who, upon such oath, makes or subscribes to a statement;

1 if the statement is false and at the time of taking the oath,
2 the person does not believe the statement to be true, shall
3 be punished as a court-martial may direct.''.

SEC. 6920 [Log 63239]. PAROLE VIOLATION.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 907 (article 107 of the Uniform Code of Military Justice), as amended by section 6919, the following new section (article):

"§ 907a. Art. 107a. Parole violation

''Any person subject to this chapter—

''(1) who, having been a prisoner as the result of a court-martial conviction or other criminal proceeding, is on parole with conditions; and

''(2) who violates the conditions of parole;

shall be punished as a court-martial may direct.''.

SEC. 6921 [Log 63240]. WRONGFUL TAKING, OPENING, ETC. OF MAIL MATTER.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 909 (article 109 of the Uniform Code of Military Justice), the following new section (article):

"§ 909a. Art. 109a. Mail matter: wrongful taking, opening, etc.

''(a) TAKING.—Any person subject to this chapter who, with the intent to obstruct the correspondence of, or to pry into the business or secrets of, any person or organization, wrongfully takes mail matter before the mail matter is delivered to or received by the addressee shall be punished as a court-martial may direct.

''(b) OPENING, SECRETING, DESTROYING, STEALING.—Any person subject to this chapter who wrongfully opens, secretes, destroys, or steals mail matter before the mail matter is delivered to or received by the addressee shall be punished as a court-martial may direct.''.

SEC. 6922 [Log 63241]. IMPROPER HAZARDING OF VESSEL OR AIRCRAFT.

Section 910 of title 10, United States Code (article 110 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 910. Art. 110. Improper hazarding of vessel or aircraft

''(a) WILLFUL AND WRONGFUL HAZARDING.—Any person subject to this chapter who, willfully and wrongfully, hazards or suffers to be hazarded any vessel or aircraft of the armed forces shall be punished by death or such other punishment as a court-martial may direct.

''(b) NEGLIGENT HAZARDING.—Any person subject to this chapter who negligently hazards or suffers to be hazarded any vessel or aircraft of the armed forces shall be punished as a court-martial may direct.''.

SEC. 6923 [Log 63242]. LEAVING SCENE OF VEHICLE ACCIDENT.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 910 (article 110 of the Uniform Code of Military Justice), as amended by section 6922, the following new section (article):

"§ 911. Art. 111. Leaving scene of vehicle accident

''(a) DRIVER.—Any person subject to this chapter—

''(1) who is the driver of a vehicle that is involved in an accident that results in personal injury or property damage; and

''(2) who wrongfully leaves the scene of the accident—

''(A) without providing assistance to an injured person; or

''(B) without providing personal identification to others involved in the accident or to appropriate authorities;

shall be punished as a court-martial may direct.

''(b) SENIOR PASSENGER.—Any person subject to this chapter—

''(1) who is a passenger in a vehicle that is involved in an accident that results in personal injury or property damage;

"(2) who is the superior commissioned or non-commissioned officer of the driver of the vehicle or is the commander of the vehicle; and

"(3) who wrongfully and unlawfully orders, causes, or permits the driver to leave the scene of the accident—

"(A) without providing assistance to an injured person; or

"(B) without providing personal identification to others involved in the accident or to appropriate authorities;

shall be punished as a court-martial may direct.".

SEC. 6924 [Log 63243]. DRUNKENNESS AND OTHER INCAPACITATION OFFENSES.

Section 912 of title 10, United States Code (article 112 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 912. Art. 112. Drunkenness and other incapacitation offenses

''(a) DRUNK ON DUTY.—Any person subject to this chapter who is drunk on duty shall be punished as a court-martial may direct.

''(b) INCAPACITATION FOR DUTY FROM DRUNKENNESS OR DRUG USE.—Any person subject to this chapter who, as a result of indulgence in any alcoholic beverage or any drug, is incapacitated for the proper performance of duty shall be punished as a court-martial may direct.

''(c) DRUNK PRISONER.—Any person subject to this chapter who is a prisoner and, while in such status, is drunk shall be punished as a court-martial may direct.''.

SEC. 6925 [Log 63244]. LOWER BLOOD ALCOHOL CONTENT LIMITS FOR CONVICTION OF DRUNKEN OR RECKLESS OPERATION OF VEHICLE, AIRCRAFT, OR VESSEL.

Subsection (b)(3) of section 913 of title 10, United States Code (article 113 of the Uniform Code of Military Justice), as transferred and redesignated by section 6901(9), is amended—

(1) by striking ''0.10 grams'' both places it appears and inserting ''0.08 grams''; and

(2) by adding at the end the following new sentence: ''The Secretary may by regulation prescribe limits that are lower than the limits specified in the preceding sentence, if such lower limits are based on scientific developments, as reflected in Federal law of general applicability.''.

SEC. 6926 [Log 63245]. ENDANGERMENT OFFENSES.

Section 914 of title 10, United States Code (article 114 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 914. Art. 114. Endangerment offenses

"(a) RECKLESS ENDANGERMENT.—Any person subject to this chapter who engages in conduct that—

"(1) is wrongful and reckless or is wanton; and

"(2) is likely to produce death or grievous bodily harm to another person;

shall be punished as a court-martial may direct.

"(b) DUELING.—Any person subject to this chapter—

"(1) who fights or promotes, or is concerned in or connives at fighting a duel; or

"(2) who, having knowledge of a challenge sent or about to be sent, fails to report the facts promptly to the proper authority;

shall be punished as a court-martial may direct.

"(c) FIREARM DISCHARGE, ENDANGERING HUMAN LIFE.—Any person subject to this chapter who, willfully and wrongly, discharges a firearm, under circumstances such as to endanger human life shall be punished as a court-martial may direct.

"(d) CARRYING CONCEALED WEAPON.—Any person subject to this chapter who unlawfully carries a dangerous

1 weapon concealed on or about his person shall be punished
2 as a court-martial may direct.''.

SEC. 6927 [Log 63246]. COMMUNICATING THREATS.

Section 915 of title 10, United States Code (article 115 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 915. Art.115. Communicating threats

''(a) COMMUNICATING THREATS GENERALLY.—Any person subject to this chapter who wrongfully communicates a threat to injure the person, property, or reputation of another shall be punished as a court-martial may direct.

''(b) COMMUNICATING THREAT TO USE EXPLOSIVE, ETC.—Any person subject to this chapter who wrongfully communicates a threat to injure the person or property of another by use of (1) an explosive, (2) a weapon of mass destruction, (3) a biological or chemical agent, substance, or weapon, or (4) a hazardous material, shall be punished as a court-martial may direct.

''(c) COMMUNICATING FALSE THREAT CONCERNING USE OF EXPLOSIVE, ETC.—Any person subject to this chapter who maliciously communicates a false threat concerning injury to the person or property of another by use of (1) an explosive, (2) a weapon of mass destruction, (3) a biological or chemical agent, substance, or weapon, or (4) a hazardous material, shall be punished as a court-martial may direct. As used in the preceding sentence, the term 'false threat' means a threat that, at the time the

1 threat is communicated, is known to be false by the person
2 communicating the threat.''.

SEC. 6928 [Log 63247]. TECHNICAL AMENDMENT RELATING TO MURDER.

Section 918(4) of title 10, United States Code (article 118(4) of the Uniform Code of Military Justice), is amended by striking ''forcible sodomy,''.

