



# **FY2014 National Defense Authorization Act: Selected Military Personnel Issues**

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August 19, 2013

**Congressional Research Service**

7-5700

[www.crs.gov](http://www.crs.gov)

R43184

## Summary

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

The Congressional Research Service (CRS) has selected a number of the military personnel issues considered in deliberations on the House-passed version of the National Defense Authorization Act for Fiscal Year 2014 that will be updated upon passage of a Senate bill and then again upon final passage. This report provides a brief synopsis of sections that pertain to personnel policy. These include end strengths, pay raises, health care, and sexual assault, as well as less prominent issues that nonetheless generate significant public interest.

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

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## **Introduction**

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

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

The House version of the National Defense Authorization Act for Fiscal Year 2014, H.R. 1960 (113<sup>th</sup> Congress), was introduced in the House on May 14, 2013; reported by the House Committee on Armed Services on June 7, 2013 (H.Rept. 113-102); and passed by the House on June 14, 2013. The entries under the heading “House” in the tables on the following pages are based on language in this bill, unless otherwise indicated.

The Senate version, S. 1197 (113<sup>th</sup> Congress), was introduced in the Senate on June 20, 2013, and reported by the Senate Committee on Armed Services (S.Rept. 113-44) on the same day. This report will be updated to reflect Senate provisions after the Senate’s passage of the bill. Where appropriate, related CRS products are identified to provide more detailed background information and analysis of the issue. For each issue, a CRS analyst is identified and contact information is provided.

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

## \*Active Duty End Strengths

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

House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 401 authorizes a total FY2014 active duty end strength of 1,361,400 including:		
520,000 for the Army		
323,600 for the Navy		
190,200 for the Marine Corps		
327,600 for the Air Force		

**Discussion:** With the withdrawal of U.S. forces from Iraq and the ongoing drawdown in Afghanistan, the House bill included major reductions in Army (-32,100) and Marine Corps (-7,100) end strengths in comparison to their FY2013 authorized end strengths. It also slightly reduced the end strength for the Air Force (-1,860) while slightly increasing it for the Navy (+900). The figures in the House provision are identical to the Administration's proposal. Taken together, the House bill stipulates a total active duty end strength which is 40,160 lower than the FY2013 level, almost entirely due to reductions in the size of the Army and Marine Corps. However, both the Army and the Marine Corps will likely finish this fiscal year well below their FY2013 authorized end strength levels. The committee report which accompanied H.R. 1960 estimated that the Army's strength at the end of FY2013 would be 530,000 (instead of the authorized 552,100) and the Marine Corps' would be 193,000 (instead of the authorized 197,300); and that therefore the actual total strength reductions in FY2014 would be around 15,000.<sup>2</sup>

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

<sup>2</sup> H.Rept. 113-102, p. 136.

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

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

## \*Selected Reserves End Strength

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

House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 411 authorizes the following end strengths for the Selected Reserves:		
Army National Guard: 354,200		
Army Reserve: 205,000		
Navy Reserve: 59,100		
Marine Corps Reserve: 39,600		
Air National Guard: 105,400		
Air Force Reserve: 70,400		
Coast Guard Reserve: 9,000		

**Discussion:** In the House bill, the authorized Selected Reserve end strengths for FY2014 are the same as those for FY2013 for the Army Reserve, the Marine Corps Reserve, and the Coast Guard Reserve. The Navy Reserve's authorized end strength was 62,500 in FY2013, but the Administration requested a decrease to 59,100 (-3,400) which the House approved. The Army National Guard's authorized end strength in FY2013 was 358,200; the Administration requested a decrease to 354,200 (-4,000) which the House also approved. The Air National Guard's end strength in FY2013 was 105,700 and the Air Force Reserve's was 70,880. The Administration proposed reducing these slightly to 105,400 (-300) and 70,400 (-480), respectively, and the House agreed.<sup>4</sup>

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

<sup>3</sup> P.L. 106-398, §411.

