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FY2015 National Defense Authorization Act: Selected Military Personnel Issues

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July 16, 2014

Congressional Research Service
7-5700
www.crs.gov
R43647

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

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

The Congressional Research Service (CRS) has selected a number of the military personnel issues considered in deliberations on the initial House-passed version of the National Defense Authorization Act for Fiscal Year 2015. 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 FY2014 National Defense Authorization Act and discussed in CRS Report R43184, *FY2014 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen. Those issues that were considered previously are designated with a "*****" in the relevant section titles of this report.

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Introduction

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

In the course of a typical authorization cycle, congressional staffs receive many requests for information on provisions contained in the annual NDAA. This report highlights those personnel-related issues that seem likely to generate high levels of congressional and constituent interest, and tracks their status in the House and Senate versions of the FY2015 NDAA.

The initial House version of the Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, H.R. 4435 (113th Congress), was introduced in the House on April 9, 2014; reported by the House Committee on Armed Services on May 13, 2014 (H.Rept. 113-446); and passed by the House on May 22, 2014. A Senate version, S. 2410 (113th Congress), was introduced in the Senate on June 2, 2014, and reported by the Senate Committee on Armed Services (S.Rept. 113-176) on the same day. The entries under the heading "House" in the tables on the following pages are based on language from the House-passed bill, H.R. 4435, unless otherwise indicated.

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

Some issues were addressed in the FY2014 National Defense Authorization Act, and discussed in CRS Report R43184, *FY2014 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen, or earlier versions of reports on this act. Those issues that were considered previously are designated with a "*" in the relevant section titles of this report.

*Active Duty End Strengths

Background: The authorized active duty end-strengths[1] for FY2001, enacted in the year prior to the September 11th terrorist attacks, were as follows: Army (480,000), Navy (372,642), Marine Corps (172,600), and Air Force (357,000). Over the next decade, in response to the demands of wars in Iraq and Afghanistan, Congress increased the authorized personnel strength of the Army and Marine Corps. Some of these increases were quite substantial, particularly after FY2006, but Congress began reversing these increases in light of the withdrawal of U.S. forces from Iraq in 2011 and a drawdown of U.S. forces in Afghanistan which began in 2012. In FY2014, the authorized end-strength for the Army was 520,000, while the authorized end-strength for the Marine Corps was 190,200. Given the budgetary outlook, particularly the future impact of the Budget Control Act of 2011, the Army plans to reduce its active personnel strength to between 420,000 and 450,000 by FY2017, while the Marine Corps plans to reduce its active personnel strength to between 175,000 to 182,600. End-strength for the Air Force and Navy has decreased gradually since 2001. The authorized end-strength for FY2014 was 327,600 for the Air Force and 323,600 for the Navy.

House-passed (H.R. 4435)	Senate-passed	Conference Committee
Section 401 authorizes a total FY2015 active duty end strength of 1,308,920 including: 490,000 for the Army 323,600 for the Navy 184,100 for the Marine Corps 311,220 for the Air Force		

Discussion: In light of the ongoing drawdown in Afghanistan and the budgetary environment, the House bill included major reductions in Army (-30,000), Air Force (-16,380), and Marine Corps (-6,100) end strengths in comparison to their FY2014 authorized end-strengths. End-strength for the Navy remained stable at 323,600 in comparison to FY2014. The figures in the House provision are identical to the administration's end-strength request for the Army, Navy, and Marine Corps, but slightly higher for the Air Force (+320 above the administration request). Taken together, the House bill stipulates a total active duty end-strength which is 52,480 lower than the FY2014 level. The committee report which accompanied H.R. 4435 noted that "the services plan for more drastic reductions in end strength and force structure in fiscal year 2016 absent a change in the Budget Control Act of 2011 (BCA)" and expressed concerns that "This continued stress on the force, coupled with potential further reductions as a result of the BCA's discretionary caps, may have serious implications on the capacity and capability of the All-Volunteer Force and the ability for the services to meet the National Defense Strategy."[2]

[1] The term "end-strength" refers to the authorized strength of a specified branch of the military at the end of a given fiscal year, while the term authorized strength means "the largest number of members authorized to be in an armed force, a component, a branch, a grade, or any other category of the armed forces". 10 USC 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.