SEC. 6929 [Log 63248]. CHILD ENDANGERMENT.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 919a (article 119a of the Uniform Code of Military Justice), the following new section (article):

"§ 919b. Art. 119b. Child endangerment

''Any person subject to this chapter—

''(1) who has a duty for the care of a child under the age of 16 years; and

''(2) who, through design or culpable negligence, endangers the child's mental or physical health, safety, or welfare;

shall be punished as a court-martial may direct.''.

SEC. 6930 [Log 63250]. DEPOSIT OF OBSCENE MATTER IN THE MAIL.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 920 (article 120 of the Uniform Code of Military Justice), the following new section (article):

"§ 920a. Art. 120a. Mails: deposit of obscene matter

''Any person subject to this chapter who, wrongfully and knowingly, deposits obscene matter for mailing and delivery shall be punished as a court-martial may direct.''.

SEC. 6931 [Log 63251]. FRAUDULENT USE OF CREDIT CARDS, DEBIT CARDS, AND OTHER ACCESS DEVICES.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 921 (article 121 of the Uniform Code of Military Justice), the following new section (article):

"§ 921a. Art. 121a. Fraudulent use of credit cards, debit cards, and other access devices

''(a) IN GENERAL.—Any person subject to this chapter who, with intent to defraud, uses—

''(1) a stolen credit card, debit card, or other access device;

''(2) a revoked, cancelled, or otherwise invalid credit card, debit card, or other access device; or

''(3) a credit card, debit card, or other access device without the authorization of a person whose authorization is required for such use;

to obtain money, property, services, or anything else of value shall be punished as a court-martial may direct.

''(b) DEFINITION.—In this section (article), the term 'access device' has the meaning given that term in section 1029 of title 18.''.

SEC. 6932 [Log 63252]. FALSE PRETENSES TO OBTAIN SERVICES.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 921a (article 121a of the Uniform Code of Military Justice), as added by section 6931, the following new section (article):

"§ 921b. Art. 121b. False pretenses to obtain services

''Any person subject to this chapter who, with intent to defraud, knowingly uses false pretenses to obtain services shall be punished as a court-martial may direct.''.

SEC. 6933 [Log 63253]. ROBBERY.

Section 922 of title 10, United States Code (article 122 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 922. Art. 122. Robbery

''Any person subject to this chapter who takes anything of value from the person or in the presence of another, against his will, by means of force or violence or fear of immediate or future injury to his person or property or to the person or property of a relative or member of his family or of anyone in his company at the time of the robbery, is guilty of robbery and shall be punished as a court-martial may direct.''.

SEC. 6934 [Log 63254]. RECEIVING STOLEN PROPERTY.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 922 (article 122 of the Uniform Code of Military Justice), as amended by section 6933, the following new section (article):

"§ 922a. Art. 122a. Receiving stolen property

''Any person subject to this chapter who wrongfully receives, buys, or conceals stolen property, knowing the property to be stolen property, shall be punished as a court-martial may direct.''.

SEC. 6935 [Log 63255]. OFFENSES CONCERNING GOVERNMENT COMPUTERS.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 922a (article 122a of the Uniform Code of Military Justice), as added by section 6934, the following new section (article):

"§ 923. Art. 123. Offenses concerning government computers

''(a) IN GENERAL.—Any person subject to this chapter who—

''(1) knowingly accesses a Government computer, with an unauthorized purpose, and by doing so obtains classified information, with reason to believe such information could be used to the injury of the United States, or to the advantage of any foreign nation, and intentionally communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted such information to any person not entitled to receive it;

''(2) intentionally accesses a Government computer, with an unauthorized purpose, and thereby obtains classified or other protected information from any such Government computer; or

''(3) knowingly causes the transmission of a program, information, code, or command, and as a

1 result of such conduct, intentionally causes damage
2 without authorization, to a Government computer;
3 shall be punished as a court-martial may direct.
4 ''(b) DEFINITIONS.—In this section:
5 ''(1) The term 'computer' has the meaning
6 given that term in section 1030 of title 18.
7 ''(2) The term 'Government computer' means a
8 computer owned or operated by or on behalf of the
9 United States Government.
10 ''(3) The term 'damage' has the meaning given
11 that term in section 1030 of title 18.''.

SEC. 6936 [Log 63256]. BRIBERY.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 924 (article 124 of the Uniform Code of Military Justice), as transferred and redesignated by section 6901(14), the following new section (article):

"§ 924a. Art. 124a. Bribery

''(a) ASKING, ACCEPTING, OR RECEIVING THING OF VALUE.—Any person subject to this chapter—

''(1) who occupies an official position or who has official duties; and

''(2) who wrongfully asks, accepts, or receives a thing of value with the intent to have the person's decision or action influenced with respect to an official matter in which the United States is interested; shall be punished as a court-martial may direct.

''(b) PROMISING, OFFERING, OR GIVING THING OF VALUE.—Any person subject to this chapter who wrongfully promises, offers, or gives a thing of value to another person, who occupies an official position or who has official duties, with the intent to influence the decision or action of the other person with respect to an official matter in which the United States is interested, shall be punished as a court-martial may direct.''.

SEC. 6937 [Log 63257]. GRAFT.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 924a (article 124a of the Uniform Code of Military Justice), as added by section 6936, the following new section (article):

"§ 924b. Art. 124b. Graft

''(a) ASKING, ACCEPTING, OR RECEIVING THING OF VALUE.—Any person subject to this chapter—

''(1) who occupies an official position or who has official duties; and

''(2) who wrongfully asks, accepts, or receives a thing of value as compensation for or in recognition of services rendered or to be rendered by the person with respect to an official matter in which the United States is interested;

shall be punished as a court-martial may direct.

''(b) PROMISING, OFFERING, OR GIVING THING OF VALUE.—Any person subject to this chapter who wrongfully promises, offers, or gives a thing of value to another person, who occupies an official position or who has official duties, as compensation for or in recognition of services rendered or to be rendered by the other person with respect to an official matter in which the United States is interested, shall be punished as a court-martial may direct.''.

SEC. 6938 [Log 63258]. KIDNAPPING.

Section 925 of title 10, United States Code (article 125 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 925. Art. 125. Kidnapping

''Any person subject to this chapter who wrongfully—

''(1) seizes, confines, inveigles, decoys, or carries away another person; and

''(2) holds the other person against that person's will;

shall be punished as a court-martial may direct.''.

SEC. 6939 [Log 63259]. ARSON; BURNING PROPERTY WITH INTENT TO DEFRAUD.

Section 926 of title 10, United States Code (article 126 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 926. Art. 126. Arson; burning property with intent to defraud

''(a) AGGRAVATED ARSON.—Any person subject to this chapter who, willfully and maliciously, burns or sets on fire an inhabited dwelling, or any other structure, movable or immovable, wherein, to the knowledge of that person, there is at the time a human being, is guilty of aggravated arson and shall be punished as a court-martial may direct.

''(b) SIMPLE ARSON.—Any person subject to this chapter who, willfully and maliciously, burns or sets fire to the property of another is guilty of simple arson and shall be punished as a court-martial may direct.

''(c) BURNING PROPERTY WITH INTENT TO DEFRAUD.—Any person subject to this chapter who, willfully, maliciously, and with intent to defraud, burns or sets fire to any property shall be punished as a court-martial may direct.''.

