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FY2019 National Defense Authorization Act: Selected Military Personnel Issues

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SUMMARY

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FY2019 National Defense Authorization Act: Selected Military Personnel Issues

Each year, the National Defense Authorization Act (NDAA) provides authorization of appropriations for a range of Department of Defense (DOD) and national security programs and related activities. New or clarified defense policies, organizational reform, and directed reports to Congress are often included. For FY2019, the John S. McCain NDAA (H.R. 5515) contains several high-profile military personnel issues. Some are required annual authorizations, such as end-strengths; some are updates or modifications to existing programs; and some changes in response to problems identified in certain military personnel programs.

In this year's NDAA, Congress authorized end-strengths identical to the Administration's FY2019 budget proposal, which are slightly higher than in FY2018. The authorized active duty end-strength increased by 1% to 1,338,100. The authorized Selected Reserves end-strength increased by <1% to 824,700. With regards to military pay, a 2.6% increase will take effect in calendar year 2019. Congress considered the increase as requested by the Administration; however, an authorization was not required since 37 U.S.C. §1009 provides for automatic annual increases in basic pay that is indexed to increases in the Employment Cost Index.

Congress also directed modifications to several existing programs, including:

- development of criteria for internment at Arlington National Cemetery, as well as a $30 million authorization to expand the cemetery;
- clarified military health system reform requirements outlined in 10 U.S.C. §1073c and revised the implementation date from October 1, 2018 to September 30, 2021;
- expanded eligibility for TRICARE beneficiaries to access the Federal Dental and Vision Insurance Program (FEDVIP);
- extended eligibility for commissary and morale, welfare, and recreation (MWR) privileges to certain veterans and veterans' caregivers, as well as a $1.26 billion authorization for commissary operations;
- expanded availability of Military OneSource services, enhanced Transition Assistance Program (TAP) counseling requirements, and broadened educational opportunities for servicemembers desiring professional credentials; and
- corrected technical calculations for automatic annual adjustments to the Special Survivor Indemnity Allowance.

As part of the oversight process, additional provisions were incorporated to address selected congressional items of interest, such as:

- added punitive articles on domestic violence in the Uniform Code of Military Justice and directed clarifying policy, support programs, and further study on services for victims of domestic violence and child abuse;
- stricter eligibility requirements for enlistees of the Military Accessions Vital to the National Interest (MAVNI) program;
- standardized processes for reporting and accountability, military justice and investigations, and victim services relating to military sexual assault and sexual harassment;
- increased transparency in Navy watchstander training programs and standards; and
- enhanced data-sharing between DOD and states to prevent opioid abuse or misuse.

Contents

Introduction 1
*Active Duty End-Strength 1
*Selected Reserves End-Strength 2
Administration of the Military Health System 4
Arlington National Cemetery 6
*Defense Commissary System 8
Domestic Violence and Child Abuse 10
Military Accessions Vital to the National Interest (MAVNI) 13
*Military Sexual Assault and Sexual Harassment 14
*Military Pay Raise 18
Military Health System Electronic Health Record 19
Navy Watchstander Training and Management Issues 21
Prevention of Opioid Abuse or Misuse 23
*Servicemember Education, Training, and Transition 25
*Survivor Benefits 29
TRICARE Reform 30

Figures

Figure 1. Comparison of FY2018 Enacted Active Duty End-Strength, FY2019 President's Budget, and FY2019 Enacted Active Duty End-Strength 2
Figure 2. Comparison of FY2018 Enacted Selected Reserve End-Strength, FY2019 President's Budget and FY2019 Enacted Selected Reserve End-Strength 3

Contacts

Author Information 32

Introduction

Each year, the House and Senate armed services committees take up national defense authorization bills. The House of Representatives passed the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (NDAA; H.R. 5515) on May 24, 2018. The Senate passed its version of the NDAA (H.R. 5515) on June 18, 2018. These bills contain numerous provisions that affect military personnel, retirees, and their family members. Provisions in one version are sometimes not included in the other, are treated differently, or are identical in both versions. Following passage of each chamber's bill, a conference committee typically convenes to resolve the differences between the respective chambers' versions of the bill. The FY2019 NDAA conference report was passed by the House on July 26, 2018, and the Senate on August 1, 2018. On August 13, 2018, President Donald J. Trump signed the bill into law (P.L. 115-232).

This report highlights selected personnel-related issues that may generate high levels of congressional and constituent interest. CRS will update this report to reflect enacted legislation. Related CRS products are identified in each section to provide more detailed background information and analysis of the issues. For each issue, a CRS analyst is identified.

Some issues discussed in this report were previously addressed in the FY18 NDAA (P.L. 115-91) and discussed in CRS Report R44923, *FY2018 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck, Lawrence Kapp, and Barbara Salazar Torreon, or other reports. Those issues that were considered previously are designated with an asterisk in the relevant section titles of this report.

*Active Duty End-Strength

Background: The authorized active duty end-strengths for FY2001, enacted in the year prior to the September 11 terrorist attacks, were as follows: Army (480,000), Navy (372,642), Marine Corps (172,600), and Air Force (357,000).[1] Over the next decade, in response to the demands of wars in Afghanistan and Iraq, Congress substantially increased the authorized personnel strength of the Army and Marine Corps. Congress began reversing those increases in light of the withdrawal of U.S. forces from Iraq in 2011, the drawdown of U.S. forces in Afghanistan beginning in 2012, and budgetary constraints. Congress halted further reductions in Army and Marine Corps end-strength in FY2017, providing slight end-strength increases that year and more substantial increases in FY2018. End-strength for the Air Force generally declined from 2004-2015, but increased from 2016-2018. End-strength for the Navy declined from 2002-2012, increased in 2013, and remained essentially stable through 2017 with a modest increase in 2018. Authorized end-strengths for FY2018 and FY2019 are in **Figure 1**.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Sec. 401 would authorize a total FY2019 active duty end-strength of 1,338,100 including 487,500 for the Army 335,400 for the Navy	**Sec. 401** would authorize a total FY2019 active duty end-strength of 1,329,461 including 485,741 for the Army 331,900 for the Navy	**Sec. 401** authorizes a total FY2019 active duty end-strength of 1,338,100 including 487,500 for the Army 335,400 for the Navy

[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. The term *authorized strength*, as described in 10 U.S.C. §101(b)(11), 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." 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.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
186,100 for the Marine Corps 329,100 for the Air Force	186,100 for the Marine Corps 325,720 for the Air Force	186,100 for the Marine Corps 329,100 for the Air Force
Sec. 402 would amend 10 U.S.C. §691 to set minimum end-strengths as follows: 487,500 for the Army 335,400 for the Navy 186,100 for the Marine Corps 329,100 for the Air Force	No similar provision.	**Sec. 402** amends 10 U.S.C. §691 to set minimum end-strengths as follows: 487,500 for the Army 335,400 for the Navy 186,100 for the Marine Corps 329,100 for the Air Force

Discussion: In comparison to FY2018 authorized end-strengths, the Administration's FY2019 budget proposed increases for the Army (+4,000), Navy (+7,500), Marine Corps (+100) and Air Force (+4,000).

Section 401 of the enacted bill approved end-strengths identical to the Administration request.

The enacted bill also adopted Section 402 of the House bill which adjusts the minimum end-strengths required by 10 U.S.C. §619 to a level equal to the authorized end-strengths set in Section 401.

Figure 1. Comparison of FY2018 Enacted Active Duty End-Strength, FY2019 President's Budget, and FY2019 Enacted Active Duty End-Strength

	FY2018 Enacted	FY2019 President's Budget	FY2019 Enacted	Change from FY2018
Army	483,500	487,500	487,500	↑ 4,000
Navy	327,900	335,400	335,400	↑ 7,500
Marine Corps	186,000	186,100	186,100	↑ 100
Air Force	325,100	329,100	329,100	↑ 4,000
Total Active Duty End-Strength	**1,322,500**	**1,338,100**	**1,338,100**	↑ **15,600**

Note: Up arrows indicate increases from the FY2018 authorization.

References: Previously discussed in CRS Report R44923, *FY2018 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck, Lawrence Kapp, and Barbara Salazar Torreon, and similar reports from earlier years.

CRS Point of Contact: Lawrence Kapp.

*Selected Reserves End-Strength

Background: The overall authorized end-strength of the Selected Reserves has declined by about 6% over the past 16 years (874,664 in FY2001 versus 823,900 in FY2018).[2] Much of this can be

[2] The Selected Reserves encompass those units and individuals designated as so essential to initial wartime missions that they have priority over all other Reserves. Members of the Selected Reserve are generally required to perform one weekend of training each month and two weeks of training each year, for which they receive pay and benefits. Some members of the Selected Reserve perform considerably more military duty than this, while others may only be required to perform the two weeks of annual training each year or other combinations of time. Members of the Selected Reserve can be involuntarily ordered to active duty under all of the principal statutes for reserve activation.

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. Authorized end-strengths for FY2018 and FY2019 are in **Figure 2**.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Sec. 411 would authorize a total FY2019 Selected Reserve end-strength of 824,700 including: Army National Guard: 343,500 Army Reserve: 199,500 Navy Reserve: 59,100 Marine Corps Reserve: 38,500 Air National Guard: 107,100 Air Force Reserve: 70,000 Coast Guard Reserve: 7,000	**Sec. 411** would authorize a total FY2019 Selected Reserve end-strength of 823,900 including: Army National Guard: 343,500 Army Reserve: 199,500 Navy Reserve: 59,000 Marine Corps Reserve: 38,500 Air National Guard: 106,600 Air Force Reserve: 69,800 Coast Guard Reserve: 7,000	**Sec. 411** authorizes a total FY2019 Selected Reserve end- strength of 824,700 including: Army National Guard: 343,500 Army Reserve: 199,500 Navy Reserve: 59,100 Marine Corps Reserve: 38,500 Air National Guard: 107,100 Air Force Reserve: 70,000 Coast Guard Reserve: 7,000

Discussion: Relative to FY2018 authorized end-strengths, the Administration's FY2019 budget proposed increases for the Navy Reserve (+100), Air Force Reserve (+200), and Air National Guard (+500); and no change for the Army National Guard, Army Reserve, Marine Corps Reserve, and Coast Guard Reserve.

Section 411 of the enacted bill specified end-strengths identical to the Administration request.

Figure 2. Comparison of FY2018 Enacted Selected Reserve End-Strength, FY2019 President's Budget and FY2019 Enacted Selected Reserve End-Strength

	FY2018 Enacted	FY2019 President's Budget	FY2019 Enacted	Change from FY2018
Army National Guard	343,500	343,500	343,500	0
Army Reserve	199,500	199,500	199,500	0
Navy Reserve	59,000	59,100	59,100	↑ 100
Marine Corps Reserve	38,500	38,500	38,500	0
Air National Guard	106,600	107,100	107,100	↑ 500
Air Force Reserve	69,800	70,000	70,000	↑ 200
Coast Guard Reserve	7,000	7,000	7,000	0
Total Selected Reserve End-Strength	**823,900**	**824,700**	**824,700**	↑ **800**

Note: Up arrows indicate increases from the FY2018 authorization.

References: Previously discussed in CRS Report R44923, *FY2018 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck, Lawrence Kapp, and Barbara Salazar Torreon, and similar reports from earlier years.

CRS Point of Contact: Lawrence Kapp.