[2] H.Rept. 113-446, p. 135.

Reference(s): Previously discussed in CRS Report R43184, *FY2014 National Defense Authorization Act: Selected Military Personnel Issues*, and similar reports from earlier years.

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 4% over the past twelve years (874,664 in FY2001 versus 842,700 in FY2014). Much of this can be attributed to the reductions 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).[3] Between FY2001 and FY2014, the largest shifts in authorized end strength have occurred in the and Navy Reserve (-29,800 or -33.5%), Army National Guard (+3,674 or +1.1%), Air Force Reserve (-3,958 or -5.3%), and Coast Guard Reserve (+1,000 or +12.5%). A smaller change occurred in the Air National Guard (-2,622 or -2.4%), while the authorized end strength 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. 4435)	Senate-passed	Conference Committee
Section 411 authorizes the following end strengths for the Selected Reserves: Army National Guard: 350,200 Army Reserve: 202,000 Navy Reserve: 57,300 Marine Corps Reserve: 39,200 Air National Guard: 105,000 Air Force Reserve: 67,100 Coast Guard Reserve: 7,000		

Discussion: In the House bill, the authorized Selected Reserve end strengths for FY2015 are lower than those for FY2014 for all of the reserve components. The reductions in comparison to FY2014 are as follows: Army National Guard (-4,000), Army Reserve (-3,000), Navy Reserve (-1,800), Marine Corps Reserve (-400), Air National Guard (-400), Air Force Reserve (-3,300) and Coast Guard Reserve (-2,000). All of these reductions are identical with the administration's request.

Reference(s): Previously discussed in CRS Report R43184, *FY2014 National Defense Authorization Act: Selected Military Personnel Issues*, and similar reports from earlier years.

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

[3] P.L. 106-398, Section 411.

*Military Pay Raise

Background: Increasing concern with the overall cost of military personnel, combined with longstanding congressional interest in recruiting and retaining high quality personnel to serve in the all-volunteer military, have 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 2015 under this statutory formula will be 1.8% unless either: (1) Congress passes a law to provide otherwise; or (2) the President specifies an alternative pay adjustment under subsection (e) of 37 USC 1009.[4]

The FY2015 President's Budget requested a 1.0% military pay raise, lower than the statutory formula of 1.8%. This is in keeping with Department of Defense (DOD) plans to limit increases in basic pay through FY2017:

> As part of the FY 2014 President's Budget, the Department had already planned on limiting basic pay raises through FY 2017 to levels likely below those called for under the formula in current law, which calls for a raise to equal the annual increase in the wages and salaries of private industry employees as measured by the ECI. This FY 2014 plan called for pay raises of 1.0 percent in FY 2015 and FY 2016, 1.5 percent in FY 2017, and then returned to more likely ECI levels of 2.8 percent in FY 2018 and beyond.
>
> Similar to FY 2014, the FY 2015 President's Budget again seeks a 1.0 percent basic pay raise for military members in FY 2015, which is less generous than the 1.8 percent increase in ECI as of September 30, 2013.[5]

House-passed (H.R. 4435)	Senate-passed	Conference Committee
No provision.		

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, 2015. However, the President can specify an alternative pay adjustment if he notifies Congress of his intention to do so before September 1, 2014.

Reference(s): Previously discussed in CRS Report R43184, *FY2014 National Defense Authorization Act: Selected Military Personnel Issues*, and similar reports from earlier years.