SEC. 6940 [Log 63260]. ASSAULT.

Section 928 of title 10, United States Code (article 128 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 928. Art. 128. Assault

''(a) ASSAULT.—Any person subject to this chapter who, unlawfully and with force or violence—

''(1) attempts to do bodily harm to another person;

''(2) offers to do bodily harm to another person; or

''(3) does bodily harm to another person;

is guilty of assault and shall be punished as a court-martial may direct.

''(b) AGGRAVATED ASSAULT.—Any person subject to this chapter—

''(1) who, with the intent to do bodily harm, offers to do bodily harm with a dangerous weapon; or

''(2) who, in committing an assault, inflicts substantial bodily harm, or grievous bodily harm on another person;

is guilty of aggravated assault and shall be punished as a court-martial may direct.

''(c) ASSAULT WITH INTENT TO COMMIT SPECIFIED OFFENSES.—

1 ''(1) IN GENERAL.—Any person subject to this
2 chapter who commits assault with intent to commit
3 an offense specified in paragraph (2) shall be pun-
4 ished as a court-martial may direct.
5 ''(2) OFFENSES SPECIFIED.—The offenses re-
6 ferred to in paragraph (1) are murder, voluntary
7 manslaughter, rape, sexual assault, rape of a child,
8 sexual assault of a child, robbery, arson, burglary,
9 and kidnapping.''.

SEC. 6941 [Log 63261]. BURGLARY AND UNLAWFUL ENTRY.

Section 929 of title 10, United States Code (article 129 of the Uniform Code of Military Justice), and section 929a of such title (article 129a), as redesignated by section 6901(10), are amended to read as follows:

"§ 929. Art. 129. Burglary; unlawful entry

''(a) BURGLARY.—Any person subject to this chapter who, with intent to commit an offense under this chapter, breaks and enters the building or structure of another shall be punished as a court-martial may direct.

''(b) UNLAWFUL ENTRY.—Any person subject to this chapter who unlawfully enters—

''(1) the real property of another; or

''(2) the personal property of another which amounts to a structure usually used for habitation or storage;

shall be punished as a court-martial may direct.''.

SEC. 6942 [Log 63262]. STALKING.

Section 930 of title 10, United States Code (article 130 of the Uniform Code of Military Justice), as transferred and redesignated by section 6901(11), is amended to read as follows:

"§ 930. Art. 130. Stalking

''(a) IN GENERAL.—Any person subject to this chapter—

''(1) who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner;

''(2) who has knowledge, or should have knowledge, that the specific person will be placed in reasonable fear of death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner; and

''(3) whose conduct induces reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself, to a member of his or her immediate family, or to his or her intimate partner;

is guilty of stalking and shall be punished as a court-martial may direct.

"(b) DEFINITIONS.—In this section:

"(1) The term 'conduct' means conduct of any kind, including use of surveillance, the mails, an interactive computer service, an electronic communication service, or an electronic communication system.

"(2) The term 'course of conduct' means—

"(A) a repeated maintenance of visual or physical proximity to a specific person;

"(B) a repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person; or

"(C) a pattern of conduct composed of repeated acts evidencing a continuity of purpose.

"(3) The term 'repeated', with respect to conduct, means two or more occasions of such conduct.

"(4) The term 'immediate family', in the case of a specific person, means—

"(A) that person's spouse, parent, brother or sister, child, or other person to whom he or she stands in loco parentis; or

1 ''(B) any other person living in his or her
2 household and related to him or her by blood or
3 marriage.
4 ''(5) The term 'intimate partner' in the case of
5 a specific person, means—
6 ''(A) a former spouse of the specific per-
7 son, a person who shares a child in common
8 with the specific person, or a person who cohab-
9 its with or has cohabited as a spouse with the
10 specific person; or
11 ''(B) a person who has been in a social re-
12 lationship of a romantic or intimate nature with
13 the specific person, as determined by the length
14 of the relationship, the type of relationship, and
15 the frequency of interaction between the per-
16 sons involved in the relationship.''.

SEC. 6943 [Log 63263]. SUBORNATION OF PERJURY.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931 (article 131 of the Uniform Code of Military Justice), the following new section (article):

"§ 931a. Art. 131a. Subornation of perjury

''(a) IN GENERAL.—Any person subject to this chapter who induces and procures another person—

''(1) to take an oath; and

''(2) to falsely testify, depose, or state upon such oath;

shall, if the conditions specified in subsection (b) are satisfied, be punished as a court-martial may direct.

''(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

''(1) The oath is administered with respect to a matter for which such oath is required or authorized by law.

''(2) The oath is administered by a person having authority to do so.

''(3) Upon the oath, the other person willfully makes or subscribes a statement.

''(4) The statement is material.

''(5) The statement is false.

1 "(6) When the statement is made or subscribed,
2 the person subject to this chapter and the other per-
3 son do not believe that the statement is true.".

SEC. 6944 [Log 63264]. OBSTRUCTING JUSTICE.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931a (article 131a of the Uniform Code of Military Justice), as added by section 6943, the following new section (article):

"§ 931b. Art. 131b. Obstructing justice

''Any person subject to this chapter who engages in conduct in the case of a certain person against whom the accused had reason to believe there were or would be criminal or disciplinary proceedings pending, with intent to influence, impede, or otherwise obstruct the due administration of justice shall be punished as a court-martial may direct.''.

SEC. 6945 [Log 63266]. MISPRISION OF SERIOUS OFFENSE.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931b (article 131b of the Uniform Code of Military Justice), as added by section 6944, the following new section (article):

"§ 931c. Art. 131c. Misprision of serious offense

''Any person subject to this chapter—

''(1) who knows that another person has committed a serious offense; and

''(2) wrongfully conceals the commission of the offense and fails to make the commission of the offense known to civilian or military authorities as soon as possible;

shall be punished as a court-martial may direct.''.

SEC. 6946 [Log 63267]. WRONGFUL REFUSAL TO TESTIFY.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931c (article 131c of the Uniform Code of Military Justice), as added by section 6945, the following new section (article):

"§ 931d. Art. 131d. Wrongful refusal to testify

''Any person subject to this chapter who, in the presence of a court-martial, a board of officers, a military commission, a court of inquiry, preliminary hearing, or an officer taking a deposition, of or for the United States, wrongfully refuses to qualify as a witness or to answer a question after having been directed to do so by the person presiding shall be punished as a court-martial may direct.''.

SEC. 6947 [Log 63268]. PREVENTION OF AUTHORIZED SEIZURE OF PROPERTY.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931d (article 131d of the Uniform Code of Military Justice), as added by section 6946, the following new section (article):

"§ 931e. Art. 131e. Prevention of authorized seizure of property

''Any person subject to this chapter who, knowing that one or more persons authorized to make searches and seizures are seizing, are about to seize, or are endeavoring to seize property, destroys, removes, or otherwise disposes of the property with intent to prevent the seizure thereof shall be punished as a court-martial may direct.''.

SEC. 6948 [Log 63269]. WRONGFUL INTERFERENCE WITH ADVERSE ADMINISTRATIVE PROCEEDING.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931f (article 131f of the Uniform Code of Military Justice), as transferred and redesignated by section 6901(3), the following new section (article):

"§ 931g. Art. 131g. Wrongful interference with adverse administrative proceeding

''Any person subject to this chapter who, having reason to believe that an adverse administrative proceeding is pending against any person subject to this chapter, wrongfully acts with the intent—

''(1) to influence, impede, or obstruct the conduct of the proceeding; or

''(2) otherwise to obstruct the due administration of justice;

shall be punished as a court-martial may direct.''.