Administration of the Military Health System

Background: DOD operates a health care delivery system that serves approximately 9.4 million beneficiaries.[3] The military health system (MHS) provides care through DOD-operated and staffed medical and dental facilities (collectively referred to as *military treatment facilities*) or through care from civilian providers purchased through an insurance-like program known as TRICARE. Currently, military treatment facilities (MTFs) are administered by each respective service surgeon general and provide a wide range of clinical services depending on its size, mission, and level of capabilities. TRICARE is administered by the Defense Health Agency (DHA), a combat support agency that enables the Army, Navy, and Air Force medical services to provide a medically ready force and ready medical force to combatant commands in both peacetime and wartime. The DHA also operates six MTFs in the Washington DC metropolitan area.[4]

In 2016, Congress found that the organizational structure of the MHS could be streamlined to sustain the "medical readiness of the Armed Forces, improve beneficiaries' access to care and the experience of care, improve health outcomes, and lower the total management cost."[5] Section 702 of the FY2017 NDAA (P.L. 114-328) directed significant reform to the MHS and administration of MTFs by October 1, 2018. This reform includes:

- transfer of administration and management of MTFs from each respective service surgeon to the Director, DHA;
- reorganization of DHA's internal structure; and
- redesignation of the Service Surgeons General as principal advisors for their respective military service, and as service chief medical advisor to the DHA.

In June 2018, DOD submitted its final implementation plan to Congress. The implementation plan details how DOD will reform the MHS to a "streamlined organizational model that standardizes the delivery of care across the MHS with less overhead, more timely policy-making, and a transparent process for oversight and measurement of performance."[6] DOD also included recommendations on legislative actions to assist with executing its implementation plan, which includes:

- ability to implement 10 U.S.C. §1073c using a three-year phased-in approach;[7] and
- authority for the Secretary of Defense to waive specific requirements in 10 U.S.C. §1073c if necessary for implementation feasibility or military health readiness.[8]

[3] Department of Defense, *Evaluation of the TRICARE Program: Fiscal Year 2018 Report to Congress*, February 18, 2018, p. 17.

[4] MTFs currently operated by the DHA are: Walter Reed National Military Medical Center, Fort Belvoir Community Hospital, DiLorenzo TRICARE Health Clinic, Tri-Service Dental Clinic, Family Health Center Fairfax, and Family Health Center Dumfries.

[5] H.Rept. 114-840.

[6] Department of Defense, *Report to the Armed Services Committees of the Senate and House of Representatives, Final Plan to Implement Section 1073c of Title 10, United States Code*, June 30, 2018, p. 4.

[7] 10 U.S.C. §1073c requires the Director of the DHA to assume responsibility for the administration and management of each MTF by October 1, 2018.

[8] ibid.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Sec. 711 would extend the deadline to transfer the administration of MTFs from the military departments to the Defense Health Agency, no later than September 30, 2020. DOD would also be prohibited from limiting health care services at or closing MTFs until the Secretary of Defense certifies that the transfer of MTFs is complete.	**Sec. 711** would clarify the authorities of the Director, Defense Health Agency, to administer the MTFs and meet military personnel readiness requirements.	**Sec. 711** adopts House Sec. 711 with Senate amendment prescribing additional authorities to the Director of the Defense Health Agency and assume responsibility for the administration of MTFs by September 30, 2021.
No similar provision.	**Sec. 712** would require DOD to implement an organizational structure for the military health system that most effectively implements Chapter 55 of Title 10, U.S. Code, maximizes interoperability and integration of military medical capabilities, and enhances joint military medical operations. The organizational structure is to be implemented no later than October 1, 2020.	**Sec. 712** adopts Senate Sec. 712 with House amendment establishing not more than four defense health regions under the Defense Health Agency and prescribing additional duties for the Surgeons General of the Armed Forces.

Discussion: Section 711 of the enacted bill incorporates DOD's recommendation for a three-year, phased-in approach to implementing 10 U.S.C. §1073c. The provision requires the DHA Director to assume responsibility for administration and management of each MTF no later than September 30, 2021. However, there are no authorities included in Section 711 to allow the Secretary of Defense to waive requirements in 10 U.S.C. §1073c. Section 711 also requires:

- limitation on MTF closures and downsizing in connection with implementation of 10 U.S.C. §§1073c-1073d;
- establishment of a DHA subordinate organization for research and development;
- establishment of a DHA subordinate organization for public health;
- feasibility study on establishing a DHA subordinate organization for education and training; and
- feasibility study on establishing a Defense Health Command as a superseding organization to DHA.

Section 712 of the enacted bill directs the Director of the DHA, by October 1, 2018, to implement an "organizational framework" that effectively delivers DOD health benefits, maximizes interoperability of military medical capabilities, and integrates those capabilities to support combatant commander requirements. As part of the organizational framework, Section 712 also requires DOD to establish four "defense health regions," two in the continental United States and two outside of the continental United States. Additionally, the service surgeons general are assigned new responsibilities focusing on manning, training, and equipping medical forces to meet MTF or combatant commander requirements.

References: CRS In Focus IF10530, *Defense Primer: Military Health System*, by Bryce H. P. Mendez.

CRS Point of Contact: Bryce H.P. Mendez.

Arlington National Cemetery

Background: According to Arlington National Cemetery (ANC) news, in about 25 years, the cemetery will run out of space as an active cemetery that would allow for future burials.[9] Section 2 of Public Law 114-158 called for the Secretary of the Army in consultation with the Secretary of Defense (SECDEF), to submit a report to Congress on the capacity of ANC. The Secretary of the Army's report, *The Future of Arlington National Cemetery: Report on the Cemetery's Internment and Inurnment Capacity*, February 14, 2017, identified the current status of ANC and provided future options, including restricting eligibility; expanding the geographical footprint of the cemetery; and other hybrid solutions.[10]

In July 2017, the cemetery conducted a survey in partnership with several military and veteran service organizations. Among the findings from this preliminary survey: 94% of the respondents want Arlington Cemetery to stay active well into the future; and nearly 50% who favor expansion also recognize the need to modify eligibility.[11] The survey had more than 28,000 respondents who indicated that—if eligibility at ANC is limited—those killed in action, Medal of Honor (MoH) and other high award recipients, former POWs, and those active duty service members who die on operational missions should have a place at Arlington.[12] ANC launched a second survey in April 2018 and encouraged the public and its various stakeholders to continue to share their thoughts on the future of Arlington. ANC shared the results of the second survey that was similar to the first with 96% of the 230,000 respondents wanting Arlington to remain an active cemetery.[13] The Advisory Committee on Arlington National Cemetery (ACANC)[14] is expected to make recommendations on future eligibility criteria, capacity issues, and expansion plans in the committee's annual report to the Secretary of the Army.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Sec. 582 would require the Secretary of the Army and the Defense Secretary to set criteria for interment at Arlington National Cemetery.	No similar provision.	**Sec. 598** adopts House Sec. 582 requiring criteria for interment at Arlington National Cemetery.
Sec. 1062 would require a congressional briefing on restricting the use of unmanned aircraft in Arlington National Cemetery.	No similar provision.	**Sec. 1070** adopts House Sec. 1062 with an amendment to require a report on restricting the use of unmanned aircraft in Arlington National Cemetery.
No similar provision.	**Sec. 2105** would extend authorizations of certain FY2016 Projects including Arlington	**Sec. 2105** adopts Senate Sec. 2105 extending authorizations of certain FY2016 military construction projects through October 1, 2023.

[9] Arlington National Cemetery (ANC), "National Dialogue Begins at Arlington National Cemetery," 7/29/2017, at https://www.arlingtoncemetery.mil/Media/News/Post/4178/National-dialogue-begins-at-Arlington-National-Cemetery.

[10] ibid.

[11] ibid.

[12] ANC, "Eligibility Survey Launched on Future of Cemetery," 4/4/2018, at https://www.arlingtoncemetery.mil/Media/News/Post/4519/Eligibility-Survey-Launched-on-Future-of-Cemetery.

[13] ANC, "Arlington National Cemetery shares survey results," 7/19/2018, at https://www.arlingtoncemetery.mil/Media/News/Post/4941/Arlington-National-Cemetery-shares-survey-results.

[14] Advisory Committee on Arlington National Cemetery (ACANC), Focus Areas: Honor Subcommittee at https://www.arlingtoncemetery.mil/About/Advisory-Committee-on-Arlington-National-Cemetery/Focus-Areas.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
	National Cemetery Southern Expansion.	
Sec. 2830B would commemorate Freedman's Village, Arlington County, Virginia.	**Sec. 2831** would commemorate the southern expansion of Arlington Cemetery and to grant permanent easement to Arlington County.	**Sec. 2852** adopts Senate Sec. 2831.
No similar provision.	**Sec. 4601** would authorize $30 million for ANC military construction.	**Sec. 4601** adopts Senate Sec. 4601.

Discussion: Section 582 of the enacted bill adopts House Section 582 requiring the Secretary of the Army in consultation with the Secretary of Defense (SECDEF), to prescribe revised criteria for interment at ANC that would preserve Arlington Cemetery as an active burial ground "well into the future."[15] The SECDEF is required to establish the revised criteria no later than September 30, 2019.

Section 1070 of the enacted bill adopts House Section 1062, with an amendment requiring the Secretary of Defense and the Administrator of the FAA to jointly submit a report on unmanned aircraft in Arlington National Cemetery to preserve the sanctity of the cemetery as a national shrine. This report for Congress will discuss how to prevent the flight of unmanned aircraft over Arlington to preserve the sacred atmosphere of the national cemetery; and restrict all flights of unmanned aircraft during the execution of funeral services, except in emergency situations or if requested by the family as part of the service. The report is due not later than 90 days after the date of the enactment of this Act.

Section 2852 of the enacted bill adopts a Senate provision that would commemorate the southern expansion of Arlington Cemetery and grant permanent easement of approximately 0.1 acres of land in Arlington County for the purpose of commemorating Freedman's Village and Gate.[16] In the event ANC subsequently acquires the property used for the commemoration for burial purposes, the Army shall relocate any commemoration of Freedman's Village to an appropriate location.

Section 2830B of the House bill had a similar provision. Section 2105 of the Senate bill would have extended an authorization of $30 million for certain FY2016 military construction projects including Arlington National Cemetery Southern Expansion. Section 2105 of the enacted bill increased the authorization to $60 million for Arlington extension projects.

Section 4601 of the enacted bill adopts Senate Section 4601, which authorizes $30 million for ANC military construction in FY2019.

CRS Point of Contact: Barbara Salazar Torreon.

[15] Department of the Army, *The Future of the Arlington National Cemetery: Report on the Cemetery's Interment and Inurnment Capacity 2017*, February 14, 2017.

[16] Freedman's Village was a site selected on the southeast portion of the Arlington Estate for a community of freed people after the Emancipation Proclamation in June 1863. For more information, see section "African-American History at Arlington National Cemetery: Civil War," Arlington National Cemetery at https://www.arlingtoncemetery.mil/Explore/Notable-Graves/Minorities/African-American-History-at-ANC or The National Park Service, "Freedman's Village," at https://www.nps.gov/arho/learn/historyculture/emancipation.htm.

