

# A Bill

To amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to improve the quality and efficiency of the military justice system, and for other purposes.

1           *Be it enacted by the Senate and House of Representatives*  
2           *of the United States of America in Congress assembled,*

3           **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4           (a) SHORT TITLE.—This Act may be cited as the  
5           “Military Justice Act of 2016”.

6           (b) TABLE OF CONTENTS.—The table of contents for this  
7           Act is as follows:

Sec. 1. Short title; table of contents.

## TITLE I—GENERAL PROVISIONS

Sec. 101. Definitions.

Sec. 102. Clarification of persons subject to UCMJ while on inactive-duty training.

Sec. 103. Staff judge advocate disqualification due to prior involvement in case.

Sec. 104. Conforming amendment relating to military magistrates.

Sec. 105. Rights of victim.

## TITLE II—APPREHENSION AND RESTRAINT

Sec. 201. Restraint of persons charged.

Sec. 202. Modification of prohibition of confinement of armed forces members with enemy prisoners and certain others.

## TITLE III—NON-JUDICIAL PUNISHMENT

Sec. 301. Modification of confinement as non-judicial punishment.

#### TITLE IV—COURT-MARTIAL JURISDICTION

- Sec. 401. Courts-martial classified.
- Sec. 402. Jurisdiction of general courts-martial.
- Sec. 403. Jurisdiction of special courts-martial.
- Sec. 404. Summary court-martial as non-criminal forum.

#### TITLE V—COMPOSITION OF COURTS-MARTIAL

- Sec. 501. Technical amendment relating to persons authorized to convene general courts-martial.
- Sec. 502. Who may serve on courts-martial; detail of members.
- Sec. 503. Number of court-martial members in capital cases.
- Sec. 504. Detailing, qualifications, etc. of military judges.
- Sec. 505. Qualifications of trial counsel and defense counsel.
- Sec. 506. Assembly and impaneling of members; detail of new members and military judges.
- Sec. 507. Military magistrates.

#### TITLE VI—PRE-TRIAL PROCEDURE

- Sec. 601. Charges and specifications.
- Sec. 602. Proceedings conducted before referral.
- Sec. 603. Preliminary hearing required before referral to general court-martial.
- Sec. 604. Disposition guidance.
- Sec. 605. Advice to convening authority before referral for trial.
- Sec. 606. Service of charges and commencement of trial.

#### TITLE VII—TRIAL PROCEDURE

- Sec. 701. Duties of assistant defense counsel.
- Sec. 702. Sessions.
- Sec. 703. Technical amendment relating to continuances.
- Sec. 704. Conforming amendments relating to challenges.
- Sec. 705. Statute of limitations.
- Sec. 706. Former jeopardy.
- Sec. 707. Pleas of the accused.
- Sec. 708. Subpoena and other process.
- Sec. 709. Refusal of person not subject to UCMJ to appear, testify, or produce evidence.
- Sec. 710. Contempt.
- Sec. 711. Depositions.
- Sec. 712. Admissibility of sworn testimony by audiotape or videotape from records of courts of inquiry.

- Sec. 713. Conforming amendment relating to defense of lack of mental responsibility.
- Sec. 714. Voting and rulings.
- Sec. 715. Votes required for conviction, sentencing, and other matters.
- Sec. 716. Findings and sentencing.
- Sec. 717. Plea agreements.
- Sec. 718. Record of trial.

#### TITLE VIII—SENTENCES

- Sec. 801. Sentencing.
- Sec. 802. Effective date of sentences.
- Sec. 803. Sentence of reduction in enlisted grade.
- Sec. 804. Repeal of sentence reduction provision when parameters take effect.

#### TITLE IX—POST-TRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

- Sec. 901. Post-trial processing in general and special courts-martial.
- Sec. 902. Limited authority to act on sentence in specified post-trial circumstances.
- Sec. 903. Post-trial actions in summary courts-martial and certain general and special courts-martial.
- Sec. 904. Entry of judgment.
- Sec. 905. Waiver of right to appeal and withdrawal of appeal.
- Sec. 906. Appeal by the United States.
- Sec. 907. Rehearings.
- Sec. 908. Judge advocate review of finding of guilty in summary court-martial.
- Sec. 909. Transmittal and review of records.
- Sec. 910. Courts of Criminal Appeals.
- Sec. 911. Review by Court of Appeals for the Armed Forces.
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- Sec. 914. Appellate defense counsel in death penalty cases.
- Sec. 915. Authority for hearing on vacation of suspension of sentence to be conducted by qualified judge advocate.
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- Sec. 1025. Lower blood alcohol content limits for conviction of drunken or reckless operation of vehicle, aircraft, or vessel.
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- Sec. 1046. Misprision of serious offense.
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- Sec. 1050. Retaliation.
- Sec. 1051. Extraterritorial application of certain offenses.
- Sec. 1052. Table of sections.

**TITLE XI—MISCELLANEOUS PROVISIONS**

- Sec. 1101. Technical amendment relating to courts of inquiry.
- Sec. 1102. Technical amendment to article 136.
- Sec. 1103. Articles of Uniform Code of Military Justice to be explained to officers upon commissioning.
- Sec. 1104. Military justice case management; data collection and accessibility.

**TITLE XII—MILITARY JUSTICE REVIEW PANEL AND ANNUAL REPORTS**

- Sec. 1201. Military Justice Review Panel.
- Sec. 1202. Annual reports.

**TITLE XIII—CONFORMING AMENDMENTS AND EFFECTIVE DATES**

- Sec. 1301. Amendments to UCMJ subchapter tables of sections.
- Sec. 1302. Effective dates.

**1            TITLE I—GENERAL PROVISIONS**

**2            SEC. 101. DEFINITIONS.**

- 3            (a) DEFINITION OF MILITARY JUDGE.—**Paragraph (10) of
- 4            section 801 of title 10, United States Code (article 1 of the**

1 Uniform Code of Military Justice), is amended to read as  
2 follows:

3 “(10) The term ‘military judge’ means a judge  
4 advocate designated under section 826(c) of this title  
5 (article 26(c)) who is detailed under section 826(a) or  
6 section 830a of this title (article 26(a) or 30a).”.

7 (b) DEFINITION OF JUDGE ADVOCATE.—Paragraph (13) of  
8 such section (article) is amended—

9 (1) in subparagraph (A), by striking “the Army or  
10 the Navy” and inserting “the Army, the Navy, or the Air  
11 Force”; and

12 (2) in subparagraph (B), by striking “the Air Force  
13 or”.

14 **SEC. 102. CLARIFICATION OF PERSONS SUBJECT TO**  
15 **UCMJ WHILE ON INACTIVE-DUTY TRAINING.**

16 Paragraph (3) of section 802(a) of title 10, United States  
17 Code (article 2(a) of the Uniform Code of Military Justice), is  
18 amended to read as follows:

1           “(3)(A) While on inactive-duty training and during  
2 any of the periods specified in subparagraph (B)—

3                   “(i) members of a reserve component; and

4                   “(ii) members of the Army National Guard  
5 of the United States or the Air National Guard of  
6 the United States, but only when in Federal  
7 service.

8           “(B) The periods referred to in subparagraph (A)  
9 are the following:

10                   “(i) Travel to and from the inactive-duty  
11 training site of the member, pursuant to orders or  
12 regulations.

13                   “(ii) Intervals between consecutive periods  
14 of inactive-duty training on the same day, pursuant  
15 to orders or regulations.

16                   “(iii) Intervals between inactive-duty  
17 training on consecutive days, pursuant to orders or  
18 regulations.”.

1   **SEC.    103.    STAFF    JUDGE    ADVOCATE**  
2           **DISQUALIFICATION    DUE    TO    PRIOR**  
3           **INVOLVEMENT IN CASE.**

4           Subsection (c) of section 806 of title 10, United States  
5   Code (article 6 of the Uniform Code of Military Justice), is  
6   amended to read as follows:

7           “(c)(1) No person who, with respect to a case, serves in a  
8   capacity specified in paragraph (2) may later serve as a staff  
9   judge advocate or legal officer to any reviewing or convening  
10   authority upon the same case.

11          “(2) The capacities referred to in paragraph (1) are, with  
12   respect to the case involved, any of the following:

13                  “(A) Preliminary hearing officer, court member,  
14   military judge, military magistrate, or appellate judge.

15                  “(B) Counsel who have acted in the same case or  
16   appeared in any proceeding before a military judge,  
17   military magistrate, preliminary hearing officer, or  
18   appellate court.”.

1    **SEC. 104. CONFORMING AMENDMENT RELATING**  
2           **TO MILITARY MAGISTRATES.**

3           The first sentence of section 806a(a) of title 10, United  
4 States Code (article 6a(a) of the Uniform Code of Military  
5 Justice), is amended by striking “military judge” and all that  
6 follows through the end of the sentence and inserting “military  
7 appellate judge, military judge, or military magistrate to  
8 perform the duties of the position involved.”.