SEC. 6949 [Log 63270]. RETALIATION.

Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 931g (article 131g of the Uniform Code of Military Justice), as added by section 6948, the following new section (article):

"§ 932. Art. 132. Retaliation

''Any person subject to this chapter who, with the intent to retaliate against any person for reporting or planning to report a criminal offense, or with the intent to discourage any person from reporting a criminal offense—

''(1) wrongfully takes or threatens to take an adverse personnel action against any person; or

''(2) wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person;

shall be punished as a court-martial may direct.''.

SEC. 6950 [Log 63271]. EXTRATERRITORIAL APPLICATION OF CERTAIN OFFENSES.

Section 934 of title 10, United States Code (article 134 of the Uniform Code of Military Justice), is amended by adding at the end the following new sentence: ''As used in the preceding sentence, the term 'crimes and offenses not capital' includes any conduct engaged in outside the United States, as defined in section 5 of title 18, that would constitute a crime or offense not capital if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18.''.

1 **SEC. 6951 [Log 63272]. TABLE OF SECTIONS.**

2 The table of sections at the beginning of subchapter
3 X of chapter 47 of title 10, United States Code, is amend-
4 ed to read as follows:

"Sec. Art.
"877. 77. Principals.
"878. 78. Accessory after the fact.
"879. 79. Conviction of offense charged, lesser included offenses, and attempts.
"880. 80. Attempts.
"881. 81. Conspiracy.
"882. 82. Soliciting commission of offenses.
"883. 83. Malingering.
"884. 84. Breach of medical quarantine.
"885. 85. Desertion.
"886. 86. Absence without leave.
"887. 87. Missing movement; jumping from vessel.
"887a. 87a. Resistance, flight, breach of arrest, and escape.
"887b. 87b. Offenses against correctional custody and restriction.
"888. 88. Contempt toward officials.
"889. 89. Disrespect toward superior commissioned officer; assault of superior commissioned officer.
"890. 90. Willfully disobeying superior commissioned officer.
"891. 91. Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer.
"892. 92. Failure to obey order or regulation.
"893. 93. Cruelty and maltreatment.
"893a. 93a. Prohibited activities with military recruit or trainee by person in position of special trust.
"894. 94. Mutiny or sedition.
"895. 95. Offenses by sentinel or lookout.
"895a. 95a. Disrespect toward sentinel or lookout.
"896. 96. Release of prisoner without authority; drinking with prisoner.
"897. 97. Unlawful detention.
"898. 98. Misconduct as prisoner.
"899. 99. Misbehavior before the enemy.
"900. 100. Subordinate compelling surrender.
"901. 101. Improper use of countersign.
"902. 102. Forcing a safeguard.
"903. 103. Spies.
"903a. 103a. Espionage.
"903b. 103b. Aiding the enemy.
"904. 104. Public records offenses.
"904a. 104a. Fraudulent enlistment, appointment, or separation.
"904b. 104b. Unlawful enlistment, appointment, or separation.
"905. 105. Forgery.
"905a. 105a. False or unauthorized pass offenses.
"906. 106. Impersonation of officer, noncommissioned or petty officer, or agent of official.
"906a. 106a. Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button.
"907. 107. False official statements; false swearing.

''907a. 107a. Parole violation.
''908. 108. Military property of United States—Loss, damage, destruction, or wrongful, disposition.
''908a. 108a. Captured or abandoned property.
''909. 109. Property other than military property of United States—Waste, spoilage, or destruction.
''909a 109a. Mail matter: wrongful taking, opening, etc.
''910. 110. Improper hazarding of vessel or aircraft.
''911. 111. Leaving scene of vehicle accident.
''912. 112. Drunkenness and other incapacitation offenses.
''912a. 112a. Wrongful use, possession, etc., of controlled substances.
''913. 113. Drunken or reckless operation of vehicle, aircraft, or vessel.
''914. 114. Endangerment offenses.
''915. 115. Communicating threats.
''916. 116. Riot or breach or peace.
''917. 117. Provoking speeches or gestures.
''918. 118. Murder.
''919. 119. Manslaughter.
''919a. 119a. Death or injury of an unborn child.
''919b. 119b. Child endangerment.
''920. 120. Rape and sexual assault generally.
''920a. 120a. Mails: deposit of obscene matter.
''920b. 120b. Rape and sexual assault of a child.
''920c. 120c. Other sexual misconduct.
''921. 121. Larceny and wrong appropriation.
''921a. 121a. Fraudulent use of credit cards, debit cards, and other access devices.
''921b. 121b. False pretenses to obtain services.
''922. 122. Robbery.
''922a. 122a. Receiving stolen property.
''923. 213. Offenses concerning Government computers.
''923a. 123a. Making, drawing, or uttering check, draft, or order without sufficient funds.
''924. 124. Frauds against the United States.
''924a. 124. Bribery.
''924b. 124b. Graft.
''925. 125. Kidnapping.
''926. 126. Arson; burning property with intent to defraud.
''927. 127. Extortion.
''928. 128. Assault.
''928a. 128a. Maiming.
''929. 129. Burglary; unlawful entry.
''930. 130 Stalking.
''931. 131. Perjury.
''931a. 131a. Subornation of perjury.
''931b. 131b. Obstruction justice.
''931c. 131c. Misprision of serious offense.
''931d. 131d. Wrongful refusal to testify.
''931e. 131e. Prevention of authorized seizure of property.
''931f. 131f. Noncompliance with procedural rules.
''931g. 131g. Wrongful interference with adverse administrative proceeding.
''932. 132. Retaliation.
''933. 133. Conduct unbecoming an officer and a gentleman.
''934. 134. General article.''.

TITLE LXX—MISCELLANEOUS PROVISIONS

SEC. 7001 [Log 63277]. TECHNICAL AMENDMENT RELATING TO COURTS OF INQUIRY.

Section 935(c) of title 10, United States Code (article 135(c) of the Uniform Code of Military Justice), is amended—

(1) by striking ''(c) Any person'' and inserting ''(c)(1) Any person'';

(2) by designating the second and third sentences as paragraphs (2) and (3), respectively; and

(3) in paragraph (2), as so designated, by striking ''subject to this chapter or employed by the Department of Defense'' and inserting ''who is (A) subject to this chapter, (B) employed by the Department of Defense, or (C) with respect to the Coast Guard, employed by the department in which the Coast Guard is operating when it is not operating as a service in the Navy, and''.

SEC. 7002 [Log 63278]. TECHNICAL AMENDMENT TO ARTICLE 136.

Section 936 of title 10, United States Code (article 136 of the Uniform Code of Military Justice), is amended by striking the last five words in the section heading.

SEC. 7003 [Log 63279]. ARTICLES OF UNIFORM CODE OF MILITARY JUSTICE TO BE EXPLAINED TO OFFICERS UPON COMMISSIONING.