*Defense Commissary System

Background: Over the past few years, Congress has been concerned with improving the Defense Commissary Agency (DeCA) system, mandating several studies and reports on the topic. Recent reform proposals have sought to reduce DeCA's reliance on appropriated funds without compromising patrons' commissary benefits or by reducing the revenue generated by DOD's non-appropriated fund (NAF) entities (military exchanges) that fund morale, welfare, and recreation (MWR) facilities on military installations. An option to consolidate commissaries and military exchanges has been the subject of numerous studies in the last several years. In 2015, the Military Compensation and Retirement Modernization Commission (MCRMC) recommended consolidating the commissary and three exchange systems into one entity to be called the Defense Resale Activity (DeRA).[17] Other options discussed include expanding commissary and exchange access to all eligible veterans to increase patronage and sales revenue. However, Congress has stopped short of major changes that would significantly reduce or eliminate the commissary subsidy.

In the FY2018 NDAA, Congress authorized $1.4 billion for commissary operations and an additional $40 million for the construction of a new commissary in Stuttgart, Germany. Approximately $800 million of DeCA's annual operating budget is spent on pay and benefits for the commissary workforce.[18]

The President's FY2019 budget request for $1.3 billion included funding for DeCA to operate 237 commissaries on military installations worldwide and employ a workforce of over 14,000 civilian *full-time equivalent* (FTE) employees.[19]

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
No similar provision.	**Sec. 576** would require a report assessing the feasibility and advisability of permitting small business activities of military spouses on military installations in the United States.	**Sec. 579** adopts Senate Sec. 576 with an amendment requiring the report no later than March 1, 2019.
Sec. 629 would extend eligibility for commissary and morale, welfare, and recreation (MWR) privileges to certain veterans and veterans' caregivers.	No similar provision.	**Sec. 621** adopts House Sec. 629 with an amendment that requires implementation by January 1, 2020.
Sec. 625 would require a study and report on development of a single defense resale system.	No similar provision.	**Sec. 627** adopts House Sec. 625.

[17] MCRMC, *Report of the Military Compensation and Retirement Modernization Commission Final Report*, January 29, 2015. See Quality of Life Recommendation 9: Protect both access to and savings at Department of Defense commissaries and exchanges by consolidating these activities into a single defense resale organization on p. 141.

[18] Karen Jowers, "Commissary-exchange consolidation plans move forward with new task force," *Military Times*, May 3, 2018, at https://www.militarytimes.com/pay-benefits/mil-money/2018/05/03/commissary-exchange-consolidation-plans-move-forward-with-new-task-force/.

[19] Department of Defense Office of the Under Secretary of Defense (Comptroller) Chief Financial Officer, *Defense Budget Overview Fiscal Year 2019 Budget Request*, revised February 13, 2018, Figure 5-3 Pay & Benefits Funding (PDF p. 53) and Figure 5-6. Military Family Support Programs (PDF pp. 59) at https://comptroller.defense.gov/Portals/45/Documents/defbudget/fy2019/fy2019_Budget_Request_Overview_Book.pdf

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Sec. 7501 authorizes $1.26 billion for commissary operations for FY2019.	**Sec. 4501** is a similar provision to House Sec. 7501.	**Sec. 4501** authorizes $1.26 billion for commissary operations for FY2019.
Not Adopted	**Not Adopted**	
Sec. 624 would require establishing advisory boards regarding military commissaries and exchanges.	No similar provision.	
Sec. 627 would require a report regarding management of military commissaries and exchanges.	No similar provision.	

Discussion: Section 579 of the enacted bill adopts Senate Section 576, which requires the Secretary of Defense (SECDEF) to submit a report to Congress assessing the feasibility and advisability of permitting small business activities of military spouses on military installations in the United States including partnership with commissaries, exchanges, and other morale, welfare, and recreation (MWR) facilities of the U.S. Armed Forces. Elements of this report would include (1) taking into account the usage by military spouses of installation facilities, utilities, and other resources in the conduct of small business activities on military installations in the United States, and other matters in connection with the business activities by military spouses as the SECDEF considers appropriate; and (2) seeking to identify mechanisms to ensure that costs and fees associated with the usage by military spouses of such facilities, utilities, and other resources in connection with such business activities does not curtail or eliminate the opportunity for military spouses to profit reasonably from such business activities. The report is due to the House and Senate Armed Services Committees no later than March 1, 2019.

Section 621 of the enacted bill adopts House Section 629, which extends eligibility of certain MWR and commissary privileges to certain veterans and their caregivers. Eligible veterans include recipients of the Purple Heart and Medal of Honor; veterans with service-connected disabilities; former Prisoners of War (POWs); and the caregivers for eligible veterans. A fee, to be determined by the SECDEF, for purchases by these newly eligible individuals will offset any increase in expenses arising from this provision associated with the use of credit or debit cards for customer purchases, including expenses related to card network use and related transaction processing fees. This provision will take effect on January 1, 2020, after a briefing by the SECDEF to the House and Senate Armed Services Committees not later October 1, 2019.

Section 627 of the enacted bill adopts House Section 625, which requires the SECDEF to conduct a study to determine the feasibility of consolidating military commissaries under DeCA and NAF exchange entities (i.e., Army and Air Force Exchange Service, Navy Exchange, and Marine Corps Exchange) into a single defense resale system. The report is to be submitted to the defense congressional committees no later than January 1, 2019. It shall contain the following: (1) details of the internal and external organizational structures of a consolidated defense resale system; (2) recommendations of the Secretaries of each of the military departments regarding the plan to consolidate the military resale entities; (3) the costs and associated plan for the merger of technologies or implementation of new technology from a third-party provider to standardize financial management and accounting processes of a consolidated defense resale system; (4) best practices to maximize reductions in costs associated with back-office retail payment processing for a consolidated defense resale system; (5) a timeline for converting DeCA into a NAF under Section 2484(j) of Title 10, United States Code; (6) a determination whether the business case

analysis supports consolidation of the military resale entities; (7) recommendations of the SECDEF for legislation related to consolidation of the military resale entities; and (8) any other elements the SECDEF determines are necessary for a successful evaluation of a consolidation of the military resale entities.

Section 4501 of the enacted bill authorizes $1,266,200,000 for commissary operations in FY2019.

References: CRS Report R44923, *FY2018 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck, Lawrence Kapp, and Barbara Salazar Torreon; and similar reports from earlier years.

CRS Point of Contact: Barbara Salazar Torreon.

Domestic Violence and Child Abuse

Background: The Family Advocacy Program (FAP) is the congressionally-mandated program within DOD devoted to "clinical assessment, supportive services, and treatment in response to domestic abuse and child abuse and neglect in military families."[20] As required by law, the FAP provides an annual report to Congress on child abuse and neglect and domestic abuse in military families.[21] Approximately half of military servicemembers are married and there are approximately 1.6 million dependent children across the active and reserve components.[22] According to DOD statistics, in FY2017, the rate of child abuse or neglect in military homes was 13.7 per 1,000 children. This is a decrease from the previous year's rate of 14.4 per 1,000 children.[23] There were 17 child abuse-related fatalities in the same year, 65% of which were 1 year old or younger. The rate of reported spousal abuse in FY2017 was 24.5 per 1,000 military couples, an increase to the FY2016 rate of 23.4 per 1,000 couples.[24] Since FY2006, DOD has been collecting data on *intimate partner* abuse. In FY2017, there were 916 incidents of intimate partner abuse involving 756 victims and five fatalities.[25]

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Sec. 532 would add a punitive article on domestic violence in the UCMJ.	**Sec. 541** is a similar provision to House Sec. 532.	**Sec. 532** adopts Senate Sec. 541 with an amendment removing certain definitions so that these may be defined through changes to the Manual for Courts-Martial.
No similar provision.	**Sec. 545** would expand Special Victims' Counsel (SVC) services to victims of domestic violence and other aggravated violent offenses.	**Sec. 534** amends Senate Sec. 545 to require DOD submit a report on the feasibility and advisability of expanding SVC services.
Sec. 543 would standardize policies for expedited transfer	**Sec. 547** would expand expedited transfer eligibility to	**Sec. 536** adopts House Sec. 543 and requires SECDEF to

[20] Department of Defense, *Fiscal Year 2017 Annual Report on Sexual Assault in the Military*, Appendix G: Domestic Abuse Related Sexual Assault, May 2018.

[21] P.L. 114-328 §574.

[22] Department of Defense, *2016 Demographics: Profile of the Military Community*, 2016, pp. 118-119, http://download.militaryonesource.mil/12038/MOS/Reports/2016-Demographics-Report.pdf.

[23] In FY2017, there were 12,849 reported cases of child abuse or neglect in military homes. About 50% of reports are substantiated. Department of Defense, *Report on Child Abuse and Neglect and Domestic Abuse in the Military for Fiscal Year 2017*, April 2018, http://download.militaryonesource.mil/12038/MOS/Reports/FAP-FY17-DoD-Report.pdf.

[24] ibid, p. 8.

[25] ibid, p. 8.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
processes for servicemember victim of sexual assault and extend the transfer authority to members whose dependent is a victim of sexual assault.	servicemembers who are victims of sexual assault and physical domestic violence.	standardize expedited transfer procedures for members who are victims of sexual assault *or* physical domestic violence.
No similar provision.	**Sec. 572** would require service secretaries to establish and maintain multidisciplinary teams on military installations to address child abuse and domestic violence.	**Sec. 577** adopts Senate Sec. 572.
No similar provision.	**Sec. 574** would require a pilot program at military installations for universal home visits to provide training on safe childcare practices and to assess risk factors for child abuse.	**Sec. 578** adopts Senate Sec. 574 with amendments specifying the scope of the pilot program.
No similar provision.	**Sec. 1036** would require SECDEF to establish a policy for DOD responses to alleged juvenile-on-juvenile abuse on military installations.	**Sec. 1089** adopts Senate Sec. 1036 with an amendment requiring SECDEF to establish a policy for DOD responses to alleged juvenile-on-juvenile problematic sexual behavior on military installations.
Not Adopted	**Not Adopted**	
No similar provision.	**Sec. 1035** would remove DOD's exclusive jurisdiction for criminal offenses committed by juveniles on military installations.	
Sec. 593 would allow for garnishment of retired or retainer pay to satisfy judgment rendered for physically, sexually, or emotionally abusing a child.	No similar provision.	

Discussion: The FY2019 NDAA (Sec. 532) adds a punitive article to the Uniform Code of Military Justice (UCMJ) for domestic violence.[26] Previously, domestic violence could be prosecuted under UCMJ punitive articles for assault (Article 28), cruelty and maltreatment (Article 93), and rape and sexual assault (Article 20) among other articles. While these crimes may be perpetrated against any individual, the new punitive article criminalizes certain acts committed against a spouse, intimate partner, or immediate family member.

Two provisions in the Senate bill would have authorized victims of domestic violence to receive the same services that are currently available to victims of sexual assault. These include Special Victims' Counsel (SVC) services (Sec. 545), and expedited transfer eligibility for servicemember victims (Sec. 547). Section 536 of the enacted bill requires the SECDEF to standardize expedited transfer procedures for servicemembers who are victims of sexual assault or physical domestic violence.[27]

[26] The UCMJ is found in Chapter 47 of Title 10, U.S. Code.

[27] SASC report language also directs the Secretary of Defense to assess the feasibility of providing government-funded relocation of military families who are subject to sexual assault, domestic violence, or abuse. The SASC report also urges DOD to work with a federally funded research and development center to, "conduct anonymous surveys of family members to understand better the prevalence of intimate partner violence and child abuse and neglect in the

The Administration objected to Section 545 of the Senate bill which would expand SVC services to victims of other violent crimes, arguing that SVC representation is focused on legal issues specifically related to sexual assault.[28] The enacted bill does not authorize victims of domestic violence to have access to SVC services; however, Section 534 requires DOD to study and report on the feasibility and advisability of expanding services.