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

[4] Last year, Congress did not include a provision specifying an increase in basic pay; typically, that would have meant the automatic formula would have provided an increase equal to the ECI (1.8%). However, the President sent a letter to Congress stating "I have determined it is appropriate to exercise my authority under Section 1009(e) of title 37, United States Code, to set the 2014 monthly basic pay increase at 1.0 percent ... The adjustments described above shall take effect on the first applicable pay period beginning on or after January 1, 2014." Letter available at http://www.whitehouse.gov/the-press-office/2013/08/30/letter-president-regarding-alternate-pay-plan-members-uniformed-services

[5] Department of Defense, Fiscal Year 2015 Defense Budget Overview, March 2014, page 5-5, available here: http://comptroller.defense.gov/Portals/45/Documents/defbudget/fy2015/fy2015_Budget_Request_Overview_Book.pdf

Basic Allowance for Housing (BAH)

Background: The armed services provide funds to assist members of the military to pay for housing when government quarters adequate for themselves and their dependents are not available. Originally known as Basic Allowance for Quarters (BAQ), such compensation was based on rank and whether or not dependents were involved. During the 1970s housing costs began to vary more by location. In 1980, Congress added a Variable Housing Allowance (VHA) as a means to defray high housing costs in certain areas. BAQ/VHA was not intended to defray the entire cost of housing. It was expected that members would pay approximately 15 percent of these costs out-of-pocket. By 1997, the increase in housing costs increased this out-of-pocket amount to 20 percent. In 1998, Congress combined BAQ and VHA and renamed it BAH. In 2001, Congress enacted language that would increase BAH over successive years to remove the out-of-pocket costs to the member. The President's 2015 budget submission called for a slowing of BAH growth such that members would pay 5 percent out-of-pocket by 2019.

House-passed (H.R. 4355)	Senate-passed	Enacted
The House is concerned of the effects of this change on service members, noting that the Military Compensation and Retirement Modernization Commission is scheduled to release its report due Feb. 1, 2015. The House suggests that DOD share its analysis of the impact of such a change with the Commission.		

Discussion: Due to budget constraints, the Administration is suggesting a number of reductions concerning military compensation. It has been suggested that when service members pay part of their housing costs out of pocket they are more economical in their housing choices. Some note that service members who are not afforded government housing have less spending power when some of it must be used for housing than their similarly situated peers who have government housing.

References: None.

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

*Briefing on Sexual Assault Prevention and Response

Background: Over the past few years, the issue of sexual assault in the military has received a good deal of congressional and media attention. Congress has enacted numerous changes, still problems persist.

House-passed (H.R. 4355)	Senate-passed	Enacted
The House directs the Secretary of Defense to brief the House Armed Services Committee not later than March 1, 2015 on the status of the implementation of sexual assault provision in the NDAA12 through NDAA14, as well as the initiatives announced by the Secretary of Defense on August 14, 2013.		

Discussion: Congress continues to maintain its oversight responsibilities concerning the matter of sexual assault and the military, as well as its desire to see positive changes in this matter.

References: *Sexual Assaults Under the Uniform Code of Military Justice (UCMJ): Selected Legislative Proposals, by R. Chuck Mason.*

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

Department of Defense Hair and Grooming Standards

Background: Military hair and grooming standards as well as the issue of religious accommodations are designed to achieve uniformity. However, changes in styles, religious accommodations, etc., can be at variance with these standards. In at least one case, the issue had reached the Supreme Court.[6] As the military has become more diverse, regulations have been revised and/or updated. In March 2014, the Army released its updated regulation (AR 670-1). The update was criticized as 'racially biased.'[7]

House-passed (H.R. 4355)	Senate-passed	Enacted
The House stated that the Secretary of Defense "shall not enforce and shall evaluate the changes to hair standard and grooming policies for female service members,.... and report to the congressional defense committees the results of the evaluation. The evaluation shall include the opinions of those who may have religious accommodation requirements and minorities serving in the Armed Forces."		

Discussion: Congress and the Army have addressed similar issues. Any policy change regarding attire or grooming standards that appear to affect one group, particularly minorities, or people of religious faith, is viewed as suspect and there has been and will likely be pressure on the Service concerned to be more accommodating.