Section 937 of title 10, United States Code (article 137 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a), by striking ''(a)(1) The sections of this title (articles of the Uniform Code of Military Justice)'' and inserting ''(a) ENLISTED MEMBERS.—.—(1) The sections (articles) of this chapter (the Uniform Code of Military Justice)'';

(2) by striking subsection (b); and

(3) by inserting after subsection (a) the following new subsections:

''(b) OFFICERS.—(1) The sections (articles) of this chapter (the Uniform Code of Military Justice) specified in paragraph (2) shall be carefully explained to each officer at the time of (or within six months after)—

''(A) the initial entrance of the officer on active duty as an officer; or

''(B) the initial commissioning of the officer in a reserve component.

''(2) This subsection applies with respect to the sections (articles) specified in subsection (a)(3) and such other sections (articles) as the Secretary concerned may prescribe by regulation.

1 "(c) TRAINING FOR CERTAIN OFFICERS.—Under
2 regulations prescribed by the Secretary concerned, officers
3 with the authority to convene courts-martial or to impose
4 non-judicial punishment shall receive periodic training re-
5 garding the purposes and administration of this chapter.
6 Under regulations prescribed by the Secretary of Defense,
7 officers assigned to duty in a combatant command, who
8 have such authority, shall receive additional specialized
9 training regarding the purposes and administration of this
10 chapter.

11 "(d) AVAILABILITY AND MAINTENANCE OF TEXT.—
12 The text of this chapter (the Uniform Code of Military
13 Justice) and the text of the regulations prescribed by the
14 President under this chapter shall be—

15 "(1) made available to a member on active duty
16 or to a member of a reserve component, upon re-
17 quest by the member, for the member's personal ex-
18 amination; and

19 "(2) maintained by the Secretary of Defense in
20 electronic formats that are updated periodically and
21 made available on the Internet.".

SEC. 7004 [Log 63280]. MILITARY JUSTICE CASE MANAGEMENT; DATA COLLECTION AND ACCESSIBILITY.

(a) IN GENERAL.—Subchapter XI of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by adding at the end the following new section (article):

"§ 940a. Art. 140a. Case management; data collection and accessibility

''The Secretary of Defense shall prescribe uniform standards and criteria for conduct of each of the following functions at all stages of the military justice system, including pretrial, trial, post-trial, and appellate processes, using, insofar as practicable, the best practices of Federal and State courts:

''(1) Collection and analysis of data concerning substantive offenses and procedural matters in a manner that facilitates case management and decision making within the military justice system, and that enhances the quality of periodic reviews under section 946 of this title (article 146).

''(2) Case processing and management.

''(3) Timely, efficient, and accurate production and distribution of records of trial within the military justice system.

1 "(4) Facilitation of access to docket informa-
2 tion, filings, and records, taking into consideration
3 restrictions appropriate to judicial proceedings and
4 military records.".

5 (b) EFFECTIVE DATES.—(1) Not later than 2 years
6 after the date of the enactment of this Act, the Secretary
7 of Defense shall carry out section 940a of title 10, United
8 States Code (article 140a of the Uniform Code of Military
9 Justice), as added by subsection (a).

10 (2) Not later than 4 years after the date of the enact-
11 ment of this Act, the standards and criteria under section
12 940a of title 10, United States Code (article 140a of the
13 Uniform Code of Military Justice), as added by subsection
14 (a), shall take effect.

TITLE LXXI—MILITARY JUSTICE REVIEW PANEL AND ANNUAL REPORTS

SEC. 7101 [Log 63281]. MILITARY JUSTICE REVIEW PANEL.

Section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 946. Art.146. Military Justice Review Panel

''(a) ESTABLISHMENT.—The Secretary of Defense shall establish a panel to conduct independent periodic reviews and assessments of the operation of this chapter. The panel shall be known as the 'Military Justice Review Panel', in this section referred to as the 'Panel'.

''(b) MEMBERS.—(1) The Panel shall be composed of thirteen members.

''(2) Each of the following shall select one member of the Panel:

''(A) The Secretary of Defense (in consultation with the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy).

''(B) The Attorney General.

''(C) The Judge Advocates General of the Army, Navy, Air Force, and Coast Guard, and the

1 Staff Judge Advocate to the Commandant of the
2 Marine Corps.
3 "(3) The Secretary of Defense shall select the re-
4 maining members of the Panel, taking into consideration
5 recommendations made by each of the following:
6 "(A) The chairman and ranking minority mem-
7 ber of the Committee on Armed Services of the Sen-
8 ate and the Committee on Armed Services of the
9 House of Representatives.
10 "(B) The Chief Justice of the United States.
11 "(C) The Chief Judge of the United States
12 Court of Appeals for the Armed Forces.
13 "(c) QUALIFICATIONS OF MEMBERS.—The members
14 of the Panel shall be appointed from among private United
15 States citizens with expertise in criminal law, as well as
16 appropriate and diverse experience in investigation, pros-
17 ecution, defense, victim representation, or adjudication
18 with respect to courts-martial, Federal civilian courts, or
19 State courts.
20 "(d) CHAIR.—The Secretary of Defense shall select
21 the chair of the Panel from among the members.
22 "(e) TERM; VACANCIES.—Each member shall be ap-
23 pointed for a term of eight years, and no member may
24 serve more than one term. Any vacancy shall be filled in
25 the same manner as the original appointment.

1 "(f) REVIEWS AND REPORTS.—

2 "(1) INITIAL REVIEW OF RECENT AMENDMENTS
3 TO UCMJ.—During fiscal year 2020, the Panel shall
4 conduct an initial review and assessment of the im-
5 plementation of the amendments made to this chap-
6 ter during the preceding five years. In conducting
7 the initial review and assessment, the Panel may re-
8 view such other aspects of the operation of this
9 chapter as the Panel considers appropriate.

10 "(2) PERIODIC COMPREHENSIVE REVIEWS.—
11 During fiscal year 2024 and every eight years there-
12 after, the Panel shall conduct a comprehensive re-
13 view and assessment of the operation of this chapter.

14 "(3) PERIODIC INTERIM REVIEWS.—During fis-
15 cal year 2028 and every eight years thereafter, the
16 Panel shall conduct an interim review and assess-
17 ment of such other aspects of the operation of this
18 chapter as the Panel considers appropriate. In addi-
19 tion, at the request of the Secretary of Defense, the
20 Panel may, at any time, review and assess other spe-
21 cific matters relating to the operation of this chap-
22 ter.

23 "(4) REPORTS.—Not later than December 31
24 of each year during which the Panel conducts a re-
25 view and assessment under this subsection, the

1 Panel shall submit a report on the results, including
2 the Panel's findings and recommendations, through
3 the Secretary of Defense to the Committees on
4 Armed Services of the Senate and the House of Rep-
5 resentatives.

6 ''(g) HEARINGS.—The Panel may hold such hearings,
7 sit and act at such times and places, take such testimony,
8 and receive such evidence as the Panel considers appro-
9 priate to carry out its duties under this section.

10 ''(h) INFORMATION FROM FEDERAL AGENCIES.—
11 Upon request of the chair of the Panel, a department or
12 agency of the Federal Government shall provide informa-
13 tion that the Panel considers necessary to carry out its
14 duties under this section.

15 ''(i) ADMINISTRATIVE MATTERS.—

16 ''(1) MEMBERS TO SERVE WITHOUT PAY.—
17 Members of the Panel shall serve without pay, but
18 shall be allowed travel expenses, including per diem
19 in lieu of subsistence, at rates authorized for em-
20 ployees of agencies under subchapter I of chapter 57
21 of title 5, while away from their homes or regular
22 places of business in the performance of services for
23 the Panel.