<sup>4</sup> In the FY2013 NDAA, Congress rejected the Administration's proposal to reduce the size of the Air National Guard and Air Force Reserve more substantially in accordance with its plans to divest, transfer or retire certain aircraft from Air National Guard and Air Force Reserve units. These proposals were quite controversial and Congress largely rejected them, ultimately authorizing only a small reduction in end strength for the Air National Guard (from 106,700 to 105,700) and the Air Force Reserve (from 71,400 to 70,880).



## \*Military Pay Raise

**Background:** Increasing concern with the overall cost of military personnel, combined with ongoing military operations in Afghanistan, has continued to focus interest on the military pay raise. Section 1009 of Title 37 provides a permanent formula for an automatic annual increase in basic pay that is indexed to the annual increase in the Employment Cost Index (ECI). The increase in basic pay for 2014 under this statutory formula will be 1.8% unless Congress passes a law to provide otherwise. The FY2014 President's Budget requested a 1.0% military pay raise, lower than the statutory formula. According to the Department of Defense, this smaller increase would save "\$540 million in FY 2014 and nearly \$3.5 billion through FY 2018."<sup>5</sup>

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
No provision		

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**Discussion:** The House bill contains no provision to specify the rate of increase in basic pay, thereby leaving in place the statutory pay raise formula specified in 37 U.S.C. 1009, which equates to an increase of 1.8% on January 1, 2014.

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

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

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<sup>5</sup> United States Department of Defense Fiscal Year 2014 Budget Overview, p. 5-2, available at [http://comptroller.defense.gov/defbudget/fy2014/FY2014\\_Budget\\_Request\\_Overview\\_Book.pdf](http://comptroller.defense.gov/defbudget/fy2014/FY2014_Budget_Request_Overview_Book.pdf)

## Limitations on Number of General and Flag Officers on Active Duty

**Background:** Congress sets limits on the number of general officers (officers in paygrades 0-7 through 0-10 in the Army, Air Force, and Marine Corps) and flag officers (officers in paygrades 0-7 through 0-10 in the Navy) on active duty. As specified in 10 U.S.C. 526, the number of general and flag officers on active duty may not exceed the following as of October 1, 2013: 231 for the Army, 162 for the Navy, 198 for the Air Force, and 61 for the Marine Corps.<sup>6</sup> In addition to these service-specific positions, the Secretary of Defense may designate up to 310 general and flag officers for joint duty positions; unless otherwise directed by the Secretary of Defense, at least 85 of these officers for these joint duty positions shall be Army officers, 61 from the Navy, 73 from the Air Force, and 21 from the Marine Corps. These figures do not include most reserve general/flag officers.

House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 501 would reduce the number of service-specific general and flag officers to 226 for the Army, 157 for the Navy, and 193 for the Air Force as of October 1, 2014. It would also reduce the maximum number of joint duty positions for general and flag officers to 300 as of that date; and within the joint allocation, it would reduce minimum positions by service to 81 for the Army, 59 for the Navy, 70 for the Air Force, and 20 for the Marine Corps.		

**Discussion:** The wars in Iraq and Afghanistan resulted in a substantial expansion in the size of the Army and Marine Corps and in general and flag officer authorizations. In 2001, there were 889 general and flag officers on active duty; 10 years later there were 971 (though DOD projects this figure to drop over the next few years). With the end of the war in Iraq, the ongoing drawdown in Afghanistan, and the substantial reductions in Army and Marine Corps strength that is underway, there has been growing interest in Congress to reduce the number of generals and admirals in the Armed Forces. Section 501 of the House bill would reduce current authorizations for general and flag officers on active duty from 962 (effective October 1, 2013) to 937 (effective October 1, 2014).

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

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

<sup>6</sup> See prospective changes made by §502 of the FY2012 National Defense Authorization Act (P.L. 112-81), as amended by §501 of the FY2013 National Defense Authorization Act (P.L. 112-239).

<sup>7</sup> Available at [http://www.loc.gov/tr/frd/pdf-files/CNGR\\_General-Flag-Officer-Authorizations.pdf](http://www.loc.gov/tr/frd/pdf-files/CNGR_General-Flag-Officer-Authorizations.pdf).