Section 577 requires service secretaries to establish and maintain multidisciplinary teams to enhance collaboration and cooperation among specialists in the response to domestic violence and child abuse on military installations.[29] Section 578 requires a maximum two-year pilot program on no less than five installations for information on the risk factors for child abuse and training on safe childcare practices for military families.

In 2018, an investigative report on juvenile sex offense cases on military installations drew congressional concern about gaps in the response, investigation, tracking, and prosecution of such cases.[30] Section 1089 seeks to improve the response to juvenile-on-juvenile problematic sexual behavior on military installations by requiring DOD to establish a formal policy for such incidents, and to create a confidential database for tracking substantiated and unsubstantiated incidents.

Section 1035 of the Senate bill would have removed the military's exclusive jurisdiction over criminal offenses committed by juveniles on military installations. This provision was not adopted in the enacted bill; however, the conferees noted concern "about the lack of State or local criminal jurisdiction over offenses committed on those portions of military installations with exclusive Federal jurisdiction by individuals not subject to the Uniform Code of Military Justice," and directed the service secretaries to seek to relinquish jurisdiction (pursuant to 10 U.S.C. §2683). A report to the armed services committees is required by the service secretaries on the relinquishment of jurisdiction no later than 15 months after the enactment date of this act.

References: For information on expedited transfers and Special Victims' Counsel, see CRS Report R44944, *Military Sexual Assault: A Framework for Congressional Oversight*, by Kristy N. Kamarck and Barbara Salazar Torreon.

CRS Point of Contact: Kristy N. Kamarck.

military. The surveys should include questions pertaining to perpetration of intimate partner violence, victimization, specific incidents and types of physical violence, sexual violence, stalking, psychological aggression, economic abuse and/or interference with military benefits, risk factors, and the unique stressors faced by military families."

[28] Executive Office of the President, *Follow-on to Statement of Administration Policy, S. 2987 - John McCain Defense Authorization Act for Fiscal Year 2019*, June 26, 2018, p. 8, https://www.whitehouse.gov/wp-content/uploads/2018/06/saps2987s_20180626.pdf.

[29] Currently, by law, (P.L. 108-136 §4061) the service secretaries are required to establish multidisciplinary teams for the review of *fatalities* associated with domestic violence or child abuse.

[30] The investigation documented nearly 600 cases of juvenile sexual assault on military installations over a period of 11 years. See for example, Pritchard, Justin and Reese Dunklin, "Child-on-child Sex Assault Cases Languish on US Bases," *Associated Press*, March 14, 2018, and Pritchard, Justin and Reese Dunklin, "Congress demands Pentagon, DOJ investigate child sex assault on US military bases," *Military Times*, March 16, 2018.

Military Accessions Vital to the National Interest (MAVNI)

Background: In accordance with 10 U.S.C. §502(b), U.S. citizens, noncitizen nationals (individuals born in American Samoa and Swains Island), legal permanent residents, and persons from Micronesia, Marshall Islands, and Palau are eligible to enlist in the U.S. Armed Forces. Subparagraph (b)(2) of this law also allows individuals who do not meet those requirements to enlist if the Service Secretary "determines that such enlistment is vital to the national interest." This is the statutory basis for the Military Accessions Vital to the National Interest (MAVNI) program. As implemented by DOD, the MAVNI program allowed the military services to recruit certain legally present aliens whose skills were deemed vital to the national interest. Those skills included medical specialties and expertise in certain languages. Applicants at the time of enlistment had to be either asylees, refugees, holders of Temporary Protected Status (TPS), beneficiaries of the Deferred Action for Childhood Arrivals (DACA) policy, or in any one of a range of nonimmigrant categories.

DOD established new security screening requirements for MAVNI personnel in a memorandum published on September 30, 2016.[31] Among other things, it prohibited certain personnel enlisted under MAVNI from commencing with basic training until the military service certified in writing that the individuals could meet the administrative, security, and suitability protocols mandated in the memo. Subsequently, the military services stopped accepting new applicants to the MAVNI program. It is not known if or when DOD will reactivate the program.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Sec. 521 would amend 10 U.S.C. §504(b)(2) to require that a person enlisted under this subparagraph have "a skill or expertise" that is vital to the national interest and which "the person will use in daily duties as a member of the armed forces." It prohibits those who enlist under this provision from reporting to initial training until the Service Secretary has completed all background investigations and security and suitability screening required by the SECDEF. It limits the number of enlistments authorized under this provision to 1,000 per military department per calendar year, unless the SECDEF notifies Congress in writing of an intent to exceed the limit and a period of 30 days has elapsed. It requires an annual report to Congress from each Service	No similar provision.	**Sec. 521** would amend 10 U.S.C. 504(b)(2) to require that a person enlisted under this subparagraph have "a critical skill or expertise" that is vital to the national interested and which "the person will use in the primary daily duties as a member of the armed forces." It prohibits those who enlist under this provision from reporting to initial training until the Service Secretary has completed all background investigations and security and suitability screening required by the Secretary of Defense. It limits the number of enlistments authorized under this provision to 1,000 per military department per calendar year, unless the Secretary of Defense notifies Congress in writing of an intent to exceed the limit and a period of 30 days has elapsed.

[31] Department of Defense, Under Secretary of Defense Memorandum, "Military Accessions Vital to the National Interest Pilot Program Extension," September 30, 2016.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Secretary on topics related to the program.		It requires an annual report to Congress from each Service Secretary on topics related to the program.

Discussion: The provision in the enacted bill tightens requirements on the skills required for an enlistee's admission under the MAVNI program and mandates that those skills be used in the individual's primary daily duties as a member of the Armed Forces. It codifies DOD's prohibition on MAVNI enlistees attending initial military training until they complete required background checks and security and screening requirements. It also places a cap on MAVNI accessions for each military department that may be exceeded if the Secretary of Defense notifies Congress and a period of 30 days elapses (*notify and wait*). The Joint Explanatory Statement noted "The conferees believe the Military Accessions Vital to National Interest, or MAVNI, program continues to be an important option for the acquisition of certain critical skills for military service."

References: CRS In Focus IF10884, *Expedited Citizenship through Military Service*, by William A. Kandel and Lawrence Kapp.

CRS Point of Contact: Lawrence Kapp.

*Military Sexual Assault and Sexual Harassment

Background: Over the past decade, the issues of sexual assault and sexual harassment in the military have generated sustained congressional and media attention. In 2005, DOD issued its first department-wide sexual assault policies and procedures.[32] These policy documents were built on recommendations from the Joint Task Force for Sexual Assault Prevention and Response (SAPR) and on congressional requirements specified in the FY2005 NDAA (P.L. 108-375). In the same year, DOD established the Sexual Assault Prevention and Response Office (SAPRO), its primary oversight body for all service-level programs. Sexual harassment policy and oversight is separately handled by DOD's Office of Diversity and Military Equal Opportunity.[33]

Between 2012 and 2018, DOD took a number of steps to implement its own strategic initiatives as well as dozens of congressionally mandated actions related to sexual assault prevention and response, victim services, reporting and accountability, and military justice.[34] In FY2016, estimated sexual assault prevalence rates across the DOD's active duty population were 4.3% for women and 0.6% for men. These estimated prevalence rates were slightly lower than the reported prevalence rates in 2014 (4.9% and 0.9%, respectively).[35]

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Reporting and Accountability	***Reporting and Accountability***	***Reporting and Accountability***

[32] DOD Directive 6495.01 and DOD Instruction 6495.02.

[33] Although there is a relationship between sexual harassment and sexual assault, sexual harassment/sexism is considered a form of discrimination.

[34] For more information on congressional activity prior to 2013, see CRS Report R43168, *Military Sexual Assault: Chronology of Activity in Congress and Related Resources*, by Barbara Salazar Torreon.

[35] These estimates are based on survey data for respondents who experienced behaviors consistent with the definition of sexual assault in the previous year. Department of Defense, *2016 Workplace and Gender Relations Survey of Active Duty Members; Overview Report*, OPA Report No. 2016-050, May 2017, pp. 34 & 36.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Sec. 533 would require SECDEF to provide certain information to the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC-IPAD) upon request.	**Sec. 543** is similar to House Sec. 533 and would provide additional authority to the DAC-IPAD to hold hearings and to compel other Federal agencies to provide information upon request.	**Sec 533** adopts Senate Sec. 543 with an amendment to prevent unauthorized disclosure of personally identifiable information.
Sec 546 would require DOD to submit biennial reports on collateral misconduct for victims of sexual assault.	**Sec. 549** is a similar provision to House Sec. 546.	**Sec. 547** adopts House Sec. 546.
Sec. 544 would require SECDEF to develop an oversight and implementation plan for its policy on sexual harassment prevention and response.	No similar provision.	**Sec. 543** adopts House Sec. 544.
Victim Services	***Victim Services***	***Victim Services***
Sec. 543 would standardize policies for expedited transfer processes for servicemember victims of sexual assault and extend the transfer policy to servicemembers whose dependent is a victim of sexual assault.	**Sec 547** would expand expedited transfer eligibility to servicemembers who are victims of sexual assault and physical domestic violence.	**Sec. 536** adopts House Sec. 543 with an amendment to require DOD to standardize expedited transfer procedures for servicemembers who are victims of sexual assault or physical domestic violence.
Sec. 545 would require development of resource guides for victims of sexual assault at the military service academies.	No similar provision.	**Sec. 545** adopts House Sec. 545.
Sec. 702 would authorize DOD to carry out a pilot program to assess the feasibility and advisability of using intensive outpatient programs to treat members of the Armed Forces suffering from PTSD resulting from military sexual trauma	**Sec. 705** is a similar provision to House Sec. 702.	**Sec. 702** adopts House Sec. 702.
Military Justice and Investigations	***Military Justice and Investigations***	***Military Justice and Investigations***
No similar provision.	**Sec. 548** would require SECDEF to establish a uniform command action form for reporting final disposition of certain sexual assault cases.	**Sec. 535** adopts Senate Section 548 with an amendment that would allow DOD discretion on what to include on the form.
Sec 541 would require security clearance reinvestigation of certain personnel who are convicted for certain offenses including sexual assault and sexual harassment.	No similar provision.	**Sec. 542** adopts House Section 541 with an amendment clarifying requirements for those separated from DOD.
Sec. 536 would require SECDEF to designate a single officer or entity with principal responsibility for oversight of DOD's registered sex offender management program.	No similar provision.	**Sec. 544** adopts House Section 536 with a clarifying amendment.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Not Adopted	**Not Adopted**	
No similar provision.	**Sec. 544** would authorize military judges and magistrates to issue military protective orders.	
Sec. 547 would require DOD and Veterans Affairs to establish a joint definition of *military sexual trauma*.	No similar provision.	
Sec 542 would allow a cadet or midshipman who is the victim of sexual assault to apply for a transfer to a different military service academy. However, the conference report directs DOD to study its feasibility and brief the armed services committees on their findings no later than March 1, 2019.	No similar provision.	
No similar provision.	**Sec. 536** would amend 10 U.S.C. §1552 and §1553 with respect to military sexual trauma and correction of military records.	
Sec. 531 would require a minimum confinement period of two years for members convicted of certain sex-related offenses.	No similar provision.	