1 "(2) STAFFING AND RESOURCES.—The Sec-
2 retary of Defense shall provide staffing and re-
3 sources to support the Panel.
4 "(j) NO TERMINATION.—The authority of the Panel
5 under this section does not terminate.".

SEC. 7102 [Log 63282]. ANNUAL REPORTS.

Subchapter XII of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by adding at the end the following new section (article):

"§ 946a. Art. 146a. Annual reports

''(a) COURT OF APPEALS FOR THE ARMED FORCES.—Not later than December 31 of each year, the Court of Appeals for the Armed Forces shall submit a report that, with respect to the previous fiscal year, provides information on the number and status of pending cases and such other matters as the Court considers appropriate regarding the operation of this chapter.

''(b) SERVICE REPORTS.—Not later than December 31 of each year, the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall each submit a report, with respect to the preceding fiscal year, containing the following:

''(1) Data on the number and status of pending cases.

''(2) Information on the appellate review process, including—

''(A) information on compliance with processing time goals;

''(B) descriptions of the circumstances surrounding cases in which general or special

1 court-martial convictions were (i) reversed be-
2 cause of command influence or denial of the
3 right to speedy review or (ii) otherwise remitted
4 because of loss of records of trial or other ad-
5 ministrative deficiencies; and
6 ''(C) an analysis of each case in which a
7 provision of this chapter was held unconstitu-
8 tional.
9 ''(3)(A) An explanation of measures imple-
10 mented by the armed force involved to ensure the
11 ability of judge advocates—
12 ''(i) to participate competently as trial
13 counsel and defense counsel in cases under
14 this chapter;
15 ''(ii) to preside as military judges in
16 cases under this chapter; and
17 ''(iii) to perform the duties of Special
18 Victims' Counsel, when so designated
19 under section 1044e of this title.
20 ''(B) The explanation under subparagraph
21 (A) shall specifically identify the measures that
22 focus on capital cases, national security cases,
23 sexual assault cases, and proceedings of mili-
24 tary commissions.

"(4) The independent views of each Judge Advocate General and of the Staff Judge Advocate to the Commandant of the Marine Corps as to the sufficiency of resources available within the respective armed forces, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions.

"(5) Such other matters regarding the operation of this chapter as may be appropriate.

"(c) SUBMISSION.—Each report under this section shall be submitted—

"(1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

"(2) to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy.".

TITLE LXXII—CONFORMING AMENDMENTS AND EFFECTIVE DATES

SEC. 7201 [Log 63283]. AMENDMENTS TO UCMJ SUBCHAPTER TABLES OF SECTIONS.

The tables of sections for the specified subchapters of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), are amended as follows:

(1) The table of sections at the beginning of subchapter II is amended by striking the item relating to section 810 and inserting the following new item:

"810. 10. Restraint of persons charged.".

(2) The table of sections at the beginning of subchapter II, as amended by paragraph (1), is amended by striking the item relating to section 812 and inserting the following new item:

"812. 12. Prohibition of confinement of armed forces members with enemy prisoners and certain others.".

(3) The table of sections at the beginning of subchapter V is amended by striking the item relating to section 825a and inserting the following new item:

"825. 25a. Number of court-martial members in capital cases.".

(4) The table of sections at the beginning of subchapter V, as amended by paragraph (3), is

1 amended by inserting after the item relating to sec-
2 tion 826 the following new item:

"826a. 26a. Military magistrates.".

3 (5) The table of sections at the beginning of
4 subchapter V, as amended by paragraphs (3) and
5 (4), is amended by striking the item relating to sec-
6 tion 829 and inserting the following new item:

"829. 29. Assembly and impaneling of members; detail of new members and military judges.".

7 (6) The table of sections at the beginning of
8 subchapter VI is amended by inserting after the
9 item relating to section 830 the following new item:

"830. 30a. Proceedings conducted before referral.".

10 (7) The table of sections at the beginning of
11 subchapter VI, as amended by paragraph (6), is
12 amended by striking the item relating to section 832
13 and inserting the following new item:

"832. 32. Preliminary hearing required before referral to general court-martial.".

14 (8) The table of sections at the beginning of
15 subchapter VI, as amended by paragraphs (6) and
16 (7), is amended by striking the item relating to sec-
17 tion 833 and inserting the following new item:

"833. 33. Disposition guidance.".

18 (9) The table of sections at the beginning of
19 subchapter VI, as amended by paragraphs (6), (7),

and (8), is amended by striking the item relating to section 834 and inserting the following new item:

"834. 34. Advice to convening authority before referral for trial.".

(10) The table of sections at the beginning of subchapter VI, as amended by paragraphs (6), (7), (8), and (9), is amended by striking the item relating to section 835 and inserting the following new item:

"835. 35. Service of charges; commencement of trial.".

(11) The table of sections at the beginning of subchapter VII is amended by striking the item relating to section 847 and inserting the following new item:

"8470. 47. Refusal of person not subject to chapter to appear, testify, or produce evidence.".

(12) The table of sections at the beginning of subchapter VII, as amended by paragraph (11), is amended by striking the item relating to section 848 and inserting the following new item:

"848. 48. Contempt.".

(13) The table of sections at the beginning of subchapter VII, as amended by paragraphs (11) and (12), is amended by striking the item relating to section 850 and inserting the following new item:

"850. 50. Admissibility of sworn testimony from records of courts of inquiry.".

(14) The table of sections at the beginning of subchapter VII, as amended by paragraphs (11),

(12), and (13), is amended by striking the item relating to section 852 and inserting the following new item:

"852. 52. Votes required for conviction, sentencing, and other matters.".

(15) The table of sections at the beginning of subchapter VII, as amended by paragraphs (11), (12), (13), and (14), is amended by striking the item relating to section 853 and inserting the following new item:

"853. 53. Findings and sentencing.".

(16) The table of sections at the beginning of subchapter VIII is amended by striking the item relating to section 856 and inserting the following new item:

"856. 56. Sentencing.".

(17) The table of sections at the beginning of subchapter VIII, as amended by paragraph (16), is amended by striking the items relating to section 856a and 857a.

(18) The table of sections at the beginning of subchapter IX is amended by striking the item relating to section 860 and inserting the following new item:

"860. 60. Post-trial processing in general and special courts-martial.".

(19) The table of sections at the beginning of subchapter IX is amended by inserting after the

1 item relating to section 860, as amended by para-
2 graph (18), the following new items:

"860a. 60a. Limited authority to act on sentence in specified post-trial circumstances.
"860b. 60b. Post-trial actions in summary courts-martial and certain general and special courts-martial.
"860c. 60c. Entry of judgment.".

3 (20) The table of sections at the beginning of
4 subchapter IX, as amended by paragraphs (18) and
5 (19), is amended by striking the item relating to sec-
6 tion 861 and inserting the following new item:

"861. 61. Waiver of right to appeal; withdrawal of appeal.".

7 (21) The table of sections at the beginning of
8 subchapter IX, as amended by paragraphs (18),
9 (19), and (20), is amended by striking the item re-
10 lating to section 864 and inserting the following new
11 item:

"864. 64. Judge advocate review of finding of guilty in summary court-martial.".

12 (22) The table of sections at the beginning of
13 subchapter IX, as amended by paragraphs (18),
14 (19), (20), and (21), is amended by striking the
15 item relating to section 865 and inserting the fol-
16 lowing new item:

"865. 65. Transmittal and review of records.".

