

1 ***Subtitle D—Military Justice, In-***  
2 ***cluding Sexual Assault and Do-***  
3 ***mestic Violence Prevention and***  
4 ***Response***

5 ***SEC. 531. TECHNICAL REVISIONS AND CLARIFICATIONS OF***  
6 ***CERTAIN PROVISIONS IN THE NATIONAL DE-***  
7 ***FENSE AUTHORIZATION ACT FOR FISCAL***  
8 ***YEAR 2014 RELATING TO THE MILITARY JUS-***  
9 ***TICE SYSTEM.***

10 *(a) REVISIONS OF ARTICLE 32 AND ARTICLE 60, UNI-*  
11 *FORM CODE OF MILITARY JUSTICE.—*

12 *(1) EXPLICIT AUTHORITY FOR CONVENING AU-*  
13 *THORITY TO TAKE ACTION ON FINDINGS OF A COURT-*  
14 *MARTIAL WITH RESPECT TO A QUALIFYING OF-*  
15 *FENSE.—Paragraph (3) of subsection (c) of section*  
16 *860 of title 10, United States Code (article 60 of the*  
17 *Uniform Code of Military Justice), as amended by*  
18 *section 1702(b) of the National Defense Authorization*  
19 *Act of 2014 (Public Law 113–66; 127 Stat. 955), is*  
20 *amended—*

21 *(A) in subparagraph (A), by inserting “and*  
22 *may be taken only with respect to a qualifying*  
23 *offense” after “is not required”;*

24 *(B) in subparagraph (B)(i)—*

1           (i) by striking “, other than a charge  
2           or specification for a qualifying offense,”;  
3           and

4           (ii) by inserting “, but may take such  
5           action with respect to a qualifying offense”  
6           after “thereto”; and

7           (C) in subparagraph (B)(ii)—

8           (i) by striking “, other than a charge  
9           or specification for a qualifying offense,”;  
10          and

11          (ii) by inserting “, but may take such  
12          action with respect to a qualifying offense”  
13          before the period.

14           (2) *CLARIFICATION OF APPLICABILITY OF RE-*  
15           *QUIREMENT FOR EXPLANATION IN WRITING FOR MODI-*  
16           *FICATION TO FINDINGS OF A COURT-MARTIAL.—Para-*  
17           *graph (3)(C) of subsection (c) of section 860 of title*  
18           *10, United States Code (article 60 of the Uniform*  
19           *Code of Military Justice), as amended by section*  
20           *1702(b) of the National Defense Authorization Act of*  
21           *2014 (Public Law 113–66; 127 Stat. 955), is amend-*  
22           *ed by striking “(other than a qualifying offense)”.*

23           (3) *VICTIM SUBMISSION OF MATTERS FOR CON-*  
24           *SIDERATION BY CONVENING AUTHORITY DURING*  
25           *CLEMENCY PHASE OF COURTS-MARTIAL PROCESS.—*

1        *Subsection (d) of section 860 of title 10, United States*  
2        *Code (article 60 of the Uniform Code of Military Jus-*  
3        *tice), as added by section 1706(a) of the National De-*  
4        *fense Authorization Act of Fiscal Year 2014 (Public*  
5        *Law 113–66; 127 Stat. 960), is amended—*

6                *(A) in paragraph (2)(A)—*

7                        *(i) in clause (i), by inserting “, if ap-*  
8                        *plicable” after “(article 54(e))”; and*

9                        *(ii) in clause (ii), by striking “if ap-*  
10                        *plicable,”; and*

11                *(B) in paragraph (5), by striking “loss”*  
12                *and inserting “harm”.*

13                *(4) RESTORATION OF WAIVER OF ARTICLE 32*  
14                *HEARINGS BY THE ACCUSED.—*

15                *(A) IN GENERAL.—Section 832(a)(1) of title*  
16                *10, United States Code (article 32(a)(1) of the*  
17                *Uniform Code of Military Justice), as amended*  
18                *by section 1702(a)(1) of the National Defense*  
19                *Authorization Act for Fiscal Year 2014 (Public*  
20                *Law 113–66; 127 Stat. 954), is amended by in-*  
21                *serting “, unless such hearing is waived by the*  
22                *accused” after “preliminary hearing”.*

23                *(B) CONFORMING AMENDMENT.—Section*  
24                *834(a)(2) of such title (article 34(a)(2) of the*  
25                *Uniform Code of Military Justice), as amended*

1           by section 1702(c)(3)(B) of the National Defense  
2           Authorization Act for Fiscal Year 2014 (Public  
3           Law 113–66; 127 Stat. 957), is amended by in-  
4           serting “(if there is such a report)” after “a pre-  
5           liminary hearing under section 832 of this title  
6           (article 32)”.