Discussion: Section 546 of the FY2015 NDAA (P.L. 113-291) called for the establishment of a 20-member Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC-IPAD) to "review, on an ongoing basis, cases involving allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces."[36] Section 533 in the enacted bill gives the committee additional authority to require DOD and other Federal agencies to provide information relevant to the committee's scope as requested.

One of the DAC-IPAD's findings in its March 2018 annual report was that DOD policies and standards for expedited transfer apply "only to active duty victims whose sexual assault reports are handled by the SAPR program and expressly excludes victims covered under FAP from the expedited transfer policy."[37] Expedited transfer policies have been in place since 2011 and allow victims to request transfer to a new unit or installation in order to separate themselves from an alleged perpetrator. Section 536 of the enacted bill requires DOD to modify policies related to expedited transfers in order to standardize processes for all sexual assault victims and extend the transfer policy to a servicemember's dependent when the dependent is a victim.[38] Section 542 of

[36] The committee was established on February 18, 2016. The DAC-IPAD Charter is available at https://dacipad.whs.mil/images/Public/01-Home/Charter_DACIPAD_20160218.pdf.

[37] Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces, *Annual Report*, March 2018, https://dacipad.whs.mil/images/Public/08-Reports/DACIPAD_Report_02_Final_20180330_Web_Amended.pdf.

[38] Section 547 of the Senate version would further expand expedited transfer authority to victims of domestic violence

the House bill would have allowed cadets and midshipmen from the military service academies who are victims of sexual assault to apply for a transfer to one of the other service academies.[39] This was not adopted; however, the conference report noted, "The Conferees believe that providing an option for a cadet or midshipman, who was sexually assaulted, to request a transfer to another academy should be explored," and directs DOD to study the feasibility of establishing such a process.

The Administration objected to Section 544 of the Senate bill which would have authorized military judges to issue and enforce domestic protective orders, stating that this would, "strain the military judiciary's limited resources and greatly expand the authority of military judges into an area that has been reserved to civil courts."[40] This provision was not adopted. Military protective orders (MPOs) may currently be issued by commanding officers having full force and effect on military installations, but are not enforceable by civilian law authorities.[41]

DOD is required to produce an annual report for Congress on sex-related offenses.[42] Section 547 of the enacted bill requires DOD to also report information on collateral misconduct of victims of sexual assault. Collateral misconduct by the victim is considered to be one barrier to reporting assault due to the victim's fear of punishment for offenses such as underage drinking or fraternization.[43]

Psychological trauma following a sexual assault incident has been associated with negative behavioral changes in the victim such as increased drug or alcohol use, poor work performance, or other disciplinary issues. The Department of Veterans Affairs defines psychological trauma related to sexual assault or harassment as *military sexual trauma* (MST).[44] DOD's policies recognize psychological trauma related to sexual assault and defines it as *trauma-informed care.*[45] Section 547 of the House bill would have required DOD and VA to develop a joint definition of military sexual trauma. This section was not adopted.

Section 702 of the enacted bill requires DOD to carry out a pilot program to treat servicemembers suffering from post-traumatic stress disorder (PTSD) resulting from military sexual trauma. Behaviors associated with sexual trauma may affect the nature of a victim's discharge from the Armed Forces. Discharges that are not under "honorable" conditions affect servicemember eligibility for certain veterans' benefits. Under certain circumstances, servicemembers may appeal these decisions through Discharge Review Boards or Boards of Correction for Military Records.

(see "Domestic Violence and Child Abuse").

[39] There are three military service academies, the United States Naval Academy, United States Air Force Academy, and United States Military Academy (West Point).

[40] Executive Office of the President, *Follow-on to Statement of Administration Policy, S. 2987 - John McCain Defense Authorization Act for Fiscal Year 2019*, June 26, 2018, p. 8, https://www.whitehouse.gov/wp-content/uploads/2018/06/saps2987s_20180626.pdf.

[41] *Military Protective Orders* may be issued by Commanding Officers under 10 U.S.C. §1567. Civilian protective orders may be enforced on military installations under 10 U.S.C. §1561a. See also the discussion of MPOs in CRS Report R44944, *Military Sexual Assault: A Framework for Congressional Oversight*, by Kristy N. Kamarck and Barbara Salazar Torreon.

[42] P.L. 111-383, §1631, codified in 10 U.S.C. §1561 note. DOD makes current and archived annual reports available to the public, online at http://www.sapr.mil/index.php/reports/sapro-reports.

[43] Intentional misconduct by a servicemember can preclude him or her from receiving certain medical services under a *Line of Duty (LOD)* determination as required by 10 U.S.C. 1074a(c). Collateral misconduct by victims of sexual assault is excluded from LOD consideration, allowing them to receive all necessary medical treatment.

[44] VA counseling and treatment for MST is authorized under 38 U.S.C. §1720D.

[45] Department of Defense, *Sexual Assault Prevention and Response (SAPR) Program Procedures*, DODI 6495.02, May 24, 2017.

Senate Section 536 was not adopted, but would have amended 10 U.S.C. §1552 and §1553 with respect to the correction of military records to ensure that the claimants receive "liberal consideration" that the sexual trauma contributed to the circumstances surrounding discharge or dismissal.

Following a sexual assault investigation in the military, the investigator will provide recommendations for legal or other actions to a disposition authority – typically a military commander in the accused's chain of command. Section 535 of the enacted bill adopts Senate Section 548, requiring the SECDEF to establish a uniform command action form for reporting the final disposition of certain sexual assault cases. Section 544 of the enacted bill seeks to improve compliance with sex offender reporting requirements by establishing a single entity within DOD for the oversight of the registered sex offender management program. Finally, Section 542 of the enacted bill requires security clearance reinvestigations under expedited procedures for flag officers and DOD Senior Executive Service personnel who are convicted of certain offenses, including sexual assault and sexual harassment. Not adopted was House Section 531, which would have imposed mandatory penalties for those convicted of sex-related offenses.

References: See also CRS Report R44944, *Military Sexual Assault: A Framework for Congressional Oversight*, by Kristy N. Kamarck and Barbara Salazar Torreon, CRS Report R43168, *Military Sexual Assault: Chronology of Activity in Congress and Related Resources*, by Barbara Salazar Torreon, CRS Report R43928, *Veterans' Benefits: The Impact of Military Discharges on Basic Eligibility*, by Umar Moulta-Ali and Sidath Viranga Panangala. Previously discussed in CRS Report R44923, *FY2018 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck, Lawrence Kapp, and Barbara Salazar Torreon, and similar reports from earlier years.

CRS Point of Contact: Kristy N. Kamarck.

*Military Pay Raise

Background: There is long-standing congressional interest on the military pay raise in relation to the overall cost of military personnel and recruitment and retention of high-quality personnel to serve in the all-volunteer military. Section 1009 of Title 37 of the U.S. Code 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 statutory formula stipulates that the increase in basic pay for 2019 will be 2.6% unless either (1) Congress passes a law to provide otherwise; or (2) the President specifies an alternative pay adjustment under subsection (e) of 37 U.S.C. §1009. Increases in basic pay are typically effective at the start of the calendar year, rather than the fiscal year.

The FY2019 President's Budget requested a 2.6% military pay raise, equal to the statutory formula.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Not Adopted	**Not Adopted**	
No similar provision	**Sec. 601** would waive the automatic increase in basic pay under the statutory formula of 37 U.S.C. §1009, and specifies that the pay raise shall be 2.6%.	

Discussion: The enacted bill contained no provision relating to a general increase in basic pay, thereby leaving the automatic adjustment of 37 U.S.C. §1009 in place. According to the Joint Explanatory Statement, "The conferees note that current law authorizes automatic military pay raises consistent with the Economic Cost Index, which for calendar year 2019 amounts to a 2.6 percent raise in basic pay for all members of the uniformed services."

Reference(s): For an explanation of the pay raise process and historical increases, see CRS In Focus IF10260, *Defense Primer: Military Pay Raise*, by Lawrence Kapp. Previously discussed in CRS Report R44577, *FY2017 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck et al., and similar reports from earlier years.

CRS Point of Contact: Lawrence Kapp.

Military Health System Electronic Health Record

Background: Since 1998, DOD and the Department of Veterans Affairs (VA) have pursued numerous efforts to increase interoperability between each department's electronic health records (EHR).[46] The lack of EHR interoperability, or bi-directional communication, has been a historical barrier to access and continuity of care for both DOD and VA beneficiaries.

Congress has expressed significant interest in DOD and VA efforts to develop an interoperable or joint EHR. Section 1635 of the FY2008 National Defense Authorization Act directed DOD and VA to develop an interoperable EHR, accelerate the exchange of health care information between the two departments by September 30, 2009, and create an interagency program office to facilitate these efforts.[47] As directed by law, the DOD/VA Interagency Program Office was established in 2011 to jointly develop an integrated EHR that would replace each department's legacy systems.[48] As an interim solution, the Joint Legacy Viewer (JLV)[49] was developed to facilitate health care data sharing between each department's legacy systems. While the JLV provides read-only access, it continues to be the primary platform for DOD and VA clinicians to review a patient's medical history and care delivered in both health systems.

In 2012, DOD and VA committed to developing a new integrated EHR that would be fully operational by 2017.[50] In 2013, DOD and VA announced that they would no longer pursue the development of an integrated EHR; rather, they would invest in separate systems that could meet interoperability requirements.[51] DOD opted to pursue a commercial alternative, while VA decided to modernize VistA.

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[46] U.S. Government Accountability Office, *Electronic Health Records: VA and DOD Need to Support Cost and Schedule Claims, Develop Interoperability Plans, and Improve Collaboration*, GAO-14-302, February 2014, p. 6, https://www.gao.gov/products/GAO-14-302.

[47] P.L. 110-181 §1635.

[48] DOD's legacy EHR is composed of multiple interlinked systems, such as the *Armed Forces Health Longitudinal Technology Application* (AHLTA), *Composite Health Care System* (CHCS), and *Essentris*. CHCS is the foundational EHR platform that has been utilized across all military treatment facilities and operational medical platforms since the early 1990s. The *Veterans Health Information System and Technology Architecture* (VistA) is VA's legacy EHR that has been utilized throughout the Veterans Health Administration since the late 1970s.

[49] The JLV is a common viewing platform that combines health care data from DOD and VA legacy systems that provides clinicians a more complete picture of a patient's history and helps identify health trends over time.

[50] Department of Defense/Department of Veterans Affairs, *Interagency Program Office Annual Report to Congress 2011*, 2011.

[51] Department of Defense/Department of Veterans Affairs, *Joint Executive Committee Annual Report Fiscal Year 2013*,

On August 25, 2014, DOD issued a request for proposals for a new EHR to replace its legacy systems. In July 2015, DOD awarded a $4.3 billion EHR contract, also known as *MHS Genesis*, to the Leidos Partnership for Defense Health (LPDH), comprised of the following vendors: Leidos (prime vendor), Cerner, Accenture Federal Services, and Henry Schein, Inc.[52]

On June 5, 2017, VA announced its decision to adopt the same EHR platform as MHS Genesis as its replacement to VistA and awarded a $10 billion contract to Cerner.[53] On April 9, 2018, the Coast Guard announced its intent to partner with DOD and adopt MHS Genesis.[54] Adding the Coast Guard to DOD's contract with LPDH increased the award ceiling to $5.5 billion.[55] DOD intends to deploy MHS Genesis at all military treatment facilities (MTFs) by 2022. The VA intends to start with three operational sites by 2020.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Not Adopted	**Not Adopted**	
Sec. 718 would require DOD to report on corrective actions taken on electronic health record implementation issues previously identified in the MHS Genesis initial operational test and evaluation.	No similar provision.	
Sec. 735 would require DOD to transmit a report to the Secretary of Veterans Affairs on lessons-learned during the initial operational test and evaluation of MHS Genesis.	No similar provision.	