17 (23) The table of sections at the beginning of
18 subchapter IX, as amended by paragraphs (18),
19 (19), (20), (21), and (22), is amended by striking

the item relating to section 866 and inserting the following new item:

"866. 66. Courts of Criminal Appeals.".

(24) The table of sections at the beginning of subchapter IX, as amended by paragraphs (18), (19), (20), and (21), (22), and (23), is amended by striking the item relating to section 869 and inserting the following new item:

"869. 69. Review by Judge Advocate General.".

(25) The table of sections at the beginning of subchapter IX, as amended by paragraphs (18), (19), (20), (21), (22), (23), and (24), is amended by striking the item relating to section 871 and inserting the following new item:

"871. 71. [Repealed.]".

(26) The table of sections at the beginning of subchapter XI is amended by striking the item relating to section 936 and inserting the following new item:

"936. 136. Authority to administer oaths.".

(27) The table of sections at the beginning of subchapter XI, as amended by paragraph (26), is amended by inserting after the item relating to section 940 the following new item:

"940a. 140a. Case management; data collection and accessibility.".

1 (28) The table of sections at the beginning of
2 subchapter XII is amended by striking the item re-
3 lating to section 946 and inserting the following new
4 items:

"946. 146. Military Justice Review Panel.
"946a. 146a. Annual reports.".

SEC. 7202 [Log 63284]. EFFECTIVE DATES.

(a) Except as otherwise provided in this division, the amendments made by this division shall take effect on the first day of the first calendar month that begins two years after the date of the enactment of this Act.

(b) The amendments made by this division shall not apply to any case in which charges are referred to trial by court-martial before the effective date of such amendments. Proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been enacted.

(c)(1)(A) The amendments made by title LX shall not apply to any offense committed before the effective date of such amendments.

(B) Nothing in subparagraph (A) shall be construed to invalidate the prosecution of any offense committed before the effective date of such amendments.

(2) The regulations prescribing the authorized punishments for any offense committed before the effective date of the amendments made by title LVIII shall apply the authorized punishments for the offense, as in effect at the time the offense is committed.

DIRECTIVE REPORT LANGUAGE

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE V—MILITARY PERSONNEL POLICY

ITEMS OF SPECIAL INTEREST

Comptroller General Review of the Military Entrance Processing Stations Medical Examinations

The committee understands that it is often difficult for the military services to have full visibility of the medical history of potential recruits. The committee is

concerned that incomplete medical information and inadequate medical screening may result in attrition before the Active Duty enlistees' initial commitments are fulfilled. Further, the committee is concerned that the lack of availability of the Department of Defense electronic health record within the Military Entrance Processing Station (MEPS) exacerbates the lack of visibility of pre-service medical conditions by the services throughout the individual's career. Therefore, the committee directs the Comptroller General of the United States to conduct a review of the MEPS medical screening and submit a report on results of the review to the Committees on Armed Services of the Senate and the House of Representatives not later than March 1, 2017. The review shall address, at a minimum, the following:

(1) An evaluation of the extent to which attrition prior to completion of initial commitment is related to medical reasons;

(2) An assessment of the processes in place for recruiters and at MEPS for identifying, screening, and tracking medical qualifications of applicants; and

(3) An assessment of whether the current structure of the MEPS supports optimal medical screening and permanent documentation of medical conditions identified prior to initial entry.

Enhanced Access and Consideration before Discharge Review Boards and Correction of Military Records Boards

The committee recognizes the efforts made by the Department of Defense and the military departments to ensure applicants before Discharge Review Boards and Boards for the Correction of Military Records receive full and fair consideration of their applications for discharge upgrades. However, the committee encourages the Department to look for additional opportunities to enhance the review process, and allow applicants every opportunity to present the facts associated with their application. Therefore, the committee encourages the Department to extend the "liberal consideration" standard established for those applicants who allege a nexus between their misconduct and a diagnosis of Post-traumatic Stress Disorder or related conditions to all discharge upgrade cases considered by Discharge Review Boards, in addition to Boards for the Correction of Military Records.

In addition, the committee notes that advances in technology have made remote communication through video teleconferencing, telephone and similar technology more efficient and cost-effective than ever before. Therefore, the committee directs the Secretary of Defense, in coordination with the Secretaries of the military departments, to examine the feasibility of incorporating commercial, off-the-shelf video and video teleconferencing technologies to allow applicants to the Discharge Review Board or, when appropriate, the Boards for the Correction of Military Records, to appear before the boards remotely. The committee further directs the Secretary to provide a briefing to the Committee on Armed Services of the House of Representatives not later than February 1, 2017, on the results of the examination.

Improved Oversight of Hazing Prevention Programs and Reporting in the Military Services

The committee recognizes the efforts made by the Department of Defense and the military services to improve hazing prevention programs and increase oversight in an attempt to eliminate hazing in the military. Although the military services have created prevention training programs and have established reporting mechanisms, the committee remains concerned with the wide disparity in the programs across the services, to include the variation in reporting and tracking requirements of incidents of hazing. The committee notes the Department of Defense issued an updated policy dated December 23, 2015, that defines hazing and bullying, directs requirements for training and education with respect to hazing and bullying, and standardizes reporting of hazing and bullying. Therefore, the committee directs the Secretary of Defense to provide a briefing to the Committee on Armed Services of the House of Representatives not later than December 1, 2016, on the implementation of the changes outlined in the December 23, 2015, policy memorandum. This briefing shall include an overview of the results of the 180-day report on allegations directed by the memorandum.

Non-Appropriated Fund Instrumentality Compliance with Department of Defense Policy

The committee is concerned about the protection of severely disabled employees of Non-Appropriated Fund Instrumentality (NAFI) facilities from losing their jobs and directs the United States Air Force to adhere to Department of Defense Instruction 4105.67 and section 2492 of title 10, United States Code, which states that Non-Appropriated Fund Instrumentalities will not enter into contracts or agreements that will result in the loss of jobs pursuant to the Javits-Wagner-O'Day Act (AbilityOne Program). Currently, the Air Force Transformation Initiative (AFTI) is phasing out employees with severe disabilities who are employed through the AbilityOne program and replacing them with non-disabled individuals employed by the commercial prime-vendor for AFTI.

Therefore, the committee further directs the Secretary of the Air Force to submit a report to the House Committee on Armed Services not later than October 1, 2016, on the Air Force's compliance with the Randolph-Sheppard Act, section 107 of title 20, United States Code.

Suicide Prevention

The committee notes that the Department of Defense Inspector General report entitled “Assessment of DOD Suicide Prevention Process,” dated September 30, 2015, made a series of recommendations to improve the Department’s efforts to reduce the incidence of suicide in the U.S. military. The committee applauds the efforts by the Department of Defense and the military services to reduce suicide and improve prevention programs, but the committee believes that the Department can

and should improve its efforts, based on the Inspector General's recommendations. Therefore, the committee directs the Secretary of Defense to provide a briefing to the House Committee on Armed Services not later than September 1, 2016, on the implementation of the recommendations made in the Department of Defense Inspector General's report.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

ITEMS OF SPECIAL INTEREST

Inspector General Review of the Fresh Fruits and Vegetable Contract for the Pacific

The committee is concerned about the performance of the current Pacific Fresh Fruits and Vegetables (FFV) delivery contract, the past FFV contract and the FFV local purchase authority across the Defense Commissary Agency enterprise outside the continental United States. The committee therefore directs the Department of Defense Inspector General to evaluate and report to the House Committee on Armed Services by March 1, 2017, on the effectiveness of the new FFV purchase process vice the previous second destination transportation funded process, and to do an assessment of the similar local purchase process currently ongoing in Europe.

