SEXUAL ASSAULT PROVISIONS IN HASC-REPORTED FY 14 NDAA
(by section)

Section 527—Expansion and Enhancement of Authorities Relating to Protected Communications of Members of the Armed Forces and Prohibited Retaliatory Actions: Prohibits retaliation for communications at a court-martial, explicitly makes communications regarding rape or sexual assault protected communications; explicitly states that communications in certain circumstances will not be excluded from protections; by requiring investigation for allegations up to a year old (as opposed to 60 days); requires the IG to make explicit determination of whether a prohibited personnel action has occurred; requires the correction of records.

Section 530A—Service Members' Accountability, Rights and Responsibilities Training. Establishes rights for service members to a workplace free of sexual violence, to have every instance of illegal activity appropriately investigated, to make restricted or unrestricted reports of a sex-based criminal act, to use any and all reporting and prosecution avenues for a sexual assault, and to not face retaliation for reporting a criminal offense. Sets member responsibilities to intervene in a situation involving the threat of criminal behavior, to never leave another member behind in a situation of risk, and to immediately report observation or knowledge of criminal behavior.

Section 530B—Inspector General of the Department of Defense Review of Separation of Members of the Armed Forces who made Unrestricted Reports of Sexual Assault: Requires DoD IG to identify all members who were separated after making unrestricted reports and to determine the circumstances for each separation and to report to Congress within 180 days.

Section 531—Limitations on Convening Authority Discretion Regarding Court-Martial Findings and Sentence: Amends article 60 of the Uniform Code of Military Justice (UCMJ; 10 U.S.C. 860) to prohibit a convening authority from setting aside the findings of a court-martial except for certain "qualified offenses"; limit discretion to modify sentences to less than any mandatory minimum sentence except upon recommendation of trial counsel to reflect substantial assistance of the accused in investigating an offense or as part of a plea bargain if there is no mandatory minimum sentence; and require explanation of decisions to modify the findings or sentence of a court-martial.

Section 532—Elimination of Five-Year Statute of Limitations on Trial By Court-Martial for Additional Offenses Involving Sex-Related Crimes: Eliminates the statute of limitations for sexual assault and sexual assault of a child.

Section 533—Discharge or Dismissal for Certain Sex-Related Offenses and Trial of Offenses by General Courts-Martial: Establish mandatory minimum sentence of dismissal or dishonorable discharge for service members convicted of rape, sexual assault, forcible sodomy,

or an attempt to commit such offenses; and limit jurisdiction over such offenses to general courts-martial.

Section 534—Regulations Regarding Consideration of Application for Permanent Change of Station or Unit Transfer by Victims of Sexual Assault: Expands requirement to issue regulations to provide for timely determination and action on an application for consideration of a change of station or unit transfer submitted by a member of the Armed Forces serving on Active Duty who is a victim of sexual assault to include the Coast Guard.

Section 535—Consideration of Need for, and Authority to Provide for, Temporary Administrative Reassignment or Removal of a Member on Active Duty Who is Accused of Committing a Sexual Assault or Related Offense: Provides authority for temporary reassignment or removal of an individual from a position of authority who is alleged to have committed a sexual assault or other sex-related offense.

Section 536—Victims' Counsel for Victims of Sex-Related Offenses and Related Provisions: Would require Victims' Counsels to be made available to provide legal assistance to victims of sex-related offenses.

Section 537—Inspector General Investigation of Allegations of Retaliatory Personnel Actions Taken in Response to Making Protected Communications Regarding Sexual Assault: Explicitly adds rape, sexual assault, or other sexual misconduct to the protected communications of members of the Armed Forces with Members of Congress or an Inspector General.

Section 538—Secretary Defense Report on Role of Commanders in Military Justice Process: Would require the Secretary of Defense to report to Congress on an assessment and recommendations on the current role and authorities of commanders in the administration of military justice and the investigation, prosecution, and adjudication of offenses under the Uniform Code of Military Justice.

Section 539—Review and Policy Regarding Department of Defense Investigative Practices in Response to Allegations of Sex-Related Offenses: Requires SecDef w/in 180 days to review of the practices of military criminal investigative organizations regarding the investigation of alleged sex-related offenses involving members of the Armed Forces; and develop a uniform policy regarding the use of case determinations by the investigative organizations to record the results of the investigation of a sex-related offense.