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

[6] Goldman v. Weinberger, 475 U.S. 503 (1986); the case was concerned with the question as to whether the Air Force could forbid a service member from wearing a yarmulke while in uniform. The Court ruled against the service member leading Congress to add language in the National Defense Authorization Act for Fiscal Years 1988 and 1989 (section 508) allowing for the wearing of religious apparel that was "neat and conservative," with other restrictions.

[7] Tan, Michelle, "Black female soldiers say new grooming reg is 'racially biased,'" *Army Times*, March 31, 2014.

*Protection of the 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 in the Bill of Rights 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. The Establishment Clause in the Bill of Rights is meant to stop the government from endorsing a national religion, or favoring one religion over another. Actions taken must be carefully balanced to avoid being in violation of one of these Clauses. Sections in Title 10 under the Army, Navy, and Air Force already address chaplains' duties with regard to holding religious services. A provision in the House-passed bill would amend these sections (§§3547, 6031, and 8547). Section 533 of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239) required the Armed Forces to accommodate the moral principles and religious beliefs of service members concerning appropriate and inappropriate expression of human sexuality and that such beliefs may not be used as a basis for any adverse personnel actions.

House-passed (H.R. 4355)	Senate-passed	Enacted
If called upon to lead a prayer outside of a religious service, a military chaplain may close the prayer according to the traditions, expressions and religious exercises of the endorsing faith group.		

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

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

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

*Removal of Artificial Barriers to the Service of Women in the Armed Forces, and, Study on Gender integration in Defense Operation Planning and Execution

Background: Section 535 of P.L. 111-383 (enacted Jan. 7, 2011) 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. The report, "Review of Laws, policies, and regulations restricting service of female members of the Armed Forces," was submitted on June 1, 2011. In early 2013, then-Secretary of Defense Panetta rescinded the rule that restricted women from serving in combat units.

Since Secretary Panetta's decision to rescind the restriction rule, the Army and Marine Corps have taken various steps to further integrate women. Many observers contend that full integration, however, has not occurred.

House-passed (H.R. 4355)	Senate-passed	Enacted
Sec. 527 requires the Secretary of Defense to direct the Secretary of each military service, in collaboration with an independent research entity, to validate the gender-neutral standards used by the Armed Forces. This section would require that properly fitted and design combat equipment is available. It calls on the Comptroller General to conduct a review of outreach to women by the Services. Sec. 584, requires the Chairman of the Joint Chiefs of Staff to conduct a study concerning the integration of gender into the planning and execution of foreign operations at all levels.		

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 service members. 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. Section 584 of H.R. 4355 mandates a study of gender integration.

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

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 service members. Deployments to areas that do not allow dependents (such as aboard ships or in hostile fire zones) require the service member 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 service members' 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 service member 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.

House-passed (H.R. 4355)	Senate-passed	Enacted
Section 547 amends the Service Members Civil Relief Act to require courts to render temporary custody orders based on deployments and to reinstate the service member 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 service member, then the state standards apply.		

Discussion: The House language would amend the law to allow courts to assign temporary custody of a child for the purposes of deployment without allowing the (possibility of) deployment to be prejudicially considered against the service member in a custody hearing.

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 R43091, *Military Parents and Child Custody: State and Federal Issues*, by David F. Burrelli and Michael A. Miller.

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

*Required Consideration of Certain Elements of Command Climate in Performance Appraisals of Commanding Officers

Background: In recent years, the Services, particularly the Army, have reviewed and broadened what should be considered in reviewing commanders, including assessing the 'Command Climate.' This appraisal goes beyond evaluating the commander to include evaluating how the unit is functioning and its "health." Such an appraisal could look at complaints in the unit, as well as issues concerning turnover, morale, leadership, discipline, etc.

House-passed (H.R. 4355)	Senate-passed	Enacted
Sec. 506 requires that in assessing the command climate, allegations of sexual assault and the response to the victim of sexual assault should be taken into account.		