9    **SEC. 105. RIGHTS OF VICTIM.**

10           (a) DESIGNATION OF REPRESENTATIVE.—Subsection (c)  
11 of section 806b of title 10, United States Code (article 6b of the  
12 Uniform Code of Military Justice), is amended in the first  
13 sentence by striking “the military judge” and all that follows  
14 through the end of the sentence and inserting the following:  
15 “the legal guardians of the victim or the representatives of the  
16 victim’s estate, family members, or any other person designated  
17 as suitable by the military judge, may assume the rights of the  
18 victim under this section.”.

1 (b) RULE OF CONSTRUCTION.—Subsection (d) of such  
2 section (article) is amended—

3 (1) by striking “or” at the end of paragraph (1);

4 (2) by striking the period at the end of paragraph  
5 (2) and inserting “; or”; and

6 (3) by adding at the end the following new  
7 paragraph:

8 “(3) to impair the exercise of discretion under  
9 sections 830 and 834 of this title (articles 30 and 34).”.

10 (c) INTERVIEW OF VICTIM.—Such section (article) is  
11 amended by adding at the end the following new subsection:

12 “(f) COUNSEL FOR ACCUSED INTERVIEW OF VICTIM OF  
13 ALLEGED OFFENSE.—(1) Upon notice by counsel for the  
14 Government to counsel for the accused of the name of an  
15 alleged victim of an offense under this chapter who counsel for  
16 the Government intends to call as a witness at a proceeding  
17 under this chapter, counsel for the accused shall make any  
18 request to interview the victim through the Special Victim’s  
19 Counsel or other counsel for the victim, if applicable.

1           “(2) If requested by an alleged victim who is subject to a  
2 request for interview under paragraph (1), any interview of the  
3 victim by counsel for the accused shall take place only in the  
4 presence of the counsel for the Government, a counsel for the  
5 victim, or, if applicable, a victim advocate.”.

6           **TITLE II—APPREHENSION AND RESTRAINT**

7           **SEC. 201. RESTRAINT OF PERSONS CHARGED.**

8           Section 810 of title 10, United States Code (article 10 of  
9 the Uniform Code of Military Justice), is amended to read as  
10 follows:

11           **“§810. Art. 10. Restraint of persons charged**

12           “(a) IN GENERAL.—(1) Subject to paragraph (2), any  
13 person subject to this chapter who is charged with an offense  
14 under this chapter may be ordered into arrest or confinement as  
15 the circumstances require.

16           “(2) When a person subject to this chapter is charged  
17 only with an offense that is normally tried by summary court-  
18 martial, the person ordinarily shall not be ordered into  
19 confinement.

1           “(b) NOTIFICATION TO ACCUSED AND RELATED  
2 PROCEDURES.—(1) When a person subject to this chapter is  
3 ordered into arrest or confinement before trial, immediate steps  
4 shall be taken—

5                   “(A) to inform the person of the specific offense of  
6           which the person is accused; and

7                   “(B) to try the person or to dismiss the charges and  
8           release the person.

9           “(2) To facilitate compliance with paragraph (1), the  
10 President shall prescribe regulations setting forth procedures  
11 relating to referral for trial, including procedures for prompt  
12 forwarding of the charges and specifications and, if applicable,  
13 the preliminary hearing report submitted under section 832 of  
14 this title (article 32).”.

1   **SEC. 202. MODIFICATION OF PROHIBITION OF**  
2           **CONFINEMENT OF ARMED FORCES MEMBERS**  
3           **WITH ENEMY PRISONERS AND CERTAIN**  
4           **OTHERS.**

5           Section 812 of title 10, United States Code (article 12 of  
6   the Uniform Code of Military Justice), is amended to read as  
7   follows:

8   **“§812. Art. 12. Prohibition of confinement of armed forces**  
9           **members with enemy prisoners and certain others**

10           “No member of the armed forces may be placed in  
11   confinement in immediate association with—

12                   “(1) enemy prisoners; or

13                   “(2) other individuals—

14                           “(A) who are detained under the law of war  
15                           and are foreign nationals; and

16                           “(B) who are not members of the armed  
17                           forces.”.

1           **TITLE III—NON-JUDICIAL PUNISHMENT**

2           **SEC. 301. MODIFICATION OF CONFINEMENT AS**  
3           **NON-JUDICIAL PUNISHMENT.**

4           Section 815 of title 10, United States Code (article 15 of  
5           the Uniform Code of Military Justice), is amended—

6                       (1) in subsection (b)—

7                               (A) in paragraph (2)(A), by striking “on  
8                               bread and water or diminished rations”; and

9                               (B) in the undesignated matter after  
10                              paragraph (2), by striking “on bread and water or  
11                              diminished rations” in the sentence beginning “No  
12                              two or more”; and

13                      (2) in subsection (d), by striking “on bread and  
14                      water or diminished rations” in paragraphs (2) and (3).

1     **TITLE IV—COURT-MARTIAL JURISDICTION**

2     **SEC. 401. COURTS-MARTIAL CLASSIFIED.**

3             Section 816 of title 10, United States Code (article 16 of  
4     the Uniform Code of Military Justice), is amended to read as  
5     follows:

6     **“§816. Art. 16. Courts-martial classified**

7             “(a) IN GENERAL.—The three kinds of courts-martial in  
8     each of the armed forces are the following:

9             “(1) General courts-martial, as described in  
10     subsection (b).

11             “(2) Special courts-martial, as described in  
12     subsection (c).

13             “(3) Summary courts-martial, as described in  
14     subsection (d).

15             “(b) GENERAL COURTS-MARTIAL.—General courts-  
16     martial are of the following three types:

17             “(1) A general court-martial consisting of a  
18     military judge and eight members, subject to sections  
19     825(d)(3) and 829 of this title (articles 25(d)(3) and 29).

1           “(2) In a capital case, a general court-martial  
2 consisting of a military judge and the number of  
3 members determined under section 825a of this title  
4 (article 25a), subject to sections 825(d)(3) and 829 of this  
5 title (articles 25(d)(3) and 29).

6           “(3) A general court-martial consisting of a  
7 military judge alone, if, before the court is assembled, the  
8 accused, knowing the identity of the military judge and  
9 after consultation with defense counsel, requests, orally  
10 on the record or in writing, a court composed of a  
11 military judge alone and the military judge approves the  
12 request.

13           “(c) SPECIAL COURTS-MARTIAL.—Special courts-martial  
14 are of the following two types:

15           “(1) A special court-martial, consisting of a  
16 military judge and four members, subject to sections  
17 825(d)(3) and 829 of this title (articles 25(d)(3) and 29).

18           “(2) A special court-martial consisting of a  
19 military judge alone—

1                   “(A) if the case is so referred by the  
2                   convening authority, subject to section 819 of this  
3                   title (article 19) and such limitations as the  
4                   President may prescribe by regulation; or

5                   “(B) if the case is referred under paragraph  
6                   (1) and, before the court is assembled, the accused,  
7                   knowing the identity of the military judge and after  
8                   consultation with defense counsel, requests, orally  
9                   on the record or in writing, a court composed of a  
10                  military judge alone and the military judge  
11                  approves the request.

12                  “(d) SUMMARY COURT-MARTIAL.—A summary court-  
13                  martial consists of one commissioned officer.”.

14                  **SEC. 402. JURISDICTION OF GENERAL COURTS-**  
15                  **MARTIAL.**

16                  Section 818 of title 10, United States Code (article 18 of  
17                  the Uniform Code of Military Justice), is amended—

1           (1) in subsection (b), by striking “section  
2           816(1)(B) of this title (article 16(1)(B))” and inserting  
3           “section 816(b)(3) of this title (article 16(b)(3))”; and

4           (2) by striking subsection (c) and inserting the  
5           following:

6           “(c) Consistent with sections 819 and 820 of this title  
7           (articles 19 and 20), only general courts-martial have  
8           jurisdiction over the following offenses:

9                   “(1) A violation of subsection (a) or (b) of section  
10                   920 of this title (article 120).

11                   “(2) A violation of subsection (a) or (b) of section  
12                   920b of this title (article 120b).

13                   “(3) An attempt to commit an offense specified in  
14                   paragraph (1) or (2) that is punishable under section 880  
15                   of this title (article 80).”.

16   **SEC. 403. JURISDICTION OF SPECIAL COURTS-**  
17   **MARTIAL.**

18           Section 819 of title 10, United States Code (article 19 of  
19           the Uniform Code of Military Justice), is amended—

1           (1) by striking “Subject to” in the first sentence  
2           and inserting the following:

3           “(a) IN GENERAL.—Subject to”;

4           (2) by striking “A bad-conduct discharge” and all  
5           that follows through the end; and

6           (3) by adding after subsection (a), as designated by  
7           paragraph (1), the following new subsections:

8           “(b) ADDITIONAL LIMITATION.—Neither a bad-conduct  
9           discharge, nor confinement for more than six months, nor  
10          forfeiture of pay for more than six months may be adjudged if  
11          charges and specifications are referred to a special court-martial  
12          consisting of a military judge alone under section 816(c)(2)(A)  
13          of this title (article 16(c)(2)(A)).