## Minimum Notification Requirements for Reserve Component Deployment or Cancellation of Deployment

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

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 511 would amend Section 12301 of Title 10 to require the Service Secretaries to provide at least 120 days of notice to reserve units or individual reservists if they will be “ordered to active duty for deployment in connection with a contingency operation” or, after being notified of such a deployment, the deployment is “canceled, postponed, or otherwise altered.” If the Service Secretary fails to provide such notification, he or she must submit a report to the House and Senate Armed Services Committees explaining the reasons for the failure and providing the names of units and individuals affected.		

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**Discussion:** Although DOD policy provides for reserve notification prior to mobilization, there have been complaints when the shorter notification limits have been invoked. More recently, there was dissatisfaction when the Army elected to use active duty units to replace four Army National Guard units that had already been notified of mobilization in support of Operation Enduring Freedom-Trans Sahara and the Multinational Force Observer Task Force Sinai.<sup>8</sup> The House provision seeks to provide greater advance notice to reservists, but the Service Secretaries would still have the option of providing less than 120 days of notice coupled with a report to Congress justifying the decision. Reservists who wish to volunteer for active duty in support of a contingency operation may object if they are required to wait 120 days before their duty begins.

**Reference(s):** None.

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

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<sup>8</sup> See “Army announces the off-ramp of reserve component units for fiscal year 2013,” available here: <http://www.army.mil/article/99155/>

## Protection of Religious Freedom of Military Chaplains to Close a Prayer Outside of a Religious Service According to the Traditions, Expressions, and Religious Exercises of the Endorsing Faith Group

**Background:** The Free Exercise Clause of the U.S. Constitution is meant to protect individual religious exercise and requires a heightened standard of review for government actions that may interfere with a person's free exercise of religion. However, the Establishment Clause is meant to stop the government from endorsing a national religion, favoring one religion over another. Actions taken must be carefully balanced to avoid being in violation of one of these Clauses. There are already sections in Title 10 under the Army, Navy, and Air Force that address chaplains' duties. This provision would amend these sections (§§3547, 6031, and 8547).

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 529 would specify that if a chaplain is called upon to lead a prayer outside of a religious service, they would have the prerogative to close the prayer according to the traditions, expressions, and religious exercises of the endorsing faith group.		

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

**Reference(s):** CRS Report R41171, *Military Personnel and Freedom of Religion: Selected Legal Issues*, by R. Chuck Mason and Cynthia Brougher.

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

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

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

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
<p>Section 564 amends the Service Members Civil Relief Act to require courts to render temporary custody orders based on deployments and to reinstate the servicemember as custodian unless the court determines that reinstatement is not in the child's best interest. This language prohibits courts from using a deployment, or the possibility of a deployment, in determining the child's best interest. In cases where a state provides a higher standard of protection of the rights of the servicemember, then the state standards apply.</p>		

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**Discussion:** This House language would allow courts to assign temporary custody of a child for the purposes of deployment without allowing the (possibility of) deployment to be prejudicially considered against the servicemember in a custody hearing.

**Reference(s):** CRS Report R43091, *Military Parents and Child Custody: State and Federal Issues*, by David F. Burrelli and Michael A. Miller.

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

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

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

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<b>House-passed (H.R. 1960)</b>	<b>Senate-passed</b>	<b>Conference Committee</b>
<p>Section 585 requires the Secretary of Defense to award a Purple Heart to the military victims of these two attacks. Categorizing this as a combat zone also makes those members and civilians eligible for additional monetary benefits.</p>		