Discussion: While there are no provisions in the enacted bill relating to DOD's new electronic health record, House Section 718 was incorporated into the conference report. DOD is directed to "submit a letter report to the Committees on Armed Services of the Senate and the House of Representatives describing the corrective actions taken, as a result of the findings in the initial operational and test evaluation report, prior to fielding MHS Genesis to additional military medical treatment facilities."[56]

Currently, there are six congressional committees[57] that may exercise jurisdiction in oversight of this program. As DOD, VA, and the Coast Guard implement a new, common EHR over the next

2013, p. 53.

[52] Department of Defense, "DOD Awards Contract for Electronic Health Records," July 29, 2015, https://www.defense.gov/News/Article/Article/612714/.

[53] U.S. Government Accountability Office, *VA IT Modernization: Preparations for Transitioning to a New Electronic Health Record System Are Ongoing*, GAO-18-636T, June 26, 2018, p. 6.

[54] U.S. Coast Guard, "Electronic Health Records Acquisition," accessed August 2, 2018, https://www.dcms.uscg.mil/Our-Organization/Assistant-Commandant-for-Acquisitions-CG-9/Programs/C4ISR-Programs/Electronic-Health-Records-Acquisition.

[55] Department of Defense, Defense Health Agency, Component Acquisition Executive, *Justification and Approval for Other Than Full and Open Competition* (Virginia, 2018), p. 4.

[56] H.Rept. 115-874.

[57] Six congressional committees have jurisdiction over activities conducted within DOD, VA, and the Coast Guard. The Senate Committees include: Appropriations, Armed Services, and Commerce, Science, and Transportation. The House Committees include: Appropriations, Armed Services, and Transportation and Infrastructure.

four years, Congress may consider additional or streamlined oversight activities to ensure successful deployment of MHS Genesis.

CRS Point of Contact: Bryce H.P. Mendez.

Navy Watchstander Training and Management Issues

Background: In 2017, four incidents involving Navy ships in the Western Pacific resulted in serious damage and the deaths of 17 sailors. These incidents prompted Congressional inquiry into possible root causes of such accidents.[58] Experts and investigators have pointed to various issues in the Surface Warfare community, including fleet and unit readiness, the seamanship training and qualification processes, ship-board workloads, and operational/personnel tempo. In response to these concerns, the FY2019 NDAA includes several provisions related to Navy training and personnel management issues.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Sec. 333 expresses a sense of Congress that the Secretary of Navy should take specific steps to improve seamanship and navigation training and qualification processes.	No similar provision.	**Sec. 334** adopts House Sec. 333.
Sec. 334 would require the Secretary of the Navy to provide a report on optimizing surface navy vessel inspections and crew certifications to reduce redundancies and the burden of inspection-type visits that ships undergo.	No similar provision.	**Sec. 335** adopts House Sec. 334.
No similar provision.	**Sec. 531** would require the Secretary of the Navy to conduct an assessment of the standard work week.	**Sec. 524** adopts Senate Sec. 531. The accompanying conference report also requires preliminary findings of this assessment to be briefed to the congressional defense committees.
No similar provision.	**Sec. 532** would require the Secretary of the Navy to maintain appropriate manning levels on forward deployed ships.	**Sec. 525** adopts Senate Sec. 532 and requires the Secretary of the Navy to notify the congressional defense committees if the manning of a battle force ship drops below specified levels.
No similar provision.	**Sec. 533** would require the Navy to maintain a career record of watchstanding hours for key watchstanders on surface vessels.	**Sec. 526** adopts Senate Sec. 533 and adds *engineering officer of the watch* and *conning* or *pilot officer* as covered watchstanders.
No similar provision.	**Sec. 534** would require the Secretary of the Navy to report on	**Sec. 527** adopts Senate Sec. 534 and adds *conning* or *pilot officer*, and

[58] The House Armed Services Committee held a hearing on this topic on September 7, 2017. The Senate Armed Services Committee followed with a hearing on September 19, 2017.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
	the adequacy of individual training and qualification standards for certain watchstations.	*engineering officer of the watch* as covered watchstanders.
Sec. 502 would establish two separate career paths for Surface Warfare Officers (SWOs).	No similar provision.	**Sec. 514** amends House Sec. 502 to require a GAO report on SWO career paths.

Discussion: In 2018, a 3-year internal Navy review of junior surface warfare officer (SWO) competency uncovered gaps in basic seamanship and navigation skills.[59] The enacted bill includes provisions that seek to improve training, as well as qualification standards and processes for Navy watchstanders.[60] Section 334 encourages the Secretary of the Navy to establish a comprehensive proficiency assessment process for SWOs and to more closely align watchstander qualification standards with the International Convention on Standards of Training, Certification and Watchkeeping (STCW). This section would also require a report to Congress on the training curriculum and assessment process for surface warfare watchstanders by March 1, 2019. Section 527 requires reporting on Navy training and qualification standards. The Senate Armed Services Committee (SASC) report also includes language with respect to surface warfare officer *initial* training, stating,

> The committee believes SWO candidates lack sufficient at-sea training before reporting to their first ships. The committee is concerned that the lack of practical at-sea experience before reporting to their first ships may result in SWOs having gaps in their foundational safety, seamanship, and navigation knowledge, skills, and experience.[61]

The SASC report further directs the Secretary of the Navy to conduct a review of the adequacy and appropriate balance of training methods, to include the feasibility of expanding use of yard patrol craft as training vessels, and to report to Congress by October 1, 2018.[62] The Comptroller General is directed to provide a review of the Secretary's report within 120 days of the Navy report. Finally, Section 526 of the enacted bill requires the Navy to maintain a career record of watchstanding hours. It is current practice for military pilots to log flight hours; however, this has not been a common practice for surface warfare watchstanders.

Section 502 of the House bill sought to increase specialization for SWOs by establishing two career paths: (1) ship engineering systems; and (2) ship operations and combat systems. While some foreign navies use this approach for SWO career management (e.g., the British Royal Navy), there is ongoing debate within the U.S. surface warfare community about whether

[59] As reported in, LaGrone, Sam, "Navy Study Finds Junior SWOs Have Major Gaps in Seamanship, Ship Handling Knowledge," *USNI News*, June 6, 2018, https://news.usni.org/2018/06/06/navy-study-finds-junior-swos-major-gaps-seamanship-ship-handling-knowledge. See also, Robertson, Capt. Scott, "OOD Competency Checks: Obtaining a Fix on Fleet Navigation, Seamanship and Shiphandling, *Navy Live*, February, 14, 2018, http://navylive.dodlive.mil/2018/02/14/ood-competency-checks-obtaining-a-fix-on-fleet-navigation-seamanship-and-shiphandling/.

[60] The term *watchstander* refers to an individual assigned to shipboard seamanship and navigational details to ensure the continuous safe operation and transit of vessels. These roles could include, for example, Officer of the Deck, Conning Officer, Helmsman, Lookout, among others.

[61] U.S. Congress, Senate Committee on Armed Services, *The John S. McCain National Defense Authorization Act for Fiscal Year 2019*, Report to Accompany S. 2987, 115th Cong., 2nd sess., June 5, 2018, S.Rept. 115-262.

[62] Yard Patrol craft (YPs) are approximately 120-foot vessels with a crew of 30-40 that are used to train prospective surface warfare officers in the basics of seamanship, navigation, and damage control. See http://www.navy.mil/navydata/fact_display.asp?cid=4200&tid=2500&ct=4Nov.

specialization would improve performance and resolve existing problems.[63] The Administration objected to this section, stating that "Separating SWOs into two career paths would limit mastery of core skillsets that are fundamental in developing a warfighter to lead, fight, and operate complex U.S. Navy warships."[64] The enacted bill does not require the Navy to establish separate career paths, but instead requires GAO to conduct a review of SWO career paths and to brief congressional committees by March 1, 2019.

Another area of concern is that high shipboard workload and personnel tempo could lead to higher risk of human error due to fatigue.[65] A 2017 GAO report found that,

> The Navy's process to determine manpower requirements—the number and skill mix of sailors needed for its ships—does not fully account for all ship workload. The Navy continues to use an outdated standard workweek that may overstate the amount of sailor time available for productive work. Although the Navy has updated some of its manpower factors, its instruction does not require reassessing factors to ensure they remain valid or require measuring workload while ships are in port. Current and analytically based manpower requirements are essential to ensuring that crews can maintain readiness and prevent overwork that can affect safety, morale, and retention.[66]

Section 525 of the enacted bill requires the Navy to ensure that manning levels on forward deployed ships are consistent with requirements for the ship class and to notify Congress in writing when *manning fill* for a covered ship falls below 90% and *manning fit* falls below 87%.[67]

CRS Point of Contact: Kristy N. Kamarck.

Prevention of Opioid Abuse or Misuse

Background: Congress has taken an interest in understanding federal efforts and identifying options to address overall substance abuse issues, particularly in the context of the *opioid crisis*. According to DOD's *2011 Health Related Behaviors Survey of Active Duty Military Personnel,* servicemembers reported using or misusing the following substances within the 12 months prior to the study at the following rates: illicit drugs (1.4%)[68], prescription drugs (0.8%), and heavy

[63] See for example, Lt. CMDR. Jon Paris, "The Status Quo Killed 17 US Sailors. The Navy Must Change," *Defense One*, May 8, 2018, https://www.defenseone.com/ideas/2018/05/status-quo-killed-17-sailors-us-navy-must-change/148625/; and McGrath, Bryan, "Back Off, Congress: Don't Meddle With the US Navy's Command Philosophy," *Defense One*, May 23, 2018, https://www.defenseone.com/ideas/2018/05/back-congress-dont-meddle-us-navys-command-philosophy/148430/.

[64] Executive Office of the President, *Statement of Administration Policy, H.R. 5515 - National Defense Authorization Act for Fiscal Year 2019*, May 22, 2018, p. 7, https://www.whitehouse.gov/wp-content/uploads/2018/05/saphr5515r_20180522.pdf.

[65] See for example, Lt. Cmdr. Erin Patterson, "Ship Collisions: Address the Underlying Causes, Including Culture," *Proceedings*, August 2017 and Weinstein, Adam, "There's a silent threat plaguing the Navy, and it may be related to recent accidents at sea," *Task & Purpose*, August 24, 2017.

[66] U.S. Government Accountability Office, *Navy Force Structure; Actions Needed to Ensure Proper Size and Composition of Ship Crews*, GAO-17-412, May 18, 2017, https://www.gao.gov/products/GAO-17-413.

[67] The provision defines *manning fill as* the "total number of military personnel assigned to the ship by rating when compared with the billets authorized for the ship by rating". *Manning fit* is defined as the "skills (rating), specialty skills (Navy Enlisted Classifications), and experience (paygrade) for the ship as compared with the billets authorized for such skills and experience."