14          “(c) MILITARY MAGISTRATE.—If charges and  
15          specifications are referred to a special court-martial consisting  
16          of a military judge alone under section 816(c)(2)(A) of this title  
17          (article 16(c)(2)(A)), the military judge, with the consent of the  
18          parties, may designate a military magistrate to preside over the  
19          special court-martial.”.

1 **SEC. 404. SUMMARY COURT-MARTIAL AS NON-**  
2 **CRIMINAL FORUM.**

3 Section 820 of title 10, United States Code (article 20 of  
4 the Uniform Code of Military Justice), is amended—

5 (1) by inserting “(a) IN GENERAL.—” before  
6 “Subject to”; and

7 (2) by adding at the end the following new  
8 subsection:

9 “(b) NON-CRIMINAL FORUM.—A summary court-martial  
10 is a non-criminal forum. A finding of guilty at a summary  
11 court-martial does not constitute a criminal conviction.”.



1           “(2) Before a court-martial with a military judge and  
2 members is assembled for trial, an enlisted member who is an  
3 accused may personally request, orally on the record or in  
4 writing, that—

5                   “(A) the membership of the court-martial be  
6           comprised entirely of officers; or

7                   “(B) enlisted members comprise at least one-third  
8           of the membership of the court-martial, regardless of  
9           whether enlisted members have been detailed to the  
10          court-martial.

11           “(3) Except as provided in paragraph (4), after such a  
12 request, the accused may not be tried by a general or special  
13 court-martial if the membership of the court-martial is  
14 inconsistent with the request.

15           “(4) If, because of physical conditions or military  
16 exigencies, a sufficient number of eligible officers or enlisted  
17 members, as the case may be, are not available to carry out  
18 paragraph (2), the trial may nevertheless be held. In that event,  
19 the convening authority shall make a detailed written statement

1 of the reasons for nonavailability. The statement shall be  
2 appended to the record.”.

3 (b) DETAIL OF MEMBERS.—Subsection (d) of such section  
4 (article) is amended by adding at the end the following new  
5 paragraph:

6 “(3) The convening authority shall detail not less than the  
7 number of members necessary to impanel the court-martial  
8 under section 829 of this title (article 29).”.

9 **SEC. 503. NUMBER OF COURT-MARTIAL MEMBERS**  
10 **IN CAPITAL CASES.**

11 Section 825a of title 10, United States Code (article 25a  
12 of the Uniform Code of Military Justice), is amended to read as  
13 follows:

14 **“§825a. Art. 25a. Number of court-martial members in**  
15 **capital cases**

16 “(a) IN GENERAL.—In a case in which the accused may  
17 be sentenced to death, the number of members shall be 12.

18 “(b) CASE NO LONGER CAPITAL.—Subject to section 829  
19 of this title (article 29)—

1           “(1) if a case is referred for trial as a capital case  
2           and, before the members are impaneled, the accused may  
3           no longer be sentenced to death, the number of members  
4           shall be eight; and

5           “(2) if a case is referred for trial as a capital case  
6           and, after the members are impaneled, the accused may  
7           no longer be sentenced to death, the number of members  
8           shall remain 12.”.

9   **SEC. 504. DETAILING, QUALIFICATIONS, ETC. OF**  
10 **MILITARY JUDGES.**

11       (a) SPECIAL COURTS-MARTIAL.—Subsection (a) of  
12 section 826 of title 10, United States Code (article 26 of the  
13 Uniform Code of Military Justice), is amended—

14           (1) in the first sentence, by inserting after “each  
15           general” the following: “and special”; and

16           (2) by striking the second sentence.

17       (b) QUALIFICATIONS.—Subsection (b) of such section  
18 (article) is amended by striking “qualified for duty” and

1 inserting “qualified, by reason of education, training,  
2 experience, and judicial temperament, for duty”.

3 (c) DETAIL AND ASSIGNMENT.—Subsection (c) of such  
4 section (article) is amended to read as follows:

5 “(c)(1) In accordance with regulations prescribed under  
6 subsection (a), a military judge of a general or special court-  
7 martial shall be designated for detail by the Judge Advocate  
8 General of the armed force of which the military judge is a  
9 member.

10 “(2) Neither the convening authority nor any member of  
11 the staff of the convening authority shall prepare or review any  
12 report concerning the effectiveness, fitness, or efficiency of the  
13 military judge so detailed, which relates to the military judge’s  
14 performance of duty as a military judge.

15 “(3) A commissioned officer who is certified to be  
16 qualified for duty as a military judge of a general court-  
17 martial—

18 “(A) may perform such duties only when the  
19 officer is assigned and directly responsible to the Judge

1 Advocate General of the armed force of which the  
2 military judge is a member; and

3 “(B) may perform duties of a judicial or  
4 nonjudicial nature other than those relating to the  
5 officer’s primary duty as a military judge of a general  
6 court-martial when such duties are assigned to the officer  
7 by or with the approval of that Judge Advocate General.

8 “(4) In accordance with regulations prescribed by the  
9 President, assignments of military judges under this section  
10 (article) shall be for appropriate minimum periods, subject to  
11 such exceptions as may be authorized in the regulations.”.

12 (d) DETAIL TO A DIFFERENT ARMED FORCE.—Such  
13 section (article) is further amended by adding at the end the  
14 following new subsection:

15 “(f) A military judge may be detailed under subsection  
16 (a) to a court-martial or a proceeding under section 830a of this  
17 title (article 30a) that is convened in a different armed force,  
18 when so permitted by the Judge Advocate General of the armed  
19 force of which the military judge is a member.”.

1 (e) CHIEF TRIAL JUDGES.—Such section (article), as  
2 amended by subsection (d), is further amended by adding at the  
3 end the following new subsection:

4 “(g) In accordance with regulations prescribed by the  
5 President, each Judge Advocate General shall designate a chief  
6 trial judge from among the members of the applicable trial  
7 judiciary.”.

8 **SEC. 505. QUALIFICATIONS OF TRIAL COUNSEL**  
9 **AND DEFENSE COUNSEL**

10 Section 827 of title 10, United States Code (article 27 of  
11 the Uniform Code of Military Justice), is amended—

12 (1) in the first sentence of paragraph (2) of  
13 subsection (a), by striking “No person” and all that  
14 follows through “trial counsel,” the first place it appears  
15 and inserting the following: “No person who, with  
16 respect to a case, has served as a preliminary hearing  
17 officer, court member, military judge, military  
18 magistrate, or appellate judge, may later serve as trial  
19 counsel,”;

1           (2) in the first sentence of subsection (b), by  
2 striking “Trial counsel or defense counsel” and inserting  
3 “Trial counsel, defense counsel, or assistant defense  
4 counsel”; and

5           (3) by striking subsection (c) and inserting the  
6 following new subsections:

7           “(c)(1) Defense counsel and assistant defense counsel  
8 detailed for a special court-martial shall have the qualifications  
9 set forth in subsection (b).

10           “(2) Trial counsel and assistant trial counsel detailed for a  
11 special court-martial and assistant trial counsel detailed for a  
12 general court-martial must be determined to be competent to  
13 perform such duties by the Judge Advocate General, under such  
14 rules as the President may prescribe.

15           “(d) To the greatest extent practicable, in any capital  
16 case, at least one defense counsel shall, as determined by the  
17 Judge Advocate General, be learned in the law applicable to  
18 such cases. If necessary, this counsel may be a civilian and, if

1 so, may be compensated in accordance with regulations  
2 prescribed by the Secretary of Defense.”.

3 **SEC. 506. ASSEMBLY AND IMPANELING OF**  
4 **MEMBERS; DETAIL OF NEW MEMBERS AND**  
5 **MILITARY JUDGES.**

6 Section 829 of title 10, United States Code (article 29 of  
7 the Uniform Code of Military Justice), is amended to read as  
8 follows:

9 **“§829. Art. 29. Assembly and impaneling of members;**  
10 **detail of new members and military judges**

11 “(a) ASSEMBLY.—The military judge shall announce the  
12 assembly of a general or special court-martial with members.  
13 After such a court-martial is assembled, no member may be  
14 absent, unless the member is excused—

15 “(1) as a result of a challenge;

16 “(2) under subsection (b)(1)(B); or

17 “(3) by order of the military judge or the  
18 convening authority for disability or other good cause.

1           “(b) IMPANELING.—(1) Under rules prescribed by the  
2 President, the military judge of a general or special court-  
3 martial with members shall—

4                   “(A) after determination of challenges, impanel the  
5 court-martial; and

6                   “(B) excuse the members who, having been  
7 assembled, are not impaneled.

