

H.R. 4435 National Defense Authorization Act for Fiscal Year 2015
House Armed Services Committee Mark-Up / Wednesday, 7 May 2014

H.R. 4435—FY15 National Defense Authorization Bill, Chairman’s Mark

1. Section 534: Consultation with victims of sexual assault regarding victims’ preference for prosecution of offense by court-martial or civilian court.
2. Section 535: Modification of MRE relating to admissibility of general military character toward probability of innocence.
3. Section 536: Confidential review of characterization of terms of discharge of members of the Armed Forces who are victims of sexual offenses.

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4. Section 505: Performance appraisals of commanding officers indicate the extent to which commander has established climate in which allegations of sexual assault are properly managed and evaluated; and in which a victim can report criminal activity without fear of retaliation.
5. Section 524: Provision of information to members of the Armed Forces on privacy rights related to records regarding members of the Armed Forces seeking and receiving mental health services.
6. Section 532: Additional duty for the Judicial Proceedings Panel regarding use of mental health records by defense during preliminary hearings and at court-martial proceedings. Examine use of mental health records by defense during preliminary hearings and courts-martial and compare to the similar use in civilian criminal legal proceedings in order to identify any significant discrepancies.
7. Section 533: Applicability of sexual assault provisions from FY14 NDAA to the military service academies, to include the US Military Academy, Naval Academy, Air Force Academy and Coast Guard Academy.
8. Section 582: Inspector General of the DOD to review all members of the Armed Forces who were discharged after making unrestricted report of sexual assault; determine grounds for separation; whether an appeal was requested; and if member separated on grounds of having personality or adjustment disorder, determine whether separation was carried out in compliance with all DOD directives, regulations and policies.

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9. (Rep Speier, D-CA): Permit interlocutory appeal of Military Rule of Evidence 513 (psychotherapy-patient privilege) and Military Rule of Evidence 412 (rape shield) rulings, in line with the rights of civilian victims under the Crime Victims’ Rights Act;

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10. (Rep Speier, D-CA): Adds subsection b to section 535 of the Chairman’s mark, and narrows the admissibility of good military character evidence and specifies that good military character evidence may only be used for specific military offenses.¹

¹ Specific offenses include: Articles 84 effecting unlawful enlistment, appointment, separation; 85 desertion; 86 absent without leave; 87 missing movement; 88 contempt toward officials; 89 disrespect toward superior commissioned officer; 90 assaulting, willfully disobeying superior commissioned officer; 91 insubordinate conduct toward warrant,

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11. (Rep Speier, D-CA): Eliminates the exception granted under subparagraph (d)(8) of MRE 513, to the patient-psychotherapist privilege.

Other Amendments:

12. (Rep Turner, R-OH): Require mandatory minimum sentence of dismissal or dishonorable discharge and confinement for two years for a member of the military convicted by court-martial of a sex-related offense.

noncommissioned, petty officer; 92 failure to obey order or regulation; 93 cruelty and maltreatment of subordinates; 94 mutiny and sedition; 95 resisting apprehension, flight, breach of arrest, escape; 96 releasing a prisoner without proper authority; 97 unlawful detention; 98 noncompliance with procedural rules; 99 misbehavior before enemy; 100 subordinate compelling surrender; 101 improper use of countersign; 102 forcing safeguard; 103 captured, abandoned property; 104 aiding the enemy; 105 misconduct as prisoner; 106a espionage; 107 false official statements, 108 loss, damage, destruction, disposition of military property; 109 loss, damage, destruction, disposition of property other than military property , 110 improper hazarding of vessel; 111 drunk or reckless operation of vehicle, aircraft, or vessel; 112 wrongful use, possession, manufacture or introduction of controlled substance; 113 misbehavior of sentinel or lookout; 114 dueling; 115 malingering; 116 riot; 117 provoking, speech, gestures; 133 conduct unbecoming an officer; 134 general article of the Uniform Code of Military Justice; and attempts, conspiracy, or solicitation to commit such offenses.