7           (5) *NON-APPLICABILITY OF PROHIBITION ON*  
8           *PRE-TRIAL AGREEMENTS FOR CERTAIN OFFENSES*  
9           *WITH MANDATORY MINIMUM SENTENCES.*—Section  
10          860(c)(4)(C)(ii) of title 10, United States Code (arti-  
11          cle 60(c)(4)(C)(ii) of the Uniform Code of Military  
12          Justice), as amended by section 1702(b) of the Na-  
13          tional Defense Authorization Act for Fiscal Year 2014  
14          (Public Law 113–66; 127 Stat. 955), is amended by  
15          inserting “pursuant to section 856(b) of this title (ar-  
16          ticle 56(b))” after “applies”.

17          (b) *DEFENSE COUNSEL INTERVIEW OF VICTIM OF AN*  
18          *ALLEGED SEX-RELATED OFFENSE.*—

19               (1) *REQUESTS TO INTERVIEW VICTIM THROUGH*  
20               *COUNSEL.*—Subsection (b)(1) of section 846 of title  
21               10, United States Code (article 46(b) of the Uniform  
22               Code of Military Justice), as amended by section 1704  
23               of the National Defense Authorization Act for Fiscal  
24               Year 2014 (Public Law 113–66; 127 Stat. 958), is  
25               amended by striking “through trial counsel” and in-

1       serting “through the Special Victims’ Counsel or other  
2       counsel for the victim, if applicable”.

3           (2) CORRECTION OF REFERENCES TO TRIAL  
4       COUNSEL.—Such section is further amended by strik-  
5       ing “trial counsel” each place it appears and insert-  
6       ing “counsel for the Government”.

7           (3) CORRECTION OF REFERENCES TO DEFENSE  
8       COUNSEL.—Such section is further amended—

9           (A) in the heading, by striking “DEFENSE  
10       COUNSEL” and inserting “COUNSEL FOR AC-  
11       CUSED”; and

12          (B) by striking “defense counsel” each place  
13       it appears and inserting “counsel for the ac-  
14       cused”.

15       (c) SPECIAL VICTIMS’ COUNSEL FOR VICTIMS OF SEX-  
16       RELATED OFFENSES.—Section 1044e of title 10, United  
17       States Code, as added by section 1716(a) of the National  
18       Defense Authorization Act for Fiscal Year 2013 (Public  
19       Law 113–66; 127 Stat. 966), is amended—

20          (1) in subsection (b)(4), by striking “the Depart-  
21       ment of Defense” and inserting “the United States”;

22          (2) in subsection (d)(2), by inserting “, and  
23       within the Marine Corps, by the Staff Judge Advocate  
24       to the Commandant of the Marine Corps” after “em-  
25       ployed”; and

1           (3) *in subsection (e)(1), by inserting “concerned”*  
2           *after “jurisdiction of the Secretary”.*

3           (d) *REPEAL OF OFFENSE OF CONSENSUAL SODOMY*  
4           *UNDER THE UNIFORM CODE OF MILITARY JUSTICE.—*

5           (1) *CLARIFICATION OF DEFINITION OF FORCIBLE*  
6           *SODOMY.—Section 925(a) of title 10, United States*  
7           *Code (article 125(a) of the Uniform Code of Military*  
8           *Justice), as amended by section 1707 of the National*  
9           *Defense Authorization Act of Fiscal Year 2014 (Pub-*  
10           *lic Law 113–66; 127 Stat. 961), is amended by strik-*  
11           *ing “force” and inserting “unlawful force”.*

12           (2) *CONFORMING AMENDMENTS.—*

13           (A) *ARTICLE 43.—Section 843(b)(2)(B) of*  
14           *such title (article 43(b)(2)(B) of the Uniform*  
15           *Code of Military Justice) is amended—*

16                   (i) *in clause (iii), by striking “Sod-*  
17                   *omy” and inserting “Forcible sodomy”; and*

18                   (ii) *in clause (v), by striking “sodomy”*  
19                   *and inserting “forcible sodomy”.*

20           (B) *ARTICLE 118.—Section 918(4) of such*  
21           *title (article 118(4) of the Uniform Code of Mili-*  
22           *tary Justice) is amended by striking “sodomy”*  
23           *and inserting “forcible sodomy”.*

24           (e) *CLARIFICATION OF SCOPE OF PROSPECTIVE MEM-*  
25           *BERS OF THE ARMED FORCES FOR PURPOSES OF INAPPRO-*

1 *PRIVATE AND PROHIBITED RELATIONSHIPS.*—Section  
 2 *1741(e)(2) of the National Defense Authorization Act for*  
 3 *Fiscal Year 2014 (Public Law 113–66; 127 Stat. 977; 10*  
 4 *U.S.C. prec. 501 note) is amended by inserting “who is pur-*  
 5 *suing or has recently pursued becoming a member of the*  
 6 *Armed Forces and” after “a person”.*

7 *(f) EXTENSION OF CRIME VICTIMS’ RIGHTS TO VIC-*  
 8 *TIMS OF OFFENSES UNDER THE UNIFORM CODE OF MILI-*  
 9 *TARY JUSTICE.*—