8           “(2) In a general court-martial, the military judge shall  
9 impanel—

10                   “(A) 12 members in a capital case; and

11                   “(B) eight members in a noncapital case.

12           “(3) In a special court-martial, the military judge shall  
13 impanel four members.

14           “(c) ALTERNATE MEMBERS.—In addition to members  
15 under subsection (b), the military judge shall impanel alternate  
16 members, if the convening authority authorizes alternate  
17 members.

1           “(d) DETAIL OF NEW MEMBERS.—(1) If, after members  
2 are impaneled, the membership of the court-martial is reduced  
3 to—

4                   “(A) fewer than 12 members with respect to a  
5 general court-martial in a capital case;

6                   “(B) fewer than six members with respect to a  
7 general court-martial in a noncapital case; or

8                   “(C) fewer than four members with respect to a  
9 special court-martial;

10 the trial may not proceed unless the convening authority details  
11 new members and, from among the members so detailed, the  
12 military judge impanels new members sufficient in number to  
13 provide the membership specified in paragraph (2).

14           “(2) The membership referred to in paragraph (1) is as  
15 follows:

16                   “(A) 12 members with respect to a general court-  
17 martial in a capital case.

1           “(B) At least six but not more than eight members  
2           with respect to a general court-martial in a noncapital  
3           case.

4           “(C) Four members with respect to a special court-  
5           martial.

6           “(e) DETAIL OF NEW MILITARY JUDGE.—If the military  
7           judge is unable to proceed with the trial because of disability or  
8           otherwise, a new military judge shall be detailed to the court-  
9           martial.

10          “(f) EVIDENCE.—(1) In the case of new members under  
11          subsection (d), the trial may proceed with the new members  
12          present after the evidence previously introduced is read or, in  
13          the case of audiotape, videotape, or similar recording, is played,  
14          in the presence of the new members, the military judge, the  
15          accused, and counsel for both sides.

16          “(2) In the case of a new military judge under subsection  
17          (e), the trial shall proceed as if no evidence had been  
18          introduced, unless the evidence previously introduced is read  
19          or, in the case of audiotape, videotape, or similar recording, is

1 played, in the presence of the new military judge, the accused,  
2 and counsel for both sides.”.

3 **SEC. 507. MILITARY MAGISTRATES.**

4 Subchapter V of chapter 47 of title 10, United States  
5 Code, is amended by inserting after section 826 (article 26 of  
6 the Uniform Code of Military Justice) the following new  
7 section (article):

8 **“§826a. Art. 26a. Military magistrates**

9 “(a) QUALIFICATIONS.—A military magistrate shall be a  
10 commissioned officer of the armed forces who—

11 “(1) is a member of the bar of a Federal court or a  
12 member of the bar of the highest court of a State; and

13 “(2) is certified to be qualified, by reason of  
14 education, training, experience, and judicial  
15 temperament, for duty as a military magistrate by the  
16 Judge Advocate General of the armed force of which the  
17 officer is a member.

18 “(b) DUTIES.—In accordance with regulations prescribed  
19 by the Secretary concerned, in addition to duties when

1 designated under section 819 of this title or section 830a of this  
2 title (articles 19 or 30a), a military magistrate may be assigned  
3 to perform other duties of a nonjudicial nature.”.

4 **TITLE VI—PRE-TRIAL PROCEDURE**

5 **SEC. 601. CHARGES AND SPECIFICATIONS.**

6 Section 830 of title 10, United States Code (article 30 of  
7 the Uniform Code of Military Justice), is amended to read as  
8 follows:

9 **“§830. Art. 30. Charges and specifications**

10 “(a) IN GENERAL.—Charges and specifications—

11 “(1) may be preferred only by a person subject to  
12 this chapter; and

13 “(2) shall be preferred by presentment in writing,  
14 signed under oath before a commissioned officer of the  
15 armed forces who is authorized to administer oaths.

16 “(b) REQUIRED CONTENT.—The writing under subsection

17 (a) shall state that—

1           “(1) the signer has personal knowledge of, or has  
2           investigated, the matters set forth in the charges and  
3           specifications; and

4           “(2) the charges and specifications are true, to the  
5           best of the knowledge and belief of the signer.

6           “(c) DUTY OF PROPER AUTHORITY.—When charges and  
7           specifications are preferred under subsection (a), the proper  
8           authority shall, as soon as practicable—

9           “(1) inform the person accused of the charges and  
10          specifications; and

11          “(2) determine what disposition should be made of  
12          the charges and specifications in the interest of justice  
13          and discipline.”.

14   **SEC. 602. PROCEEDINGS CONDUCTED BEFORE**  
15   **REFERRAL.**

16          Subchapter VI of chapter 47 of title 10, United States  
17          Code, is amended by inserting after section 830 (article 30 of  
18          the Uniform Code of Military Justice) the following new  
19          section (article):

1    **“§830a. Art. 30a. Proceedings conducted before referral**

2           “(a) IN GENERAL.—(1) The President shall prescribe  
3 regulations for proceedings conducted before referral of charges  
4 and specifications to court-martial for trial.

5           “(2) The regulations prescribed under paragraph (1)  
6 shall—

7                   “(A) set forth the matters that a military judge may  
8 rule upon in such proceedings;

9                   “(B) include procedures for the review of such  
10 rulings;

11                   “(C) include appropriate limitations to ensure that  
12 proceedings under this section extend only to matters that  
13 would be subject to consideration by a military judge in a  
14 general or special court-martial; and

15                   “(D) provide such limitations on the relief that may  
16 be ordered under this section as the President considers  
17 appropriate.

18           “(3) If any matter in a proceeding under paragraph (1)  
19 becomes a subject at issue with respect to charges that have

1    been referred to a general or special court-martial, the matter  
2    shall be transferred to the military judge detailed to the court-  
3    martial.

4           “(b) DETAIL OF MILITARY JUDGE.—The Secretary  
5    concerned shall prescribe regulations providing for the manner  
6    in which military judges are detailed to proceedings under  
7    subsection (a)(1).

8           “(c) DISCRETION TO DESIGNATE MAGISTRATE TO  
9    PRESIDE.—In accordance with regulations prescribed by the  
10   Secretary concerned, a military judge detailed to a proceeding  
11   under subsection (a)(1) may designate a military magistrate to  
12   preside over the proceeding.”.

1 **SEC. 603. PRELIMINARY HEARING REQUIRED**  
2 **BEFORE REFERRAL TO GENERAL COURT-**  
3 **MARTIAL.**

4 (a) IN GENERAL.—Section 832 of title 10, United States  
5 Code (article 32 of the Uniform Code of Military Justice), is  
6 amended by striking the section heading and subsections (a),  
7 (b), and (c), and inserting the following:

8 **“§832. Art. 32. Preliminary hearing required before**  
9 **referral to general court-martial**

10 “(a) IN GENERAL.—(1)(A) Except as provided in  
11 subparagraph (B), a preliminary hearing shall be held before  
12 referral of charges and specifications for trial by general court-  
13 martial. The preliminary hearing shall be conducted by an  
14 impartial hearing officer, detailed by the convening authority in  
15 accordance with subsection (b).

16 “(B) Under regulations prescribed by the President, a  
17 preliminary hearing need not be held if the accused submits a  
18 written waiver to the convening authority and the convening  
19 authority determines that a hearing is not required.

1           “(2) The issues for determination at a preliminary hearing  
2 are limited to the following:

3                   “(A) Whether or not the specification alleges an  
4 offense under this chapter.

5                   “(B) Whether or not there is probable cause to  
6 believe that the accused committed the offense charged.

7                   “(C) Whether or not the convening authority has  
8 court-martial jurisdiction over the accused and over the  
9 offense.

10           “(b) HEARING OFFICER.—(1) A preliminary hearing  
11 under this section shall be conducted by an impartial hearing  
12 officer, who—

13                   “(A) whenever practicable, shall be a judge  
14 advocate who is certified under section 827(b)(2) of this  
15 title (article 27(b)(2)); or

16                   “(B) in exceptional circumstances, shall be an  
17 impartial hearing officer, who is not a judge advocate so  
18 certified.

1           “(2) In the case of a hearing officer under paragraph  
2 (1)(B), a judge advocate who is certified under section  
3 827(b)(2) of this title (article 27(b)(2)) shall be available to  
4 provide legal advice to the hearing officer.

5           “(3) Whenever practicable, the hearing officer shall be  
6 equal in grade or senior in grade to military counsel who are  
7 detailed to represent the accused or the Government at the  
8 preliminary hearing.