Section 540—Uniform Training And Education Programs For Sexual Assault Prevention And Response Program: Requires SecDef to develop a uniform curriculum, to include lesson

plans, to ensure that sexual assault prevention and response training and education for members of the Armed Forces are uniform across the Department of Defense.

Section 541—Development of Selection Criteria for Assignment as Sexual Assault Response and Prevention Program Managers, Sexual Assault Response Coordinators, and Sexual Assault Victim Advocates: Requires SecDef to establish selection qualifications for members of the Armed Forces or civilian employees for assignment to duty as Sexual Assault Response and Prevention Program Managers, Sexual Assault Response Coordinators, and Sexual Assault Victim Advocates. Requires SANE nurses—either civilian employees or members of the armed forces—to be assigned to each brigade and requires SANE training and certification.

Section 542—Extension of Crime Victims' Rights to Victims of Offenses Under the UCMJ: Sets out victims' rights in the UCMJ, requires a military judge to ensure the victim is provided the rights; requires best efforts of prosecution, judges, MCIOs and other DOD personnel to see that a victim is notified of and accorded rights; requires establishment of regulations to implement section, train personnel, provide disciplinary sanctions for violations, and required SecDef to be final arbiter of a complaint that the victim was not afforded a right. Also requires 576 panel to consider feasibility of extended right to be reasonably heard and legal standing to seek enforcement of crime victim rights.

Section 543—Defense Counsel Interview of Complaining Witnesses in Presence of Counsel for the Complaining Witness or a Sexual Assault Victim Advocate: Requires defense counsel to make all requests to interview complaining witnesses through trial counsel, and to require interviews of the complaining witness to take place only in the presence of counsel or a SARC if requested by the witness.

Section 544—Participation by Complaining Witnesses in Clemency Phase of Courts-Martial Process: Provides complaining witness an opportunity to submit matters for consideration under Article 60.

Section 545—Eight Day Incident Reporting Requirement in Response to Unrestricted Report of Sexual Assault in which the Victim is a Member of the Armed Forces: Requires a written incident report of a sexual assault be provided to the installation commander, the first O-6 officer, and the first general officer in the chain of command of the accused within 8 days of the filing of an unrestricted report of a sexual assault.

Section 546—Amendment to Manual for Courts-Martial to Eliminate Considerations Relating to Character and Military Service of Accused in Initial Disposition of Sex-Related Offenses: Requires the Secretary of Defense to submit an amendment to the Manual for Courts

Martial to eliminate the character and military service of the accused from the list of factors that may be considered by the disposition authority in disposing of a sex-related offense.

Section 547—Inclusion of Letter of Reprimands, Nonpunitive Letter of Reprimands, and Counseling Statements: Requires commanders to include letters of reprimand, nonpunitive letter of actions and counseling statements involving substantiated cases of sexual harassment or sexual assault in the performance evaluation report of service members.

Section 548—Enhanced Protections for Prospective Members and New Members of the Armed Forces During Entry-Level Processing and Training: Requires SecDef to create a policy to uniformly define inappropriate relationships, including prospective members of the Armed Forces and entry-level training and require processing for administrative separation for a substantiated violation of the policy. Also requires the SecDef to prepare a proposed punitive article to the UCMJ.

Section 549—Independent Reviews and Assessments of UCMJ and Judicial Proceedings of Sexual Assault Cases: Section 576 panel required to assess impact of removing disposition authority from chain of command on reporting and prosecution of sexual assault cases, and change panel submission deadline to a year.

Section 550—Review of the Office of Diversity Management and Equal Opportunity Role in Sexual Harassment Cases: Requires review of ODMEO to evaluate the role of the office in sexual harassment cases.

Section 562—Improved Climate Assessment and Dissemination and Tracking of Results: Requires tracking of climate assessments from the unit, that the failure to conduct assessments be considered a "serious factor" during consideration for promotion, and that a comprehensive report be prepared with concerns of the members of the unit and a detailed strategic plan.

Section 563—Service-Wide 360 Assessments: Requires each military department to develop an assessment program modeled after the Army Multi-Source Assessment and Feedback program.

Section 564—Health Welfare Inspections: Requires service secretaries to conduct health and welfare inspections on a monthly basis.

Review of Programs for Male Victims of Sexual Assault in the Military: Directive report language requiring GAO review of DOD response to male victims of sexual assault.