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

**Reference(s):** CRS Report R42704, *The Purple Heart: Background and Issues for Congress*, by David F. Burrelli.

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

## \*Sexual Assault and the Military

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

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 522 requires the verification and tracking of the organizational climate assessments mandated by P.L. 112-239 and includes report requirements to the HASC and SASC.		
Section 540 requires uniform training standards to ensure that sexual assault prevention and response and education are uniform across DOD.		
Section 547 requires commanders to include letters of reprimand, nonpunitive letters of action, and counseling statements involving substantiated cases of sexual harassment or sexual assault in performance evaluations of servicemembers.		
Section 541 requires the establishment of selection qualifications for those assigned to be Sexual Assault Prevention and Response Managers, Sexual Assault Response Coordinators, and Sexual Assault Victim Advocates. Also, trained and certified Sexual Assault Nurse Examiners-Adult/Adolescent are to be assigned at the brigade level or other unit level subject to the discretion of the Secretary of Defense.		
Section 550 requires a review of the Office of Diversity Management and Equal Opportunity to identify resource and personnel gaps in the office, the role of the office in sexual harassment cases, and how the office works with the Sexual Assault Prevention and Response Office (SAPRO) to address sexual assaults.		
Section 548 provides enhanced protections for prospective members and new entrants by defining and prescribing what constitutes inappropriate/prohibited relations, communications, contact		

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
<p>and conduct between such personnel and recruiter, drill sergeants and others who may be responsible for such prospective or new members. Violators will be automatically processed for separation in substantiated cases. Finally, this section requires the Secretary of Defense to propose an amendment to the UCMJ that addresses violations of this policy.</p>		
<p>Section 532 eliminates the five-year statute of limitations for sexual assault for offenses occurring after enactment of this act.</p>		
<p>Section 539 requires a review of the investigative practices of military law enforcement agencies, including a review of the extent to which such agencies recommend whether an allegation is founded/unfounded, recording the results of such cases, and consider adopting the determination of non-military law enforcement agencies.</p>		
<p>Sections 531, 538, and 549 address the role of the commander. Section 531 limits the convening authority's discretion regarding court-martial findings and sentence except under certain conditions (such as wherein the accused provided substantial assistance in the investigation or prosecution of another person). In those instances where a convening authority acts to change a finding or a sentence, the convening authority's written rationale would be made part of the record of that trial. Section 538 requires the Secretary of Defense to assess the current role of commanders in the administration of military justice and to recommend whether further modifications of the commanders' roles need to be considered. Section 549 requires an independent panel (established under P.L. 112-239) to assess the impact of removing from the chain of command the disposition authority for charges preferred on the overall reporting and prosecution of sexual assault cases. Also, the independent panel would review the findings of the panel established by Section 439 (above), concerning the convening</p>		

<b>House-passed (H.R. 1960)</b>	<b>Senate-passed</b>	<b>Conference Committee</b>
authority's role.		
Section 546 requires the Secretary of Defense to recommend striking the words "the character and military service of the accused" from the list of factors contained in the Manual for Courts-Martial in the section on Initial Disposition, when applied to sex-related offenses.		
Section 535 authorizes the Secretary of Defense to temporarily reassign or remove from authority any person who is alleged to have committed a sexual assault.		
Section 530A establishes a set of rights and responsibilities for each member and would require a formal means for the servicemember to acknowledge those rights and responsibilities at certain times in a member's career.		
Section 542 prescribes the rights of a victim under the UCMJ similar to those in Section 3771 of Title 18 and directs the Secretary of Defense to submit recommended changes needed to carry out the section.		
Section 545 requires an eight-day incident reporting requirement detailing the actions taken of progress to provide the victim of sexual assault with care and support, in response to an unrestricted report of sexual assault in which the victim is a member of the military.		
Sections 527 and 537 pertain to protected communications. Section 527 expands protected communications to include communications with a Member of Congress or an Inspector General and requires the Secretary concerned to take disciplinary action against an individual who commits a prohibited personnel action and to correct the record if such occurs. Section 537 adds rape, sexual assault, or other sexual misconduct to protected communications of members of the Armed Forces with Members of Congress or an Inspector General.		
Sections 536 and 543 pertain to victim's counsel. Section 536		