10 *(1) CLARIFICATION OF LIMITATION ON DEFINI-*  
 11 *TION OF VICTIM TO NATURAL PERSONS.*—Subsection  
 12 *(b) of section 806b of title 10, United States Code (ar-*  
 13 *ticle 6b of the Uniform Code of Military Justice), as*  
 14 *added by section 1701 of the National Defense Au-*  
 15 *thorization Act for Fiscal Year 2014 (Public Law*  
 16 *113–66; 127 Stat. 952), is amended by striking “a*  
 17 *person” and inserting “an individual”.*

18 *(2) CLARIFICATION OF AUTHORITY TO APPOINT*  
 19 *INDIVIDUALS TO ASSUME RIGHTS OF CERTAIN VIC-*  
 20 *TIMS.*—Subsection (c) of such section is amended—

21 *(A) in the heading, by striking “LEGAL*  
 22 *GUARDIAN” and inserting “APPOINTMENT OF IN-*  
 23 *DIVIDUALS TO ASSUME RIGHTS”;*

1           (B) by inserting “(but who is not a member  
2           of the armed forces)” after “under 18 years of  
3           age”;

4           (C) by striking “designate a legal guardian  
5           from among the representatives” and inserting  
6           “designate a representative”;

7           (D) by striking “other suitable person” and  
8           inserting “another suitable individual”; and

9           (E) by striking “the person” and inserting  
10          “the individual”.

11          (g) *REVISION TO EFFECTIVE DATES TO FACILITATE*  
12 *TRANSITION TO REVISED RULES FOR PRELIMINARY HEAR-*  
13 *ING REQUIREMENTS AND CONVENING AUTHORITY ACTION*  
14 *POST-CONVICTION.—*

15           (1) *EFFECTIVE DATE FOR AMENDMENTS RE-*  
16 *LATED TO ARTICLE 32.—Effective as of December 26,*  
17 *2013, and as if included therein as enacted, section*  
18 *1702(d)(1) of the National Defense Authorization Act*  
19 *for Fiscal Year 2014 (Public Law 113–66; 127 Stat.*  
20 *958; 10 U.S.C. 802 note, 832 note) is amended by*  
21 *striking “one year after” and all that follows through*  
22 *the end of the sentence and inserting “on the later of*  
23 *December 26, 2014, or the date of the enactment of the*  
24 *Carl Levin and Howard P. ‘Buck’ McKeon National*  
25 *Defense Authorization Act for Fiscal Year 2015 and*

1 *shall apply with respect to preliminary hearings con-*  
2 *ducted on or after that effective date.”.*

3 (2) *TRANSITION RULE FOR AMENDMENTS RE-*  
4 *LATED TO ARTICLE 60.—*

5 (A) *TRANSITION RULE.—Section 1702(d)(2)*  
6 *of the National Defense Authorization Act for*  
7 *Fiscal Year 2014 (Public Law 113–66; 127 Stat.*  
8 *958; 10 U.S.C. 860 note) is amended—*

9 (i) *by striking “The amendments” and*  
10 *inserting “(A) Except as provided in sub-*  
11 *paragraph (B), the amendments”;* and

12 (ii) *by adding at the end the following*  
13 *new subparagraph:*

14 *“(B) With respect to the findings and sentence of*  
15 *a court-martial that includes both a conviction for an*  
16 *offense committed before the effective date specified in*  
17 *subparagraph (A) and a conviction for an offense*  
18 *committed on or after that effective date, the con-*  
19 *vening authority shall have the same authority to*  
20 *take action on such findings and sentence as was in*  
21 *effect on the day before such effective date, except with*  
22 *respect to a mandatory minimum sentence under sec-*  
23 *tion 856(b) of title 10, United States Code (article*  
24 *56(b) of the Uniform Code of Military Justice).”.*

1           (B) *APPLICATION OF AMENDMENTS.*—*The*  
2           *amendments made by subparagraph (A) shall*  
3           *not apply to the findings and sentence of a*  
4           *court-martial with respect to which the con-*  
5           *vening authority has taken action before the date*  
6           *that is 30 days after the date of the enactment*  
7           *of this Act.*

8 **SEC. 532. ORDERING OF DEPOSITIONS UNDER THE UNI-**  
9           **FORM CODE OF MILITARY JUSTICE.**

10           *Subsection (a) of section 849 of title 10, United States*  
11           *Code (article 49 of the Uniform Code of Military Justice),*  
12           *is amended to read as follows:*

13           “(a)(1) *At any time after charges have been signed as*  
14           *provided in section 830 of this title (article 30), oral or*  
15           *written depositions may be ordered as follows:*

16           “(A) *Before referral of such charges for trial, by*  
17           *the convening authority who has such charges for dis-*  
18           *position.*

19           “(B) *After referral of such charges for trial, by*  
20           *the convening authority or the military judge hearing*  
21           *the case.*

22           “(2) *An authority authorized to order a deposition*  
23           *under paragraph (1) may order the deposition at the re-*  
24           *quest of any party, but only if the party demonstrates that,*  
25           *due to exceptional circumstances, it is in the interest of jus-*