

ROLE OF THE COMMANDER SUBCOMMITTEE

Legislative Review

1. 2013 Legislative Cycle
 - a. Competing House and Senate bills to remove those commanders with convening authority from the chain of command in sex-related offenses.
 - b. Rep Jackie Speier introduced The STOP Act again this year – which would take sex-related offenses outside the chain of command. 148 co-sponsors.
 - c. Senator Kirsten Gillibrand introduced S. 967 on May 25, 2013 – which would create a separate system under each Service Chief to handle certain serious offenses, to include sex-related offenses. This is the most far reaching of the proposals related to a commander's role.
 - d. Bi-partisan and bi-cameral support for a number of provisions.
2. Common House and Senate provisions related to Role of the Commander
 - a. Limitation on convening authority discretion to modify findings of courts-martial. If dismiss finding of guilty or reduce to lesser included offense, must provide written justification that becomes part of the courts-martial transcript.
 - b. Requirement for mandatory discharge or dismissal for certain sex-related offenses and trial by general courts-martial.
 - c. Services to provide guidance to commanders regarding their authority to make a determination whether a service member who is alleged to have committed a sex-related offense should be temporarily reassigned.
 - d. Elimination of factor relating to character and military service of the accused in rule on initial disposition of offenses.
3. Pending amendments in Senate
 - a. Senator Gillibrand – Military Justice Improvement Act
 - i. Keeps Article 92 and 134 offenses with military commanders
 - b. Senator Boxer – Article 32 Reform Act
 - i. Changes the Article 32 hearing to a probable cause hearing
 - ii. Victim may not be compelled to testify
 - iii. If victim is not available (does not testify), then no cross examination by prosecution