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
<p>provides Victims' Counsel, who are trained and qualified lawyers in the Armed Forces, to be made available to provide legal assistance to victims of sexual assault. The independent panel (established under P.L. 112-239) would assess the Victims' Counsel program and assess whether it should be expanded to include legal standing to represent the victim during investigative and military justice proceedings. A victim could decline such assistance. Section 543 requires that if a defense counsel, in connection with proceedings under the UCMJ, desires to interview a complaining witness, such a request must be placed through trial counsel, and such interviews must take place in the presence of counsel for the witness or a Sexual Assault Victim Advocate.</p>		
<p>Section 544 enables a complaining witness who has suffered harm as the result of an offense to submit matters prior to the convening authority taking action on the finding or sentence of that court-martial.</p>		
<p>Section 534 requires the Secretary of Defense to issue regulations to provide for the timely consideration of a change of station or unit transfer of a servicemember who is a victim of sexual assault.</p>		
<p>Section 533 requires dismissal from the service for officers (and certain others) or a dishonorable discharge for enlisted personnel (and certain others) who are convicted of rape, sexual assault, forcible sodomy, or an attempt to commit those offenses, thereby limiting the jurisdiction of such trials to general court-martial. Further, the independent panel (established in P.L. 112-239) would assess the appropriateness of these mandatory minimum sentences and the appropriateness of other mandatory minimum sentences.</p>		
<p>Section 530B requires the DOD Inspector General to conduct a review to identify members of the military who, since January 1, 2002, were separated from the service after making an unrestricted report</p>		

House-passed (H.R. 1960)	Senate-passed	Conference Committee
to determine the grounds of the separation and to determine if the separation was in retaliation or influenced by the unrestricted report.		

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

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

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

## Review of the Integrated Disability Evaluation System

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

House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 521 would require the Secretary of Defense to conduct a review of the backlog of Reserve Component cases in the system and report the results, including considered improvements to the HASC and SASC.		

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

**Reference(s):** None.

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

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

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

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

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 530C required by Section 535 of P.L. 111-383 to report not later than 30 days after the date of enactment of this Act.		
Section 530D states “This section would express the sense of Congress that no later than September 2015, the Secretaries of the military departments should develop, review, and validate occupational stands in order to assess and assign members of the Armed Forces to units, including Special Operations Forces, and should complete all assessments by January 1, 2016.		

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

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

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

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

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

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 564 requires each military department to conduct monthly health and welfare inspections to ensure and maintain security, readiness, good order and discipline.		
Section 565 directs the Secretary of Defense to review security measure on installations, specifically with regard to barracks and multi-family housing units. Elements of the study include identifying security gaps and evaluating the feasibility of 24-hour electronic security or placing guards at points of entry to barracks and military family housing.		

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

**Reference(s):** None.

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

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

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

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
<p>Section 1099A states “Sense of Congress that active duty military personnel who are stationed or residing in the District of Columbia should be permitted to exercise fully their rights under the Second Amendment to the Constitution of the United States and therefore should be exempt from the District of Columbia’s restrictions on the possession of firearms.”</p>		

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**Discussion:** Since this is “Sense of Congress,” it is non-binding. Nevertheless, it does suggest the displeasure in Congress of the effect of the District of Columbia’s laws on gun control as they relate to members of the Armed Forces who are stationed or reside in the District.

**Reference(s):** None.

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

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

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

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House-passed (1960)	Senate-passed	Conference Committee
<p>Section 566 would require the Secretaries of the military departments to make information on civilian credentialing opportunities available to members of the Armed Forces, including during the transition assistance program. This section would also require the Secretaries of the military departments to make available to accredited civilian credentialing agencies information on military courses and skills.</p>		

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

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

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



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

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

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 621 expands the availability of these transitional benefits to the dependents of members of the Armed Forces who have served twenty years (including members of the Reserve Components) and are therefore retirement-eligible or retired.		

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**Discussion:** Family members suffering abuse are often afraid to report the abuse out of fear they will lose all support if the member or retired member is convicted of a crime and has to forfeit all pay and benefits. Such dependents may feel isolated especially if they are living far away from friends and family at the same time. This section would expand these transitional benefits to dependents of retirement-eligible members and encourage them to come forward and report the abuse.

**Reference(s):** None.

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

## Fraudulent Representations about Receipt of Military Decorations or Medals

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

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 581 amends Title 18, United States Code, to “make fraudulently claiming to be a recipient of certain decorations or medals with the intent to obtain money, property, or other tangible benefits a crime.”		

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

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

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

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

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

House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 524 would amend Section 1144 of Title 10, U.S.C., adding a clause to provide information related to disability-related employment and education protections. The provision would also require instruction on the use of veterans' educational and other benefits, and mandates a feasibility study.		