9           “(c) REPORT TO CONVENING AUTHORITY.—After a  
10 preliminary hearing under this section, the hearing officer shall  
11 submit to the convening authority a written report  
12 (accompanied by a recording of the preliminary hearing under  
13 subsection (e)) that includes the following:

14                   “(1) For each specification, a statement of the  
15 reasoning and conclusions of the hearing officer with  
16 respect to determinations under subsection (a)(2),  
17 including a summary of relevant witness testimony and  
18 documentary evidence presented at the hearing and any  
19 observations of the hearing officer concerning the

1 testimony of witnesses and the availability and  
2 admissibility of evidence at trial.

3 “(2) Recommendations for any necessary  
4 modifications to the form of the charges or specifications.

5 “(3) An analysis of any additional information  
6 submitted after the hearing by the parties or by a victim  
7 of an offense, that, under such rules as the President may  
8 prescribe, is relevant to disposition under sections 830  
9 and 834 of this title (articles 30 and 34).

10 “(4) A statement of action taken on evidence  
11 adduced with respect to uncharged offenses, as described  
12 in subsection (f).”.

13 (b) SUNDRY AMENDMENTS.—Subsection (d) of such  
14 section (article) is amended—

15 (1) in paragraph (1), by striking “subsection (a)” in  
16 the first sentence and inserting “this section”;

17 (2) in paragraph (2), by striking “in defense” and  
18 all that follows through the end and inserting “that is

1 relevant to the issues for determination under subsection  
2 (a)(2).”;

3 (3) in paragraph (3), by adding at the end the  
4 following new sentence: “A declination under this  
5 paragraph shall not serve as the sole basis for ordering a  
6 deposition under section 849 of this title (article 49).”;  
7 and

8 (4) in paragraph (4), by striking “the limited  
9 purposes of the hearing, as provided in subsection  
10 (a)(2).” and inserting the following: “determinations  
11 under subsection (a)(2).”.

12 (c) REFERENCE TO MCM.—Subsection (e) of such section  
13 (article) is amended by striking “as prescribed by the Manual  
14 for Courts-Martial” in the second sentence and inserting “under  
15 such rules as the President may prescribe”.

16 (d) EFFECT OF VIOLATION.—Subsection (g) of such  
17 section (article) is amended by adding at the end the following  
18 new sentence: “A defect in a report under subsection (c) is not a

1 basis for relief if the report is in substantial compliance with  
2 that subsection.”.

3 **SEC. 604. DISPOSITION GUIDANCE.**

4 Section 833 of title 10, United States Code (article 33 of  
5 the Uniform Code of Military Justice), is amended to read as  
6 follows:

7 **“§833. Art. 33. Disposition guidance**

8 “The President shall direct the Secretary of Defense to  
9 issue, in consultation with the Secretary of Homeland Security,  
10 non-binding guidance regarding factors that commanders,  
11 convening authorities, staff judge advocates, and judge  
12 advocates should take into account when exercising their duties  
13 with respect to disposition of charges and specifications in the  
14 interest of justice and discipline under sections 830 and 834 of  
15 this title (articles 30 and 34). Such guidance shall take into  
16 account, with appropriate consideration of military  
17 requirements, the principles contained in official guidance of  
18 the Attorney General to attorneys for the Government with  
19 respect to disposition of Federal criminal cases in accordance

1 with the principle of fair and evenhanded administration of  
2 Federal criminal law.”.

3 **SEC. 605. ADVICE TO CONVENING AUTHORITY**  
4 **BEFORE REFERRAL FOR TRIAL.**

5 Section 834 of title 10, United States Code (article 34 of  
6 the Uniform Code of Military Justice), is amended to read as  
7 follows:

8 **“§834. Art. 34. Advice to convening authority before**  
9 **referral for trial**

10 **“(a) GENERAL COURT-MARTIAL.—**

11 **“(1) STAFF JUDGE ADVOCATE ADVICE REQUIRED**  
12 **BEFORE REFERRAL.—**Before referral of charges and  
13 specifications to a general court-martial for trial, the  
14 convening authority shall submit the matter to the staff  
15 judge advocate for advice, which the staff judge advocate  
16 shall provide to the convening authority in writing. The  
17 convening authority may not refer a specification under a  
18 charge to a general court-martial unless the staff judge

1 advocate advises the convening authority in writing  
2 that—

3 “(A) the specification alleges an offense  
4 under this chapter;

5 “(B) there is probable cause to believe that  
6 the accused committed the offense charged; and

7 “(C) a court-martial would have jurisdiction  
8 over the accused and the offense.

9 “(2) STAFF JUDGE ADVOCATE RECOMMENDATION AS  
10 TO DISPOSITION.—Together with the written advice  
11 provided under paragraph (1), the staff judge advocate  
12 shall provide a written recommendation to the convening  
13 authority as to the disposition that should be made of the  
14 specification in the interest of justice and discipline.

15 “(3) STAFF JUDGE ADVOCATE ADVICE AND  
16 RECOMMENDATION TO ACCOMPANY REFERRAL.—When a  
17 convening authority makes a referral for trial by general  
18 court-martial, the written advice of the staff judge  
19 advocate under paragraph (1) and the written

1 recommendation of the staff judge advocate under  
2 paragraph (2) with respect to each specification shall  
3 accompany the referral.

4 “(b) SPECIAL COURT-MARTIAL; CONVENING AUTHORITY  
5 CONSULTATION WITH JUDGE ADVOCATE.—Before referral of  
6 charges and specifications to a special court-martial for trial, the  
7 convening authority shall consult a judge advocate on relevant  
8 legal issues.

9 “(c) GENERAL AND SPECIAL COURTS-MARTIAL;  
10 CORRECTION OF CHARGES AND SPECIFICATIONS BEFORE  
11 REFERRAL.—Before referral for trial by general court-martial or  
12 special court-martial, changes may be made to charges and  
13 specifications—

14 “(1) to correct errors in form; and

15 “(2) when applicable, to conform to the substance  
16 of the evidence contained in a report under section 832(c)  
17 of this title (article 32(c)).

18 “(d) DEFINITION.—In this section, the term ‘referral’  
19 means the order of a convening authority that charges and

1 specifications against an accused be tried by a specified court-  
2 martial.”.

3 **SEC. 606. SERVICE OF CHARGES AND**  
4 **COMMENCEMENT OF TRIAL.**

5 Section 835 of title 10, United States Code (article 35 of  
6 the Uniform Code of Military Justice), is amended to read as  
7 follows:

8 **“§835. Art. 35. Service of charges; commencement of trial**

9 “(a) IN GENERAL.—Trial counsel detailed for a court-  
10 martial under section 827 of this title (article 27) shall cause to  
11 be served upon the accused a copy of the charges and  
12 specifications referred for trial.

13 “(b) COMMENCEMENT OF TRIAL.—(1) Subject to  
14 paragraphs (2) and (3), no trial or other proceeding of a general  
15 court-martial or a special court-martial (including any session  
16 under section 839(a) of this title (article 39(a)) may be held  
17 over the objection of the accused—

1           “(A) with respect to a general court-martial, from  
2           the time of service through the fifth day after the date of  
3           service; or

4           “(B) with respect to a special court-martial, from  
5           the time of service through the third day after the date of  
6           service.

7           “(2) An objection under paragraph (1) may be raised only  
8           at the first session of the trial or other proceeding and only if  
9           the first session occurs before the end of the applicable period  
10          under paragraph (1)(A) or (1)(B). If the first session occurs  
11          before the end of the applicable period, the military judge shall,  
12          at that session, inquire as to whether the defense objects under  
13          this subsection.

14          “(3) This subsection shall not apply in time of war.”.

15                   **TITLE VII—TRIAL PROCEDURE**

16   **SEC. 701. DUTIES OF ASSISTANT DEFENSE**  
17   **COUNSEL.**

18           Subsection (e) of section 838 of title 10, United States  
19   Code (article 38 of the Uniform Code of Military Justice), is

1 amended by striking “, under the direction” and all that follows  
2 through “(article 27),”.

3 **SEC. 702. SESSIONS.**

4 Section 839 of title 10, United States Code (article 39 of  
5 the Uniform Code of Military Justice), is amended—

6 (1) in subsection (a)—

7 (A) by redesignating paragraph (4) as  
8 paragraph (5); and

9 (B) by striking paragraph (3) and inserting  
10 the following new paragraphs:

11 “(3) holding the arraignment and receiving the  
12 pleas of the accused;

13 “(4) conducting a sentencing proceeding and  
14 sentencing the accused; and”; and

15 (2) in the second sentence of subsection (c), by  
16 striking “, in cases in which a military judge has been  
17 detailed to the court,”.

1    **SEC. 703. TECHNICAL AMENDMENT RELATING TO**  
2            **CONTINUANCES.**

3            Section 840 of title 10, United States Code (article 40 of  
4    the Uniform Code of Military Justice), is amended by striking  
5    “court-martial without a military judge” and inserting  
6    “summary court-martial”.