Discussion: This language would broaden the focus of a "command climate" assessment by including how the unit commander addresses a sexual assault allegation and the response to the victim. Arguably, this would stress the need to properly handle such cases among commanders.

References: CRS Report R43184, *FY2014 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen.

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

*Sexual Assault

Background: Sexual assault continues to be an issue in the military. The number of cases reported in FY13 was 5,061, significantly higher than the number of cases reported in FY12 which was 3,374. DOD attributes this increase to a greater willingness of alleged victims to come forward and report incidents.

House-passed (H.R. 4355)	Senate-passed	Enacted
The House included seven sections concerning sexual assault in Subtitle D. Sec. 533, this section requires the Secretary of Defense to extend the sexual assault provisions and preventions in the FY14 NDAA to the Academies. Sec. 534, "This section would require the Secretary concerned to establish a procedure to ensure a victim of an alleged sexual-related offense is consulted regarding the victim's preference for prosecution authority by court-martial or a civilian court with jurisdiction over the offense." Sec. 535, this section would allow a victim to seek relief from the Military Court of Appeals if he/she believes that a court-martial ruling violated the victim's rights concerning the victim's previous sexual behavior or psychological counseling issues. Sec. 536, "This section would require at a minimum, dismissal or dishonorable discharge and confinement for 2 years for sex-related offenses under the Uniform Code of Military Justice." Sec. 537, "This section would require the Secretary of Defense to modify the Military Rules of Evidence to make clear that the general military character of an accused is not admissible for the purpose of showing the probability of innocence except when the trait of the military character of an accused is relevant to an element for which the accused has been charged and may only be used for specified military-specific offenses." Sec. 538, "This section would require the Secretaries of military departments to establish a		

House-passed (H.R. 4355)	Senate-passed	Enacted
confidential process for victims of a sex-related offense to appeal, through boards for the correction of military records, the characterization of discharge or separation of the individual from the Armed Forces." Sec. 539, "This section would eliminate the constitutionally required exception to the psychotherapist-patient privilege which is afforded to the patient of a psychotherapist to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made between the patient and psychotherapist."		

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.

References: CRS Report R43184, *FY2014 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen; CRS Report R42651, *FY2013 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by Catherine A. Theohary; and CRS Report R41874, *FY2012 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by David F. Burrelli. See also, U.S., Department of Defense, Department of Defense Annual Report on Sexual Assault in the Military, FY2013: http://www.sapr.mil/public/docs/reports/FY13_DoD_SAPRO_Annual_Report_on_Sexual_Assault.pdf

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

Medals for Members of the Armed Forces and Civilian Employees of the Department of Defense Who Were Killed or Wounded in an Attack Inspired or Motivated by a Foreign Terrorist Organization

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, as the result of 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, AK. On November 5, 2009, an Army major, Nidal Hasan, opened fire at Ft. Hood, TX, killing 13 and wounding 29. Both the civilian and Army Major were charged with murder and other crimes. In 2013, Hasan was convicted and sentenced to death. The shooter in the Little Rock case, confessed and was sentence to life in prison.

House-passed (H.R. 4355)	Senate-passed	Enacted
Sec. 571 "would amend the Purple Heart award to include members killed or wounded in attacks inspired or motivated by foreign terrorist organizations since September 11, 2001. Additionally, this section would require a review of the November 5, 2009, attack at Fort Hood, Texas, to determine as to whether the death or wounding of any civilian employee of the Department of Defense or civilian contractor meets the eligibility criteria for the award of the Secretary of Defense Metal for the Defense of Freedom." It prohibits the award being presented to a member whose wound was the result of willful misconduct (e.g., the alleged shooter at Ft. Hood, who was wounded by police).		

Discussion: Authorities had considered, and treated, the shootings at Little Rock and Ft. Hood 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. Still others are concerned that awarding the Purple Heart in these situations could have anti-Muslim overtones. Although the decision to award medals and other military decorations traditionally rests with the executive branch, enacting this language would represent a rare legislative initiative in this area.