**Discussion:** Section 524 of the House bill would amend Section 1144 of Title 10, United States Code, by adding a provision requiring the TAP to provide information regarding disability-related employment and education protections for servicemembers. Section 524 also adds a new program requirement to instruct participants on the use of veterans' educational benefits, "courses of post-secondary education appropriate for the member, courses of post-secondary education compatible with the member's educational goals, and instruction on how to finance the member's post-secondary education," and instruction on other veterans' benefits not later than April 1, 2015. This section also requires that the Secretary of Veterans Affairs, within 270 days after the date of the enactment of this act, submit to the Committees on Veterans' Affairs and the Committees on Armed Services the results of a feasibility study of providing the pre-separation counseling specified in 10 U.S.C. 1142(b) at all overseas locations where such instruction is provided by entering into a contract jointly with the Secretary of Labor for the provision of such instruction.

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

**CRS Point of Contact:** Lawrence Kapp, x7-7609 or Lucy P. Martinez, x7-2875.

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

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

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
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Section 569 mandates access to free Internet for servicemembers in combat zones.

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**Discussion:** Section 569 of H.R. 1960 mandates that free Internet service be provided to members of the military serving in combat zones. The section was added to H.R. 1960 by amendment #63, which was offered by Representative Gene Green (D-TX 29) and adopted by the House. Representative Green indicated in debate that his amendment was intended as a response to concerns expressed by servicemembers from his district who are serving in Afghanistan.

**Reference(s):** None.

**CRS Point of Contact:** Lawrence Kapp, x7-7609 or Lucy P. Martinez, x7-2875.

## Extension of the Transitional Assistance Management Program

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

House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 704 provides an additional 180 days for telemedicine treatment coverage. It also includes an extension of the Transitional Assistance Management Program for mental health care and behavioral services. The period of extension shall be determined by professional treating covered individual.		

**Discussion:** The extension of the Transitional Assistance Management Program includes an additional 180 days for medical treatment provided through telemedicine to servicemembers. “Telemedicine” has been defined as “the use of medical information exchanged from one site to another via electronic communications to improve a patient’s clinical health status. Telemedicine includes a growing variety of applications and services using two-way video, email, smart phones, wireless tools and other forms of telecommunications technology.”<sup>10</sup> This section is intended to help ensure a more seamless transition for servicemembers from military to civilian life, particularly those who may endure mental or physical injuries. This section also includes an extension authorized by the Secretary of Defense for mental health care and behavioral services covered under TAMP for a period of time determined necessary by the individual’s health care professional. The provision states that the requirement to carry out this mandate would terminate on December 31, 2018, if suicide rates are 50% less than rates of December 31, 2012.

**Reference(s):** None.

**CRS Point of Contact:** Don Jansen, x7-4769 or Lucy P. Martinez, x7-2875.

<sup>10</sup> American Telemedicine Association, “What is Telemedicine,” at <http://www.americantelemed.org/learn>.

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

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

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 642 would amend Title 38 by inserting a new section specifying that reservists who are entitled to retired pay, or who would be entitled to retired pay but for age, “shall be honored as a veteran but shall not be entitled to any benefit by reason of this action.”		

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**Discussion:** Reservists typically become eligible for retired pay at age 60, after having completed at least 20 years of qualifying service, although in certain circumstances they can draw retired pay at early as age 50. Section 642 of the House bill would honor as “veterans” those reservists who are entitled to reserve retired pay, or who would be entitled to reserve retired pay except that they are too young to receive it. This honorary designation as a veteran would not entitle the retiree to any benefit. The Congressional Budget Office scored this provision as “cost neutral” because there is no cost in giving recognition to retired members of the reserve in the absence of providing additional benefits.

**Reference(s):** CRS Report R42324, “*Who is a Veteran?*”—*Basic Eligibility for Veterans’ Benefits*, by Christine Scott.