The evaluation shall address the following issues so as to facilitate comparison between the establishment and progression of the local sourcing model in Europe and in the Pacific:

(1) A timeline showing the percentage of locally sourced produce made available to commissaries in Europe as compared to the Pacific, in 6 month increments, beginning from a point in time not less than 6 months prior to the expiration of precursor contracts in each theater. The review should include any information related to produce market maturity in both theaters and any documented issues related to the locally sourced produce in both.

(2) The amount of produce sold and appropriated funds paid by the Department of Defense for second destination transportation (surface, air and in-theater) in the last full year prior to award of the first contract for the locally sourced fresh fruits and vegetables for commissaries in Europe and the Pacific theater.

In addition, the Inspector General shall compare the Defense Commissary Agency (DeCA) contract for produce in effect through the end of October 2015, and the new contract's performance which began in November 2015, to include:

(1) Comparison of the amount of produce lost due to spoilage or importation delays/requirements between the previous Pacific contract to the current contracts.

(2) Comparison of the benefits/impacts of the current and previous DeCA models for the provision of fresh fruits and vegetables to Pacific commissaries relative to:

(a) Department of Defense;

(b) Commissary patrons; and

(c) The Cost of Living Allowance.

(3) Documentation of the percentage of increase or decrease in local market prices on produce as compared to Pacific commissary prices on produce.

The Inspector General may call upon the Defense Contract Audit Agency for assistance in performing an audit of the recently replaced fresh fruits and vegetable contract DeCA administered for its overseas commissaries in the Pacific theater between April 2008, and October 2015, to ensure that the produce prices offered to commissary patrons were reasonable.

Service Members Group Life Insurance Report

The committee notes that Active Duty service members are required to participate in pre-deployment readiness briefings, in which Servicemembers' Group Life Insurance (SGLI) is a covered topic. The committee is concerned about the process by which service members subsequently select life insurance coverage during their pre-deployment readiness processing. Therefore, the committee directs the Secretary of Defense to submit a report to the Committee on Armed Services of the House of Representatives by December 1, 2016, evaluating the information provided to each service member on their SGLI benefits as he or she prepares for deployment. The evaluation shall include but is not limited to:

(1) The number of service members who have opted for less than $400,000 of SGLI coverage and died in combat during their deployment for the last 10 years;

(2) The current briefing materials provided to service members informing them of prerequisites necessary for deployment, the number of administrative decisions required for pre-deployment, the number of pre-deployment briefings given, and the amount of time period in which the pre-deployment briefings occur;

(3) The ratio of briefers-to-service members that communicate SGLI benefits in service members' preparation for deployment and the opportunity for service members to seek one-on-one counseling for guidance on pre-deployment paperwork;

(4) The financial and familial effects of an automatic increase to maximum SGLI benefit levels when a service member prepares to deploy, of which a service member must opt out in order to not receive the highest coverage, then an automatic resumption of the service members' previous SGLI levels upon their return from deployment.

(5) Any proposed changes to the pre-deployment process which lessens the administrative burden for a service member while maximizing benefits for next of kin in the event of SGLI benefit use.

TITLE VII—HEALTH CARE PROVISIONS

ITEMS OF SPECIAL INTEREST

Department of Defense-Department of Veterans Affairs Health Care Partnerships

The committee is aware that the Department of Defense and the Department of Veterans Affairs have established partnerships to provide health care to beneficiaries of both departments. The committee understands that these partnerships expand access to care to veterans and Department of Defense beneficiaries, particularly in medically underserved areas. In addition, these partnerships provide Department of Defense providers additional patients with complex medical conditions that enhance medical provider readiness. However, the committee is aware that the Department of Defense-Department of Veterans Affairs joint facility, the Captain James A. Lovell Health Care Center at Naval Station Great Lakes, Illinois, established by the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84), continues to suffer from management and leadership challenges, as reported by several Government Accountability Office evaluations. Therefore, the committee directs the Secretary of Defense to provide a briefing to the House Committee on Armed Services not later than October 1, 2016, on any plans for establishing new Department of Defense-Department of Veterans Affairs partnerships to provide health care.

Gluten-Free Meals Ready to Eat

The committee is aware of the impact that celiac disease and gluten sensitivity have on the health and medical readiness of members of the Armed Forces. The committee notes that the Army has expanded its field combat Meals Ready to Eat (MRE) by providing vegetarian meals and meals that accommodate religious requirements. Therefore, the committee directs the Secretary of the Army to provide a briefing to the House Committee on Armed Services not later than February 1, 2017, on the feasibility and any existing effort to provide a gluten-free MRE option.

Improving Pediatric Health Care Under TRICARE

The committee is aware that the Department of Defense has made strides to improve the delivery of health care services to pediatric patients, especially those patients with severe disabilities. However, the committee remains concerned that the Department has not completed addressing the deficiencies noted in the report required by section 735 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239). Therefore, the committee directs the Secretary of Defense to provide a briefing to the House Committee on Armed Services not later

than September 1, 2016, on the actions taken and the plan to correct the remaining deficiencies identified in the pediatric health care report.

Infertility Treatment and Services for Wounded Ill or Injured Members of the Armed Forces

The committee notes the robust infertility services and supplies available to seriously wounded, ill or injured service members. Services include infertility testing and treatment, correction of the physical or physiological cause of the infertility as well as assisted reproductive services that will now include a demonstration of cryopreservation for Active Duty prior to deployment. The committee is concerned that some seriously wounded, ill or injured service members may not be aware of the services available to them after they depart the military. Therefore, the committee directs the Secretary of Defense, in coordination with the Secretaries of the military departments, to implement a plan by December 1, 2016, to actively reach out to former members of the military who were seriously wounded, ill or injured and inform them of the infertility services available to them.

Osteoarthritis

The committee is aware that the physical demands of military training and deployment may increase the risk of osteoarthritis in service members. The committee is concerned that post-traumatic osteoarthritis may affect the readiness of our military, yet there is limited information on the scope and impact of osteoarthritis on the military. Therefore, the committee directs the Secretary of Defense to provide a briefing to the Committee on Armed Services of the House of Representatives not later than June 30, 2017, on the overall discharge rate of military service members as a result of osteoarthritis, the impact to the overall medical readiness from post-traumatic osteoarthritis, and recommendations on prevention and treatment to reduce the number of service members suffering from osteoarthritis.

Storage of DNA Samples of Members of the Armed Forces

The committee notes that the Department of Defense uses the Armed Forces Repository of Specimens for the purpose of identifying human remains. The repository of DNA samples is critical to the identification of service members if they become casualties or Missing in Action and the remains are recovered. The committee is concerned that the storage of the original and duplicate DNA samples for members of the Armed Forces is in one location and could jeopardize future identification if the facility becomes inoperable. Therefore, the committee directs the Secretary of Defense to review the feasibility of storing duplicate DNA samples in an alternate facility and provide the results of the review to the Committee on Armed Services of the House of Representatives by December 1, 2016.