[68] Department of Defense, *2011 Health Related Behaviors Survey of Active Duty Military Personnel*, Fairfax, VA, February 2013, p. 122.

alcohol amounts (8.4%).[69] Other than heavy alcohol use, the prevalence of substance abuse is lower than in the general U.S. population.[70] Since 2009, the number of new alcohol or substance abuse diagnoses per year has been on a declining trend for active duty servicemembers.[71] However, opioid medications are prescribed at a higher rate for servicemembers than the general U.S. population.[72] This higher prescription rate may be attributable to deployment-related effects such as combat exposure and injuries.[73] However, the incidence rate for dependence or abuse among servicemembers declined by 38% between 2012 and 2016.[74] When adjusted for demographics, the opioid death rate among servicemembers is significantly lower than the U.S. population at 2.7 per 100,000 and 10.4 per 100,000, respectively.[75] DOD attributes these trends to its extensive education, prevention, and treatment programs developed over the past decade.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Sec. 736 would require DOD to report on actions that prevent and treat opioid abuse or misuse among military dependents.	**Sec. 704** would require a pilot program to minimize early opioid exposure to TRICARE beneficiaries and prevent progression to abuse or misuse.	**Sec. 716** adopts House Sec. 736 and Senate Sec. 704 with House amendment removing the requirement to provide beneficiaries with in-home disposal kits to deactivate excess opioids.
Sec. 712 would establish a Military Health System Prescription Drug Monitoring Program. The program is to monitor prescription drugs delivered in military treatment facilities and share patient-specific information with state prescription drug monitoring programs to prevent abuse or misuse of opioids and other controlled substances.	**Sec. 714** is similar to House Sec. 712.	**Sec. 715** adopts House Sec. 712 to establish a Military Health System Prescription Drug Monitoring Program.
Not Adopted	**Not Adopted**	
Sec. 737 would require DOD to report on prescribing practices, between 2012 and 2017, that were inconsistent with the DOD-VA clinical practice guidelines for post-traumatic stress disorder.	No similar provision.	

[69] ibid, p. 140.

[70] ibid, p. 83.

[71] Shauna Stahlman and Alexis Oetting, "Mental Health Disorders and Mental Health Problems, Active Component, U.S. Armed Forces, 2007-2016," *Medical Surveillance Monthly Report*, vol. 25, no. 3 (March 2018), p. 5.

[72] Department of Defense, *House Report 114-537, Page 174, Accompanying H.R. 4909, the National Defense Authorization Act for Fiscal Year 2017: Report on Prescription Opioid Abuse and Effects on Readiness*, October 29, 2017, p. 4, https://health.mil/Reference-Center/Reports/2017/10/29/Prescription-Opioid-Abuse-and-Effects-on-Readiness.

[73] Robin L. Toblin, Phillip J. Quartana, and Lyndon A. Riviere, et al., "Chronic Pain and Opioid Use in US Soldiers After Combat Deployment," *JAMA Internal Medicine*, vol. 174, no. 8 (2014), p. 1400.

[74] Department of Defense, *House Report 114-537, Page 174, Accompanying H.R. 4909, the National Defense Authorization Act for Fiscal Year 2017: Report on Prescription Opioid Abuse and Effects on Readiness*, October 29, 2017, p. 4, https://health.mil/Reference-Center/Reports/2017/10/29/Prescription-Opioid-Abuse-and-Effects-on-Readiness.

[75] ibid.

Discussion: DOD currently operates a prescription drug monitoring program that identifies at-risk beneficiaries and restricts patients from receiving multiple prescriptions for opioids outside of their primary care manager. However, the data exchange that occurs between various TRICARE contractors and military treatment facilities is not shared with state prescription drug monitoring programs. Section 715 of the enacted bill directs DOD to establish a Military Health System Prescription Drug Monitoring Program. The program would allow for bi-directional sharing of patient-specific information regarding prescriptions for controlled substances with state prescription drug monitoring programs. Section 715 also clarifies that the patient-specific information is an authorized disclosure under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191).

Section 716 of the enacted bill adopts House Section 736 and Senate Section 704, directing DOD to implement an opioid safety pilot program for a period of no more than three years. The pilot program must address: opioid safety for patients, physicians, dentists, and pharmacists; identify potential misuse or abuse of opioid medications within military, retail, or home delivery pharmacies; beneficiary education on opioid misuse or abuse; and use of predictive analytics to identify at-risk beneficiaries.

Not adopted were provisions to require DOD to distribute in-home prescription drug disposal kits to beneficiaries and a report on historical prescribing practices that were inconsistent with the DOD-VA clinical practice guidelines for post-traumatic stress disorder.

Congress is also considering at least 20 separate legislative proposals to address the *opioid crisis*, primarily through authorities, programs, and services directed by the Department of Health and Human Services, Department of Homeland Security, and the Drug Enforcement Agency. These proposals do not explicitly address opioid abuse, prevention, treatment, or research within DOD.

References: CRS In Focus IF10951, *Substance Abuse Prevention, Treatment, and Research Efforts in the Military*, by Bryce H. P. Mendez, CRS In Focus IF10219, *Opioid Treatment Programs and Related Federal Regulations*, by Johnathan H. Duff, and CRS Report R42593, *Prescription Drug Monitoring Programs*, by Lisa N. Sacco, Johnathan H. Duff, and Amanda K. Sarata.

CRS Point of Contact: Bryce H.P. Mendez.

*Servicemember Education, Training, and Transition

Background: Approximately 200,000 servicemembers are discharged from the Armed Forces every year. This is a diverse group including, for example, enlistees completing their first-term (typically 4-6 years), mid-career members, retirees (>20 years), and those with medical disabilities. A majority of these members pursue a post-service career; veterans account for about 6% of the civilian labor force.[76] In the past few decades, Congress has enacted legislation and appropriated funds in support of programs that help servicemembers prepare for transition to civilian life by providing them with counseling, resources, and tools for accessing veteran benefits and leveraging their skills, education, and training gained in the service for post-service education and employment opportunities. Some DOD programs are the Transition Assistance

[76] Approximately 17% of those who serve will serve 20 years or more and become eligible for a pension from DOD. Some who retire from the service with severe disabilities may not be able to work. CRS In Focus IF10490, *Veterans' Employment*, coordinated by Benjamin Collins.

Program (TAP);[77] Credentialing Opportunities Online (COOL);[78] and the DOD Skillbridge program, which is also known as the Job Training, Employment Skills Training, Apprenticeships, and Internships (JTEST-AI) program.[79] There are also DOD programs to help servicemembers in pursuit of post-secondary degrees, for example, tuition assistance (TA) for off-duty education and the Defense Activity for Non-Traditional Education Support (DANTES).[80]

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Transition Services and Support	***Transition Services and Support***	***Transition Services and Support***
Sec. 557 would extend availability of Military OneSource services to members and immediate families to a period of at least one year following separation.	**Sec. 567** is a similar provision to House Sec. 557.	**Sec. 558** adopts Senate Sec. 567.
Sec. 552 would establish tailored counseling pathways for members separating from the service and enhance TAP counseling requirements.	**Sec. 5501** would require a report from SECDEF on participation by servicemembers in TAP.	**Sec. 552** incorporates elements of House Sec. 552 and Senate Sec. 5501 and makes several changes to TAP.
Licensing and Credentialing	***Licensing and Credentialing***	***Licensing and Credentialing***
Sec. 554 would expand opportunities for servicemembers to gain professional credentials unrelated to military training.	**Sec. 556** is a similar provision to House Sec. 554.	**Sec. 556** adopts House Sec. 554.
Not Adopted	**Not Adopted**	
No similar provision.	**Sec. 575** would require DOD to initiate a pilot program for military spouse participation in TAP.	
Sec. 525 would require the addition of email addresses to discharge paperwork (DD-214).	No similar provision.	
Sec. 555 would extend the authority for DOD to provide job placement assistance to separating servicemembers.	No similar provision.	
Sec. 556 would authorize DOD to conduct a pilot job placement and employment assistance program for reservists.	No similar provision.	

[77] The military Transition Assistance Program (TAP) was established in the National Defense Authorization Act (NDAA) for Fiscal Year 1991 (P.L. 101-510 §502) and codified in 10 U.S.C. §1142. This program provides counseling services and workshops to help servicemembers transition into the civilian workforce.

[78] The COOL program is authorized by 10 U.S.C. §2015 and it provides funded vouchers to help servicemembers pay for exams and maintenance of civilian certifications and licenses. The program is funded through COOL funds, tuition assistance funds, and through individual GI Bill benefits.

[79] JTEST-AI includes civilian job training for transitioning military servicemembers up to six months prior to separation. It includes both apprenticeships and internships. The training must offer a high probability of employment and be provided to the servicemember at little or no cost.

[80] TA is authorized under 10 U.S.C. §2007 and pays all or a portion of tuition expenses to qualified educational institutions. For information on DANTES, see http://www.dantes.doded.mil.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
Sec. 558 would require a GAO report and briefing on permanent employment assistance centers.	No similar provision.	This section was incorporated into the conference report, directing a GAO report on permanent employment assistance centers.
Sec. 559 would require DOD to increase awareness about apprenticeship programs.	No similar provision.	
Sec. 560A would require a report on availability of college credit for skills acquired during military service.	No similar provision.	
Sec. 560B would require DOD (with VA) to maintain a database of county veterans service officers and would allow members to elect for DOD to send discharge information to those officers.	No similar provision.	
Sec. 560D would require DOD to conduct a pilot program to contact veterans at least twice during the first 3 months following separation from the service.	No similar provision.	

Discussion: Congressional concerns about the transition of servicemembers to civilian employment are evident in the number of provisions seeking to enhance or expand transition services, education support, and other transition-related programs. Section 558 of the enacted bill extends the availability of Military OneSource services to members and their families for a minimum period of one year following separation from the military. A broad range of information resources and training programs are available online in an open source format on Military OneSource; however, previously, some counseling and support services were only available to veterans for a period of 180 days following separation. Other House provisions seeking to improve outreach to recently separated veterans through the addition of email addresses to discharge paperwork (Section 525), allowing for discharge information to be transmitted to country veteran service officers (Section 560B), and follow-up phone calls to check on status (Section 560D) were not adopted.

A Government Accountability Office (GAO) report released in November 2017 found that fewer than half of all eligible servicemembers completed TAP before the statutory deadline[81] of 90 days prior to separation.[82] In addition, the report found that relatively few members were participating in DOD's optional two-day classes on (1) Accessing Higher Education, (2) Career Technical Training, and (3) Entrepreneurship. The SASC raised concerns in its committee report that, "requiring transitioning servicemembers to opt into a two-day workshop signals to both servicemembers and their commanders that the workshops may be superfluous, thereby discouraging participation," and encourages DOD to mandate member participation in one of the

[81] 10 U.S.C. §1142(3)(A).

[82] U.S. Government Accountability Office, *Transitioning Veterans; DOD Needs to Improve Performance Reporting and Monitoring for the Transition Assistance Program*, GAO-18-23, November 2017.

workshops.[83] Section 552 of the enacted bill requires that TAP counseling begin no later than 365 days before transition. This provision requires the development of tailored transition pathways depending on the characteristics or needs of different member groups (e.g., rank, term of service, or gender), and would mandate certain elements of the TAP curriculum.[84] Another requirement in this section is that transitioning members and the Secretary of Veterans Affairs are provided with a copy of their Joint Service Transcript upon separation. Congress also requires GAO and DOD reports on the implementation of this law.