**CRS Point of Contact:** Christine Scott, x7-7366 or Lucy P. Martinez, x7-2875.

## \*TRICARE Beneficiary Cost-Sharing

**Background:** TRICARE is a health care program serving uniformed servicemembers, retirees, their dependents, and survivors. H.R. 1960, as passed by the House, does not include the Administration's 2013 budget proposals to raise premiums for military retirees using a three-tier model based on retirement pay brackets, to index the TRICARE catastrophic cap to the National Health Expenditure, and to introduce enrollment fees for TRICARE Standard/Extra and TRICARE for Life.

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House-passed (H.R. 1960)	Senate-passed	Conference Committee
H.Rept. 113-102 states "Mindful of Congress' commitment to service members and their families, the legislation would reject proposals to increase some TRICARE fees or establish new TRICARE fees. The committee has already put TRICARE on a sustainable path through reforms enacted in several recent defense authorization acts. Those reforms connect TRICARE fee increases to retiree cost of living increases."		

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

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

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

## \*Military Psychological Health

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

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

House (H.R. 1960)	Senate-Passed	Conference Committee
Section 528 removes the prohibition against required examinations for TBI among previously deployed servicemembers diagnosed with PTSD being applied in courts martial or other proceedings under the Uniform Code of Military Justice.		
Section 530H requires a report evaluating the separation of servicemembers on the basis of personality or adjustment disorders since 2008, and the impact such separations have had on the ability of separated servicemembers to access disability-related compensation.		
Section 593 creates a new Commission on Military Behavioral Health and Disciplinary Issues, which must evaluate the appropriateness of DOD disciplinary actions in cases where the servicemember may have service-connected mental disorders or TBI.		
Section 701 mandates mental health assessments every 180 days during deployments.		
Section 702 requires “periodic” “person-to-person” mental health assessments for all active-duty servicemembers, extending mental health assessments beyond deployed servicemembers.		
Section 723 authorizes collaborative programs responding to DOD personnel and family mental health needs and evaluations of those efforts.		
Section 725 requires DOD research on TBI and psychological health		



House (H.R. 1960)	Senate-Passed	Conference Committee
<p>conditions, including drug development for neurodegeneration following TBI.</p> <p>Section 726 authorizes the sharing of a state's reservists' information for suicide prevention outreach efforts at the request of an adjutant general of a state.</p> <p>Section 728 expresses the sense of Congress that DOD must develop a plan to ensure a flow of qualified counselors to meet the long-term needs of servicemembers and families.</p> <p>Section 730 requires a preliminary mental health assessment for each individual joining the Armed Forces, to be used as a baseline for subsequent mental health examinations.</p> <p>Section 731 describes the sense of Congress regarding the high importance and desired timeliness of the statutorily required plan to improve the coordination and integration of DOD programs addressing TBI and psychological health.</p> <p>Section 732 requires DOD to identify, refer, and treat TBI among servicemembers who may have experienced them prior to the policy of evaluating all servicemembers within a 50m radius of an explosion for TBI.</p> <p>Section 733 authorizes a five-year pilot program in which servicemembers may receive investigational treatments for TBI or PTSD in civilian health care facilities. A database of treatments must be maintained to allow for studies regarding the efficacy of these treatments. This section authorizes \$10 million in FY2014 for this pilot program.</p>		

**Discussion:** These sections expand mental health assessments; require evaluations of the role of mental health disorders in servicemembers' encounters with the Uniform Code of Military Justice system and separations from the Armed Forces, and build on previous efforts to ensure appropriate identification, diagnosis, treatment, and access to psychological health resources to active duty servicemembers, reservists, and military families.

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

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## \*Availability of TRICARE Prime

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

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

House-passed (H.R. 1960)	Senate-passed	Conference Committee
Section 711 would require DOD to continue to make the TRICARE Prime benefit available to beneficiaries currently residing in affected areas. DOD would be allowed to phase-out Prime in those areas as those beneficiaries either move, opt out of Prime, or reach the age of eligibility for TRICARE-for-Life.		

### Discussion:

DOD's plans to eliminate TRICARE Prime coverage for certain PSAs would be overridden by Section 711 of the House-passed bill. This provision would allow individuals currently enrolled in TRICARE Prime in affected services areas to elect to remain in TRICARE Prime for as long as they reside in the affected service area. DOD would still, however, be able to prevent any new enrollments in TRICARE Prime in the affected areas.