7    **SEC. 704. CONFORMING AMENDMENTS RELATING**  
8            **TO CHALLENGES.**

9            Section 841 of title 10, United States Code (article 41 of  
10   the Uniform Code of Military Justice), is amended—

11           (1) in subsection (a)(1), by striking “, or, if none,  
12           the court,” in the second sentence;

13           (2) in subsection (a)(2) by striking “minimum” in  
14           the first sentence; and

15           (3) in subsection (b)(2), by striking “minimum”.

16   **SEC. 705. STATUTE OF LIMITATIONS.**

17           (a) INCREASE IN PERIOD FOR CHILD ABUSE OFFENSES.—

18   Subsection (b)(2)(A) of section 843 of title 10, United States

1 Code (article 43 of the Uniform Code of Military Justice), is  
2 amended by striking “five years” and inserting “ten years”.

3 (b) INCREASE IN PERIOD FOR FRAUDULENT ENLISTMENT  
4 OR APPOINTMENT OFFENSES.—Such section (article) is further  
5 amended by adding at the end the following new subsection:

6 “(h) FRAUDULENT ENLISTMENT OR APPOINTMENT.—A  
7 person charged with fraudulent enlistment or fraudulent  
8 appointment under section 904a(1) of this title (article 104a(1))  
9 may be tried by court-martial if the sworn charges and  
10 specifications are received by an officer exercising summary  
11 court-martial jurisdiction with respect to that person, as follows:

12 “(1) In the case of an enlisted member, during the  
13 period of the enlistment or five years, whichever provides  
14 a longer period.

15 “(2) In the case of an officer, during the period of  
16 the appointment or five years, whichever provides a  
17 longer period.”.

1           (c) DNA EVIDENCE.—Such section (article), as amended  
2 by subsection (b), is further amended by adding at the end the  
3 following new subsection:

4           “(i) DNA EVIDENCE.—If DNA testing implicates an  
5 identified person in the commission of an offense punishable by  
6 confinement for more than one year, no statute of limitations  
7 that would otherwise preclude prosecution of the offense shall  
8 preclude such prosecution until a period of time following the  
9 implication of the person by DNA testing has elapsed that is  
10 equal to the otherwise applicable limitation period.”.

11          (d) CONFORMING AMENDMENTS.—Such section (article)  
12 is further amended in subsection (b)(2)(B) by striking clauses  
13 (i) through (v) and inserting the following:

14                   “(i) Any offense in violation of section 920, 920a,  
15                   920b, 920c, or 930 of this title (article 120, 120a, 120b,  
16                   120c, or 130), unless the offense is covered by subsection  
17                   (a).

18                   “(ii) Maiming in violation of section 928a of this  
19                   title (article 128a).

1           “(iii) Aggravated assault, assault consummated by  
2           a battery, or assault with intent to commit specified  
3           offenses in violation of section 928 of this title (article  
4           128).

5           “(iv) Kidnapping in violation of section 925 of this  
6           title (article 125).”.

7           (e) APPLICATION.—The amendments made by  
8           subsections (a), (b), (c), and (d) shall apply to the prosecution  
9           of any offense committed before, on, or after the date of the  
10          enactment of this subsection if the applicable limitation period  
11          has not yet expired.

12          **SEC. 706. FORMER JEOPARDY.**

13          Subsection (c) of section 844 of title 10, United States  
14          Code (article 44 of the Uniform Code of Military Justice), is  
15          amended to read as follows:

16          “(c)(1) A court-martial with a military judge alone is a  
17          trial in the sense of this section (article) if, without fault of the  
18          accused—

19                 “(A) after introduction of evidence; and

1           “(B) before announcement of findings under  
2           section 853 of this title (article 53);  
3 the case is dismissed or terminated by the convening authority  
4 or on motion of the prosecution for failure of available evidence  
5 or witnesses.

6           “(2) A court-martial with a military judge and members  
7 is a trial in the sense of this section (article) if, without fault of  
8 the accused—

9           “(A) after the members, having taken an oath as  
10           members under section 842 of this title (article 42) and  
11           after completion of challenges under section 841 of this  
12           title (article 41), are impaneled; and

13           “(B) before announcement of findings under  
14           section 853 of this title (article 53);  
15 the case is dismissed or terminated by the convening authority  
16 or on motion of the prosecution for failure of available evidence  
17 or witnesses.”.

1    **SEC. 707. PLEAS OF THE ACCUSED.**

2           (a) PLEAS OF GUILTY.—Subsection (b) of section 845 of  
3 title 10, United States Code (article 45 of the Uniform Code of  
4 Military Justice), is amended—

5                   (1) in the first sentence, by striking “may be  
6 adjudged” and inserting “is mandatory”; and

7                   (2) in the second sentence—

8                           (A) by striking “or by a court-martial  
9 without a military judge”; and

10                           (B) by striking “, if permitted by regulations  
11 of the Secretary concerned,”.

12           (b) HARMLESS ERROR.—Such section (article) is further  
13 amended by adding at the end the following new subsection:

14                   “(c) HARMLESS ERROR.—A variance from the  
15 requirements of this article is harmless error if the variance does  
16 not materially prejudice the substantial rights of the accused.”.

1 **SEC. 708. SUBPOENA AND OTHER PROCESS.**

2 (a) IN GENERAL.—Section 846 of title 10, United States  
3 Code (article 46 of the Uniform Code of Military Justice), is  
4 amended as follows:

5 (1) Subsection (a) of such section (article) is  
6 amended—

7 (A) in the heading, by inserting, “IN TRIALS  
8 BY COURTS-MARTIAL” after “EVIDENCE”; and

9 (B) by striking “The counsel for the  
10 Government, the counsel for the accused,” and  
11 inserting “In a case referred for trial by court-  
12 martial, the trial counsel, the defense counsel,”.

13 (2) Subsection (b) of such section (article) is  
14 amended to read as follows:

15 “(b) SUBPOENA AND OTHER PROCESS GENERALLY.—Any  
16 subpoena or other process issued under this section (article)—

17 “(1) shall be similar to that which courts of the  
18 United States having criminal jurisdiction may issue;

1           “(2) shall be executed in accordance with  
2 regulations prescribed by the President; and

3           “(3) shall run to any part of the United States and  
4 to the Commonwealths and possessions of the United  
5 States.”.

6           (3) Subsection (c) of such section (article) is  
7 amended to read as follows:

8           “(c) SUBPOENA AND OTHER PROCESS FOR WITNESSES.—A  
9 subpoena or other process may be issued to compel a witness to  
10 appear and testify—

11           “(1) before a court-martial, military commission,  
12 or court of inquiry;

13           “(2) at a deposition under section 849 of this title  
14 (article 49); or

15           “(3) as otherwise authorized under this chapter.”

16           (4) The following new subsections are added at the  
17 end of such section (article):

18           “(d) SUBPOENA AND OTHER PROCESS FOR EVIDENCE.—

1           “(1) IN GENERAL.—A subpoena or other process  
2           may be issued to compel the production of evidence—

3                   “(A) for a court-martial, military  
4                   commission, or court of inquiry;

5                   “(B) for a deposition under section 849 of  
6                   this title (article 49);

7                   “(C) for an investigation of an offense under  
8                   this chapter; or

9                   “(D) as otherwise authorized under this  
10                  chapter.

11           “(2) INVESTIGATIVE SUBPOENA.—An investigative  
12           subpoena under paragraph (1)(C) may be issued before  
13           referral of charges to a court-martial only if a general  
14           court-martial convening authority has authorized counsel  
15           for the Government to issue such a subpoena.

16           “(3) WARRANT OR ORDER FOR WIRE OR ELECTRONIC  
17           COMMUNICATIONS.—With respect to an investigation of  
18           an offense under this chapter, a military judge detailed in  
19           accordance with section 826 or 830a of this title (article

1           26 or 30a), may issue warrants or court orders for the  
2           contents of, and records concerning, wire or electronic  
3           communications in the same manner as such warrants  
4           and orders may be issued by a district court of the United  
5           States under chapter 121 of title 18, subject to such  
6           limitations as the President may prescribe by regulation.

7           “(e) REQUEST FOR RELIEF FROM SUBPOENA OR OTHER  
8           PROCESS.—If a person requests relief from a subpoena or other  
9           process under this section (article) on grounds that compliance  
10          is unreasonable or oppressive or is prohibited by law, a military  
11          judge detailed in accordance with section 826 or 830a of this  
12          title (article 26 or 30a) shall review the request and shall—

13                   “(1) order that the subpoena or other process be  
14                   modified or withdrawn, as appropriate; or

15                   “(2) order the person to comply with the subpoena  
16                   or other process.”