Section 556 of the enacted bill removes the requirement that credentials earned under the authority in 10 U.S.C. §2015 be "related to military training." This will potentially expand a member's ability to use COOL funds to pursue non-military-related credentials. Section 560A of the House bill would have required DOD to report on TAP participants who met with academic or technical training advisors and would also request specific information on equivalent college credit and technical certifications for members of the armed forces. This provision was not adopted. The American Council on Education (ACE), as funded by DOD, provides a military guide with credit recommendations for formal military courses and occupations.[85] This information may be provided to servicemembers and veterans as part of a Joint Service Transcript (JST) or Verification of Military Experience and Training (VMET).[86] The COOL program provides an online resource that translates military service occupations and experience to civilian credentials.[87]

Currently servicemembers' spouses are authorized to participate in certain elements of TAP under 10 U.S.C. §§1142 and 1144. Section 575 of the Senate bill would have required a pilot program for spouse participation in TAP regardless of whether the member is also participating in TAP at the same time. This provision was not adopted. Finally, Section 559 of the House bill would have required that DOD provide members with information about apprenticeship programs as part of pre-separation counseling. While this provision was not adopted, the conferees noted that, "apprenticeships provide a valuable career option for separating servicemembers and encourage the Department of Defense to ensure information on apprenticeship programs, and appropriate funding options, is easily accessible to those servicemembers who may be interested in pursuing an apprenticeship upon separating from the military."

References: CRS In Focus IF10347, *Military Transition Assistance Program (TAP): An Overview*, by Kristy N. Kamarck, CRS In Focus IF10850, *DOD's Troops to Teachers Program (TTT)*, by Kristy N. Kamarck and Eva G. McKinsey, CRS In Focus IF10490, *Veterans' Employment*, coordinated by Benjamin Collins, and CRS Report R42790, *Employment for Veterans: Trends and Programs*, coordinated by Benjamin Collins. CRS Video WVB00223, *Service Member-to-Veteran Transitions: Education and Employment*, by Kristy N. Kamarck, Benjamin Collins, and Cassandria Dortch.

CRS Point of Contact: Kristy N. Kamarck.

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[83] S.Rept. 115-262.

[84] The Administration objected to Section 552, referring to proposed changes in the TAP curriculum as "prescriptive" and "premature". Executive Office of the President, *Statement of Administration Policy, H.R. 5515 - National Defense Authorization Act for Fiscal Year 2019*, May 22, 2018, p. 8, https://www.whitehouse.gov/wp-content/uploads/2018/05/saphr5515r_20180522.pdf.

[85] The ACE Military Guide can be found at: http://www.acenet.edu/news-room/Pages/Military-Guide-Online.aspx. Institutes of higher education are not required to accept military courses or experience for academic credit.

[86] See https://jst.doded.mil/official.html for the JST and https://www.dmdc.osd.mil/tgps/pages/VMET/access_dd2586.xhtml for the VMET.

[87] See for example, Army COOL at: https://www.cool.army.mil/.

*Survivor Benefits

Background: Under the Survivor Benefit Plan (SBP), a military retiree may have a portion of his or her monthly retired pay withheld in order to provide, after his or her death, a monthly benefit to a surviving spouse or other eligible recipients. When an active duty servicemember dies, his or her survivor's payment through the SBP is usually 55% of the retired base pay that the member would otherwise have been eligible to receive. By law, surviving spouses who receive both an annuity from DOD as a beneficiary of the SBP and from the Department of Veterans Affairs' Dependency and Indemnity Compensation (DIC) must have their SBP payments reduced by the amount of DIC they receive. This offset has sometimes been referred to as a *widows' tax*.

Congress first authorized a payment to such surviving spouses to offset that reduction in the FY2008 NDAA.[88] This benefit is called the Special Survivor Indemnity Allowance (SSIA). Monthly SSIA payments are currently capped at $310 and are taxable. Section 621 of the FY2018 NDAA (P.L. 115-91) amended 10 U.S.C. §1450 to permanently extend the authority to pay the SSIA and requires inflation adjustments to that allowance by the amount of the military retired pay COLA for each calendar year beginning in 2019.[89] Section 622 of the FY2018 NDAA modified 10 U.S.C. §§ 1447 and 1452 to ensure equitable treatment under the SBP of members of the uniformed services covered by the modernized retirement system who elect to receive a lump sum of retired pay, as authorized under 10 U.S.C. §1415.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
No similar provision.	**Sec. 621** would direct technical corrections in calculation and publication of special survivor indemnity allowance cost of living adjustments.	**Sec. 622** adopts Senate Sec. 621.
Not Adopted	**Not Adopted**	
Sec. 607 would express the sense of Congress regarding the Widows' Tax.	No similar provision.	
Sec. 626 would allow for the designation of new beneficiary under the Survivor Benefit Plan.	No similar provision.	

Discussion: Section 621 of the Senate bill would make technical corrections in calculation and publication of special survivor indemnity allowance (SSIA) cost of living adjustments. This provision was adopted in Section 622 of the enacted bill.

A provision not included in the enacted bill was House Section 607, which expressed a sense of Congress that the *widows' tax* be eliminated. While the SSIA alleviates the gap in benefits, Section 607 states "the whole Congress must work together to find a way to eliminate the widows' tax entirely. There was no similar provision in the Senate bill.

Another House provision that was not adopted was Section 626, which would amend 10 U.S.C. §1448(b)(1), by allowing designation of a new beneficiary by a terminally ill participant. Any such beneficiary must be a natural person with an insurable interest in the participant. Such an

[88] P.L. 110-181 §644.

[89] From October 2016 through December 2018, a maximum of $310 a month for SSIA; and for months during any calendar year after 2018, the amount determined in accordance with the COLA.

election would be effective the first day of the first month following the month in which the election is received by the Secretary concerned. There was no similar provision in the Senate bill.

References: Previously discussed in CRS Report R44923, *FY2018 National Defense Authorization Act: Selected Military Personnel Issues*, by Kristy N. Kamarck, Lawrence Kapp, and Barbara Salazar Torreon; CRS Report R40757, *Veterans' Benefits: Dependency and Indemnity Compensation (DIC) for Survivors*, by Scott D. Szymendera; CRS Report RL34751, *Military Retirement: Background and Recent Developments*, by Kristy N. Kamarck; and CRS Report R40589, *Concurrent Receipt: Background and Issues for Congress*, by Kristy N. Kamarck.

CRS Point of Contact: Barbara Salazar Torreon.

TRICARE Reform

Background: TRICARE is a DOD-administered health insurance-like program for uniformed servicemembers, uniformed service retirees, their family members, and survivors. With the exception of active duty servicemembers (who are assigned to the TRICARE Prime option and pay no out-of-pocket costs for TRICARE coverage), DOD beneficiaries may have a choice of TRICARE plan options depending on their status (e.g., active duty family members, retiree, reservist, child under age 26 ineligible for family coverage, Medicare-eligible, etc.) and geographic location.

Each of the three major plan options has different beneficiary cost-sharing features: TRICARE Prime, TRICARE Select, and TRICARE for Life. Since 1966, Congress has enacted legislation to deliver a robust health care benefit to eligible beneficiaries. TRICARE now accounts for approximately 52% (or $15.3 billion) of the total cost of care delivered through the military health system.[90]

In FY2017 and FY2018, Congress directed numerous TRICARE reforms including:

- replacing TRICARE options with new plans featuring an annual enrollment period and a new benefit structure with enrollment fees, annual deductibles, co-payments, and annual catastrophic caps;[91]
- changes to the delivery of the TRICARE dental benefit for uniformed services retirees and their family members; and[92]
- increased pharmacy co-pays for retirees and military family members.[93]

The Administration's FY2019 Budget request did not include any cost-share reforms or programmatic changes to TRICARE.[94]

[90] Department of Defense, *Evaluation of the TRICARE Program: Fiscal Year 2018 Report to Congress,* April 5, 2018, p. 6.

[91] P.L. 114-328 §701.

[92] ibid.

[93] P.L. 115-91 §702.

[94] Department of Defense, *Defense Budget Overview: United States Department of Defense Fiscal Year 2019 Budget Request*, February 13, 2018, p. 5-4.

House-Passed H.R. 5515	Senate-Passed H.R. 5515	Enacted Bill P.L. 115-232
TRICARE Administration & Management	***TRICARE Administration & Management***	***TRICARE Administration & Management***
Sec. 729 would require DOD to assess the impact of established TRICARE reimbursement rates on the availability of TRICARE mental health care providers. **Sec. 730** would require DOD to assess the feasibility of expanding TRICARE Prime coverage to eligible beneficiaries residing in Puerto Rico.	**Sec. 728** would require the Comptroller General to assess the oversight activities conducted by the Defense Health Agency during a transition of TRICARE managed care support contracts.	**Sec. 737** adopts Senate Sec. 728 with an amendment adding a briefing requirement, in addition to the report.
TRICARE for Life	***TRICARE for Life***	***TRICARE for Life***
Sec. 739 would require the Secretary of Defense, Secretary of Health and Human Services, and the Commissioner of Social Security to assess the requirement for Medicare Part B enrollment in order to be eligible for TRICARE for Life.	No similar provision.	**Sec. 734** adopts House Sec. 739 with an amendment requiring the submission of the report no later than one year after enactment.
TRICARE Dental Plans	*TRICARE Dental Plans*	*TRICARE Dental Plans*
No similar provision.	**Sec. 702** would require DOD to administer TRICARE dental plans for uniformed services dependents and reserve component members through the Federal Employees Dental and Vision Insurance Plan.	**Sec. 713** adopts Senate Sec. 702 with an amendment requiring a report on the transfer of the administration of the TRICARE retiree dental insurance plan to the Office of Personnel Management.
Not Adopted	**Not Adopted**	
Sec. 701 would establish a Medicare Advantage demonstration program for beneficiaries who are eligible for, or already participating in, TRICARE for Life.	**Sec. 701** would consolidate cost-sharing requirements under TRICARE Prime and Select. This consolidation would eliminate the grandfathering provisions for beneficiaries enrolled in a TRICARE health plan prior to January 1, 2018.	
No similar provision.	**Sec. 703** would require TRICARE coverage of all contraception methods approved by the Food and Drug Administration, including contraceptive care, sterilization procedures, and related patient education and counseling. Beneficiary cost-sharing for these services would be prohibited when delivered by a TRICARE network provider.	

Discussion: The enacted bill does not include any changes to TRICARE's cost-sharing requirements. It focuses on administration and delivery of certain health benefits. Section 737 of

the enacted bill directs the Comptroller General to assess, report, and brief Congress on the Defense Health Agency's guidance and oversight provided to outgoing and incoming managed care support contractors during the recent TRICARE contract transition. This reporting requirement will also be in effect for future TRICARE contract transitions.

Section 713 adopts Senate Section 702 directing DOD to administer the TRICARE dental benefit for uniformed services dependents and reserve component members through the Office of Personnel Management's Federal Employee Dental and Vision Insurance Program (FEDVIP) no earlier than January 1, 2022.

Section 734 adopts House Section 739 directing a study on how beneficiaries desiring to remain in the workforce are affected by the current requirement to participate in Medicare Part B, as a condition to participate in TRICARE for Life.[95]

References: CRS In Focus IF10530, *Defense Primer: Military Health System*, by Bryce H. P. Mendez; CRS Insight IN10922, *TRICARE Modernization: Eligibility for the Federal Employee Dental and Vision Insurance Program*, by Bryce H. P. Mendez.

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[95] Medicare Part B provides insurance coverage for medically necessary outpatient care, preventive services, ambulance services, and durable medical equipment. For more information about Medicare, see CRS Report R40425, *Medicare Primer*, coordinated by Patricia A. Davis.