CBO's cost estimate for Section 711 states:

Because it has low out-of-pocket costs, TRICARE Prime is typically more expensive to DoD than other health options, including TRICARE Standard; thus, any attempt to maintain or expand enrollment in TRICARE Prime would result in added costs to the government. Based on an analysis of the proximity of the affected Prime service areas to areas unaffected by the new policy, CBO estimates that about a third of the affected beneficiaries will seek the waivers available under current law and travel the added distance to remain in Prime. Therefore, the net cost to the government of health benefits for those people will remain approximately the same. For the other two-thirds of that population, CBO estimates that the requirement to maintain the Prime benefit would result in added costs for the government. The average annual cost for a Prime beneficiary is about \$5,400. CBO estimates that

eliminating Prime would decrease that cost by over 25 percent. That estimate takes into account the lower costs for Standard, as well as the possibility that those beneficiaries would begin using another source of funding—such as employer-sponsored insurance—for part or all of their health care costs. Initially, CBO estimates that enacting section 711 would cost DoD more than \$150 million annually, although costs would decrease over time as the affected beneficiaries drop out of Prime for various reasons. In total, CBO estimates that implementing section 711 would increase the need for appropriations by \$735 million over the 2014-2018 period.<sup>11</sup>

Previously, Section 732 of the FY2013 NDAA required the Secretary of Defense to submit within 90 days to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the policy of the Department of Defense on the future availability of TRICARE Prime for eligible beneficiaries in all TRICARE regions throughout the United States. The report<sup>12</sup> was submitted to Congress on March 22, 2013.

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

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

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<sup>11</sup> Congressional Budget Office, Cost Estimate H.R. 1960, June 11, 2013, p. 11, <http://www.cbo.gov/sites/default/files/cbofiles/attachments/H.R. 1960.pdf>

<sup>12</sup> Department of Defense, “TRICARE Prime Service Area Reductions” January 10, 2013, available at <http://tricare.mil/tma/congressionalinformation/downloads/Future%20Availability%20of%20TRICARE%20Prime%20Throughout%20the%20U.S.pdf>.

## Integrated Electronic Health Record Program

**Background:** In 2011, the Secretaries of Defense and Veterans Affairs signed a commitment to implement a “single common platform” for an integrated electronic health record system.<sup>13</sup> However, in February 2013, the Secretaries announced that the departments would instead acquire electronic health records systems separately. They cited cost savings and meeting needs sooner rather than later as reasons for this decision.<sup>14</sup>

House-passed (H.R. 1960)	Senate-passed	Conference Committee
<p>Section 713 would limit the amount of funds the Secretary of Defense may obligate or expend for procurement, or research, development, test and evaluation of the integrated electronic health record until 30 days after the date that the Secretary submits a report detailing an analysis of alternatives for the plan of the Secretary to proceed with such program.</p> <p>Section 734 requires that the Secretary of Defense and the Secretary of Veterans Affairs implement an integrated electronic health record to be used by each of the Secretaries and deploy such record by not later than October 1, 2016.</p>		

**Discussion:** Since 1998, DOD and VA have undertaken numerous initiatives to achieve greater electronic health record interoperability. These have included efforts to share viewable data in existing systems; link and share computable data between the Departments’ health data repositories; establish interoperability objectives to meet specific data-sharing needs; and implement electronic sharing capabilities for the first joint federal health care center. These initiatives have increased data-sharing in various capacities but have not achieved the fully interoperable electronic health record capabilities required in previous legislation.

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

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

<sup>13</sup> Memorandum dated May 2, 2011, Subject: SECDEF/SECVA Meeting Minutes May 2, 2011, <http://www.govexec.com/pdfs/052511bb1.pdf>

<sup>14</sup> U.S. Department of Defense, “Remarks by Secretary Panetta and Secretary Shinseki from the Department of Veterans Affairs,” press release, February 5, 2013, <http://www.defense.gov/Transcripts/Transcript.aspx?TranscriptID=5187> (accessed February 16, 2013).

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## **Acknowledgments**

Talia Ascher, Research Associate, also contributed to this report.