17          (b) CONFORMING AMENDMENTS.—(1) Section 2703 of  
18          title 18, United States Code, is amended—

19                   (A) in the first sentence of subsection (a);

1 (B) in subsection (b)(1)(A); and  
2 (C) in subsection (c)(1)(A);  
3 by inserting after “warrant procedures” the following: “and, in  
4 the case of a court-martial or other proceeding under chapter 47  
5 of title 10 (the Uniform Code of Military Justice), issued under  
6 section 846 of that title, in accordance with regulations  
7 prescribed by the President”.

8 (2) Section 2711(3) of title 18, United States Code, is  
9 amended by—

10 (A) striking “or” at the end of subparagraph (A);  
11 (B) striking “and” at the end of subparagraph (B)  
12 and inserting “or”; and  
13 (C) adding the following new subparagraph:  
14 “(C) a court-martial or other proceeding under  
15 chapter 47 of title 10 (the Uniform Code of Military  
16 Justice), to which a military judge has been detailed;  
17 and”.

1    **SEC. 709. REFUSAL OF PERSON NOT SUBJECT TO**  
2            **UCMJ TO APPEAR, TESTIFY, OR PRODUCE**  
3            **EVIDENCE.**

4            (a) IN GENERAL.—Subsection (a) of section 847 of title  
5 10, United States Code (article 47 of the Uniform Code of  
6 Military Justice), is amended to read as follows:

7            “(a) IN GENERAL.—(1) Any person described in  
8 paragraph (2)—

9                    “(A) who willfully neglects or refuses to appear; or

10                   “(B) who willfully refuses to qualify as a witness  
11            or to testify or to produce any evidence which that person  
12            is required to produce;

13            is guilty of an offense against the United States.

14            “(2) The persons referred to in paragraph (1) are the  
15            following:

16                    “(A) Any person not subject to this chapter—

17                            “(i) who is issued a subpoena or other  
18                    process described in subsection (c) of section 846  
19                    of this title (article 46); and

1                   “(ii) who is provided a means for  
2 reimbursement from the Government for fees and  
3 mileage at the rates allowed to witnesses attending  
4 the courts of the United States or, in the case of  
5 extraordinary hardship, is advanced such fees and  
6 mileage.

7                   “(B) Any person not subject to this chapter who is  
8 issued a subpoena or other process described in  
9 subsection (d) of section 846 of this title (article 46).”.

10                  (b) SECTION HEADING.—The heading for such section  
11 (article) is amended to read as follows:

12                  “§847. Art. 47. Refusal of person not subject to chapter to  
13                   appear, testify, or produce evidence”.

14                  **SEC. 710. CONTEMPT.**

15                  (a) AUTHORITY TO PUNISH.—Subsection (a) of section  
16 848 of title 10, United States Code (article 48 of the Uniform  
17 Code of Military Justice), is amended to read as follows:

1           “(a) AUTHORITY TO PUNISH.—(1) With respect to any  
2 proceeding under this chapter, a judicial officer specified in  
3 paragraph (2) may punish for contempt any person who—

4                   “(A) uses any menacing word, sign, or gesture in  
5 the presence of the judicial officer during the proceeding;

6                   “(B) disturbs the proceeding by any riot or  
7 disorder; or

8                   “(C) willfully disobeys a lawful writ, process,  
9 order, rule, decree, or command issued with respect to  
10 the proceeding.

11           “(2) A judicial officer referred to in paragraph (1) is any  
12 of the following:

13                   “(A) Any judge of the Court of Appeals for the  
14 Armed Forces and any judge of a Court of Criminal  
15 Appeals under section 866 of this title (article 66).

16                   “(B) Any military judge detailed to a court-martial,  
17 a provost court, a military commission, or any other  
18 proceeding under this chapter.

1           “(C) Any military magistrate designated to preside  
2           under section 819 or section 830a of this title (article 19  
3           or 30a).

4           “(D) Any commissioned officer detailed as a  
5           summary court-martial.

6           “(E) The president of a court of inquiry.”.

7           (b) REVIEW.—Such section (article) is further amended—

8           (1) by redesignating subsection (c) as subsection  
9           (d); and

10           (2) by inserting after subsection (b) the following  
11           new subsection (c):

12           “(c) REVIEW.—A punishment under this section—

13           “(1) if imposed by a military judge or military  
14           magistrate, may be reviewed by the Court of Criminal  
15           Appeals in accordance with the uniform rules of  
16           procedure for the Courts of Criminal Appeals under  
17           section 866(i) of this title (article 66(i));

18           “(2) if imposed by a judge of the Court of Appeals  
19           for the Armed Forces or a judge of a Court of Criminal

1 Appeals, shall constitute a judgment of the court, subject  
2 to review under the applicable provisions of section 867  
3 or 867a of this title (article 67 or 67a); and

4 “(3) if imposed by a summary court-martial or  
5 court of inquiry, shall be subject to review by the  
6 convening authority in accordance with rules prescribed  
7 by the President.”.

8 (c) SECTION HEADING.—The heading for such section  
9 (article) is amended to read as follows:

10 **“§848. Art. 48. Contempt”.**

11 **SEC. 711. DEPOSITIONS.**

12 Section 849 of title 10, United States Code (article 49 of  
13 the Uniform Code of Military Justice), is amended to read as  
14 follows:

15 **“§849. Art. 49. Depositions**

16 “(a) IN GENERAL.—(1) Subject to paragraph (2), a  
17 convening authority or a military judge may order depositions  
18 at the request of any party.

1           “(2) A deposition may be ordered under paragraph (1)  
2 only if the requesting party demonstrates that, due to  
3 exceptional circumstances, it is in the interest of justice that the  
4 testimony of a prospective witness be preserved for use at a  
5 court-martial, military commission, court of inquiry, or other  
6 military court or board.

7           “(3) A party who requests a deposition under this section  
8 shall give to every other party reasonable written notice of the  
9 time and place for the deposition.

10           “(4) A deposition under this section shall be taken before,  
11 and authenticated by, an impartial officer, as follows:

12                   “(A) Whenever practicable, by an impartial judge  
13 advocate certified under section 827(b) of this title  
14 (article 27(b)).

15                   “(B) In exceptional circumstances, by an impartial  
16 military or civil officer authorized to administer oaths by  
17 (i) the laws of the United States or (ii) the laws of the  
18 place where the deposition is taken.

1           “(b) REPRESENTATION BY COUNSEL.—Representation of  
2 the parties with respect to a deposition shall be by counsel  
3 detailed in the same manner as trial counsel and defense  
4 counsel are detailed under section 827 of this title (article 27).  
5 In addition, the accused shall have the right to be represented by  
6 civilian or military counsel in the same manner as such counsel  
7 are provided for in section 838(b) of this title (article 38(b)).

8           “(c) ADMISSIBILITY AND USE AS EVIDENCE.—A  
9 deposition order under subsection (a) does not control the  
10 admissibility of the deposition in a court-martial or other  
11 proceeding under this chapter. Except as provided by  
12 subsection (d), a party may use all or part of a deposition as  
13 provided by the rules of evidence.

14           “(d) CAPITAL CASES.—Testimony by deposition may be  
15 presented in capital cases only by the defense.”.

1    **SEC. 712. ADMISSIBILITY OF SWORN TESTIMONY**  
2           **BY AUDIOTAPE OR VIDEOTAPE FROM**  
3           **RECORDS OF COURTS OF INQUIRY.**

4           (a) **IN GENERAL.**—Section 850 of title 10, United States  
5 Code (article 50 of the Uniform Code of Military Justice), is  
6 amended by adding at the end the following new subsection:

7           “(d) **AUDIOTAPE OR VIDEOTAPE.**—Sworn testimony  
8 that—

9                   “(1) is recorded by audiotape, videotape, or similar  
10           method; and

11                   “(2) is contained in the duly authenticated record  
12           of proceedings of a court of inquiry;

13 is admissible before a court-martial, military commission, court  
14 of inquiry, or military board, to the same extent as sworn  
15 testimony may be read in evidence before any such body under  
16 subsection (a), (b), or (c).”.

17           (b) **SECTION HEADING.**—The heading for such section  
18 (article) is amended to read as follows:

1 “§850. Art. 50. Admissibility of sworn testimony from  
2 records of courts of inquiry”.

3 **SEC. 713. CONFORMING AMENDMENT RELATING**  
4 **TO DEFENSE OF LACK OF MENTAL**  
5 **RESPONSIBILITY.**

6 Section 850a(c) of title 10, United States Code (article  
7 50a(c) of the Uniform Code of Military Justice), is amended by  
8 striking “, or the president of a court-martial without a military  
9 judge,”.

10 **SEC. 714. VOTING AND RULINGS.**

11 Section 851 of title 10, United States Code (article 51 of  
12 the Uniform Code of Military Justice), is amended—

13 (1) in subsection (a), by striking “, and by  
14 members of a court-martial without a military judge upon  
15 questions of challenge,” in the first sentence;

16 (2) in subsection (b)—

17 (A) by striking “and, except for questions of  
18 challenge, the president of a court-martial without  
19 a military judge” in the first sentence; and

1 (B) by striking “, or by the president” in the  
2 second sentence and all that follows through the  
3 end of the subsection and inserting “is final and  
4 constitutes the ruling of the court, except that the  
5 military judge may change a ruling at any time  
6 during trial.”; and

7 (3) in subsection (c), by striking “or the president  
8 of a court-martial without a military judge” in the matter  
9 before paragraph (1).