References: CRS Report R42704, *The Purple Heart: Background and Issues for Congress*, by David F. Burrelli.

CRS Point of Contact: David F. Burrelli, x7-8033, and Barbara Salazar Torreon, x7-8996.

Retroactive Award of Army Combat Action Badge

Background: The Combat Action Badge (CAB) is awarded to any soldier who has actively engaged or been engaged by the enemy in a combat zone or imminent danger area. The CAB was established through Department of the Army Letter 600-05-1, dated June 3, 2005, and was authorized for soldiers who met the requirements after September 18, 2001. As with the coveted Combat Infantryman Badge (CIB) and Combat Medical Badge (CMB), the CAB recognizes soldiers who were actively engaged in combat with the enemy, but its award is not restricted by military occupational specialty.

House-passed (H.R. 4355)	Senate-passed	Enacted
Sec. 572. states that "The Secretary of the Army may award the Army Combat Action Badge … to a person who, while a member of the Army, participated in combat during which the person personally engaged, or was personally engaged by, the enemy at any time during the period beginning on December 7, 1941, and ending on September 18, 2001." In order to minimize administrative costs, the Secretary may make arrangements for the newly eligible individuals to procure the CAB directly from the suppliers.		

Discussion: Section 572 of the House bill would give the Secretary of the Army permission to retroactively award the CAB to certain individuals. If enacted and utilized by the Secretary of the Army, Section 572 would align the dates of eligibility with those for the CIB and CMB, and effectively allow eligible Army veterans retroactively to be awarded the CAB. Locating records that would justify awarding the CAB might, in some cases, be difficult. Additionally, the language of Section 572 says that the CAB would be awarded to "a person who, while a member of the Army, participated in combat during which the person personally engaged, or was personally engaged by, the enemy." Therefore, survivors of deceased service members seemingly could not acquire the CAB on behalf of the service member.

References: None.

CRS Point of Contact: Lawrence Kapp, x7-7609 and Barbara Salazar Torreon, x7-8996.

Medal of Honor (MoH) Process

Background: In recent years, critics of the MoH review process have noted it as being lengthy and bureaucratic which may have led to some records being lost and conclusions drawn based on competing eyewitness and forensic evidence. One controversial nomination is that of Sgt. Rafael Peralta, who was nominated by the Marine commandant for allegedly smothering a grenade in Fallujah, Iraq, and saving the lives of several comrades in 2004. Marines who witnessed his actions insisted that although Peralta was gravely wounded, he was able to smother the grenade. However, some forensic experts disagreed, contending that he was already brain-dead and thus unable to voluntarily move on his own. The situation became more confused when Marines serving with Peralta recanted their stories.[8] Also medals process was tarnished when the Pentagon was caught allegedly creating false narratives to justify medals awarded in the high-profile cases of Army Ranger Pat Tillman and Army Pfc. Jessica Lynch.[9]

House-passed (H.R. 4355)	Senate-passed	Enacted
Sec. 573 states "No later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the Navy review, findings, and actions pertaining to the Medal of Honor nomination of Marine Corps Sergeant Rafael Peralta. The report shall account for all evidence submitted with regard to the case."		

Discussion: Peralta's case bears similarities to that of Marine Cpl. William "Kyle" Carpenter, who jumped on an enemy grenade to save a fellow Marine in Afghanistan. Carpenter, who is medically retired, was awarded the Medal of Honor on June 19, 2014, at the White House for his actions. Advocates for Peralta's nomination may seek to draw parallels between the two cases which may further open the review process for scrutiny.

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

CRS Point of Contact: David F. Burrelli, x7-8033, and Barbara Salazar Torreon, x7-8996.

[8] Londono, Ernesto, "Comrades say Marine heroism tale of Iraq veteran was untrue," *The Washington Post*, February, 21, 2014

[9] Zucchino, David, and Tony Perry, "Why so few Medal of Honor awards?," *The Los Angeles Times*, October 4, 2010, at http://articles.latimes.com/print/2010/oct/04/nation/la-na-1004-medal-20101004-1

*TRICARE Beneficiary Cost-Sharing

Background: TRICARE is a health care program serving uniformed service members, retirees, their dependents, and survivors. H.R. 4355, as passed by the House, does not include the Administration's 2015 TRICARE budget proposals. These proposals would replace TRICARE Prime, Standard, and Extra with a consolidated TRICARE plan, increase co-pays for pharmaceuticals, and establishing a new enrollment fee for future enrollees in the TRICARE-for-Life program that acts like a Medigap supplement plan for Medicare-eligible retirees.

House-passed (H.R. 4355)	Senate-passed	Enacted
No provision.		

Discussion: The House Armed Services Committee report states:

> The committee remains focused on making certain that the Department cost-saving measures are centered on achieving the most efficient Military Health System possible before significant cost sharing burdens are placed on TRICARE beneficiaries. The current Department proposal to fundamentally alter the structure of TRICARE and increase associated fees is concerning in light of concurrently proposed reductions in compensation.[10]

Reference(s): Previously discussed in CRS Report R43184, *FY2014 National Defense Authorization Act: Selected Military Personnel Issues*, coordinated by Don J. Jansen; 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.

[10] H.Rept. 113-446 page 162.

Mental Health Assessments

Background: Person-to-person mental health assessments are required under current law (10 U.S.C. 1074m) to be provided to each member of the armed forces who is deployed in support of a contingency operation once during the period beginning 120 days before the date of the deployment, once during the period beginning 90 days after the date of redeployment from the contingency operation and ending 180 days after such redeployment date, and not later than once during each of- (1) the period beginning 180 days after the date of redeployment from the contingency operation and ending 18 months after such redeployment date; and (2) the period beginning 18 months after such redeployment date and ending 30 months after such redeployment date. The purpose of these mental health assessments is to identify post-traumatic stress disorder, suicidal tendencies, and other behavioral health conditions.

House-passed (H.R. 4355)	Senate-passed	Enacted
Section 701 would require DOD to administer a mental health assessment to deployed personnel once every six months..		

Discussion: Requiring DOD to administer a mental health assessment to deployed personnel every six months would require the deployment of an additional 20 mental health professionals and cost $35 million over the 2015-2019 period according to Congressional Budget Office estimates.

Reference(s): Congressional Budget Office Cost Estimate: H.R. 4435 dated May 16, 2014.

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

Review of Military Health System Modernization

Background: DOD implemented a reorganization of the military health system on October 1, 2013. This included the creation of a new Defense Health Agency and Enhanced Multi-Service Markets. In reports to Congress, DOD has communicated its intent to consolidate or eliminate some underutilized services offered through certain military treatment facilities.

House-passed (H.R. 4355)	Senate-passed	Enacted
Section 714 would require the Secretary of Defense to submit a report to the congressional defense committees on the military medical treatment facility modernization study directed by the Resource Management Decision of the Department of Defense MP-D–01. The report would be required to include the study data used by the Secretary and the results of the study with regard to recommendations to restructure or realign military medical treatment facilities. It also would require the Comptroller General, not later than 180 days after the Secretary submits the report required, to submit a report to the congressional defense committees on the report submitted by the Secretary of Defense, to include an assessment of the study methodology and data used by the Secretary. The Secretary would be prohibited from realigning or restructuring a military medical treatment facility until 120 days following the date the Comptroller General is required to submit the report.		

Discussion: Section 714 would delay DOD's planned changes. The section requires DOD to submit a report to the congressional defense committees on an internal DOD military medical treatment facility modernization study and the Government Accountability Office to subsequently report upon that report. The Congressional Budget Office estimates that the delays in planned changes would increase costs to DOD by about $135 million over the 2015-2019 period.

Reference(s): Congressional Budget Office Cost Estimate: H.R. 4435 dated May 16, 2014.

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