10 **SEC. 715. VOTES REQUIRED FOR CONVICTION,**  
11 **SENTENCING, AND OTHER MATTERS.**

12 Section 852 of title 10, United States Code (article 52 of  
13 the Uniform Code of Military Justice), is amended to read as  
14 follows:

15 **“§852. Art. 52. Votes required for conviction, sentencing,**  
16 **and other matters**

17 **“(a) IN GENERAL.—**No person may be convicted of an  
18 offense in a general or special court-martial, other than—

1           “(1) after a plea of guilty under section 845(b) of  
2 this title (article 45(b));

3           “(2) by a military judge in a court-martial with a  
4 military judge alone, under section 816 of this title  
5 (article 16); or

6           “(3) in a court-martial with members under section  
7 816 of this title (article 16), by the concurrence of at least  
8 three-fourths of the members present when the vote is  
9 taken.

10       “(b) LEVEL OF CONCURRENCE REQUIRED.—

11           “(1) IN GENERAL—Except as provided in  
12 subsection (a) and in paragraph (2), all matters to be  
13 decided by members of a general or special court-martial  
14 shall be determined by a majority vote, but a  
15 reconsideration of a finding of guilty or reconsideration  
16 of a sentence, with a view toward decreasing the  
17 sentence, may be made by any lesser vote which  
18 indicates that the reconsideration is not opposed by the  
19 number of votes required for that finding or sentence.

1           “(2) SENTENCING.—A sentence of death requires  
2           (A) a unanimous finding of guilty of an offense in this  
3           chapter expressly made punishable by death and (B) a  
4           unanimous determination by the members that the  
5           sentence for that offense shall include death. All other  
6           sentences imposed by members shall be determined by  
7           the concurrence of at least three-fourths of the members  
8           present when the vote is taken.”.

9           **SEC. 716. FINDINGS AND SENTENCING.**

10           Section 853 of title 10, United States Code (article 53 of  
11           the Uniform Code of Military Justice), is amended to read as  
12           follows:

13           **“§853. Art. 53. Findings and sentencing**

14           “(a) ANNOUNCEMENT.—A court-martial shall announce  
15           its findings and sentence to the parties as soon as determined.

16           “(b) SENTENCING GENERALLY.—(1) Except as provided  
17           in subsection (c) for capital offenses, if the accused is convicted  
18           of an offense in a trial by general or special court-martial, the  
19           military judge shall sentence the accused. The sentence

1 determined by the military judge constitutes the sentence of the  
2 court-martial.

3 “(2) If the accused is convicted of an offense in a trial by  
4 summary court-martial, the court-martial shall sentence the  
5 accused.

6 “(c) SENTENCING FOR CAPITAL OFFENSES.—(1) In a  
7 capital case, if the accused is convicted of an offense for which  
8 the court-martial may sentence the accused to death—

9 “(A) the members shall determine whether the  
10 sentence for that offense shall be death, life in prison  
11 without eligibility for parole, or a lesser punishment  
12 determined by the military judge; and

13 “(B) the military judge shall sentence the accused  
14 for that offense in accordance with the determination of  
15 the members under subparagraph (A).

16 “(2) In accordance with regulations prescribed by the  
17 President, the military judge may include in any sentence to  
18 death or life in prison without eligibility for parole other lesser  
19 punishments authorized under this chapter.”.

1 **SEC. 717. PLEA AGREEMENTS.**

2 Subchapter VII of chapter 47 of title 10, United States  
3 Code, is amended by inserting after section 853 (article 53 of  
4 the Uniform Code of Military Justice) the following:

5 **“§853a. Art. 53a. Plea agreements**

6 “(a) IN GENERAL.—(1) At any time before the  
7 announcement of findings under section 853 of this title (article  
8 53), the convening authority and the accused may enter into a  
9 plea agreement with respect to such matters as—

10 “(A) the manner in which the convening authority  
11 will dispose of one or more charges and specifications;  
12 and

13 “(B) limitations on the sentence that may be  
14 adjudged for one or more charges and specifications.

15 “(2) The military judge of a general or special court-  
16 martial may not participate in discussions between the parties  
17 concerning prospective terms and conditions of a plea  
18 agreement.

1           “(b) ACCEPTANCE OF PLEA AGREEMENT.—Subject to  
2 subsection (c), the military judge of a general or special court-  
3 martial shall accept a plea agreement submitted by the parties,  
4 except that—

5                   “(1) in the case of an offense with a sentencing  
6 parameter under section 856 of this title (article 56), the  
7 military judge may reject a plea agreement that proposes  
8 a sentence that is outside the sentencing parameter if the  
9 military judge determines that the proposed sentence is  
10 plainly unreasonable; and

11                   “(2) in the case of an offense with no sentencing  
12 parameter under section 856 of this title (article 56), the  
13 military judge may reject a plea agreement that proposes  
14 a sentence if the military judge determines that the  
15 proposed sentence is plainly unreasonable.

16           “(c) LIMITATION ON ACCEPTANCE OF PLEA  
17 AGREEMENTS.—The military judge of a general or special  
18 court-martial shall reject a plea agreement that—

1           “(1) contains a provision that has not been  
2           accepted by both parties;

3           “(2) contains a provision that is not understood by  
4           the accused; or

5           “(3) except as provided in subsection (d), contains  
6           a provision for a sentence that is less than the mandatory  
7           minimum sentence applicable to an offense referred to in  
8           section 856(b)(2) of this title (article 56(b)(2)).

9           “(d) LIMITED CONDITIONS FOR ACCEPTANCE OF PLEA  
10          AGREEMENT FOR SENTENCE BELOW MANDATORY MINIMUM FOR  
11          CERTAIN OFFENSES.—With respect to an offense referred to in  
12          section 856(b)(2) of this title (article 56(b)(2))—

13                 “(1) the military judge may accept a plea  
14                 agreement that provides for a sentence of bad conduct  
15                 discharge; and

16                 “(2) upon recommendation of the trial counsel, in  
17                 exchange for substantial assistance by the accused in the  
18                 investigation or prosecution of another person who has  
19                 committed an offense, the military judge may accept a

1 plea agreement that provides for a sentence that is less  
2 than the mandatory minimum sentence for the offense  
3 charged.

4 “(e) BINDING EFFECT OF PLEA AGREEMENT.—Upon  
5 acceptance by the military judge of a general or special court-  
6 martial, a plea agreement shall bind the parties and the military  
7 judge.”.

8 **SEC. 718. RECORD OF TRIAL.**

9 Section 854 of title 10, United States Code (article 54 of  
10 the Uniform Code of Military Justice), is amended—

11 (1) by striking subsection (a) and inserting the  
12 following:

13 “(a) GENERAL AND SPECIAL COURTS-MARTIAL.—Each  
14 general or special court-martial shall keep a separate record of  
15 the proceedings in each case brought before it. The record shall  
16 be certified by a court-reporter, except that in the case of death,  
17 disability, or absence of a court reporter, the record shall be  
18 certified by an official selected as the President may prescribe  
19 by regulation.”;

1 (2) in subsection (b)—

2 (A) by striking “(b) Each special and  
3 summary court-martial” and inserting “(b)  
4 SUMMARY COURT-MARTIAL.—Each summary  
5 court-martial”; and

6 (B) by striking “authenticated” and inserting  
7 “certified”;

8 (3) by striking subsection (c) and inserting the  
9 following:

10 “(c) CONTENTS OF RECORD.—(1) Except as provided in  
11 paragraph (2), the record shall contain such matters as the  
12 President may prescribe by regulation.

13 “(2) In accordance with regulations prescribed by the  
14 President, a complete record of proceedings and testimony shall  
15 be prepared in any case of a sentence of death, dismissal,  
16 discharge, confinement for more than six months, or forfeiture  
17 of pay for more than six months.”.

18 (4) in subsection (d)—

1 (A) by striking “(d) A copy” and inserting  
2 “(d) COPY TO ACCUSED.— A copy”; and

3 (B) by striking “authenticated” and inserting  
4 “certified”; and

5 (5) in subsection (e)—

6 (A) by striking “involving a sexual assault  
7 or other offense covered by section 920 of this title  
8 (article 120)” in the first sentence and inserting  
9 “upon request,”; and

10 (B) by striking “authenticated” in the second  
11 sentence and inserting “certified”.

12 **TITLE VIII—SENTENCES**

13 **SEC. 801. SENTENCING.**

14 (a) IN GENERAL.—Section 856 of title 10, United States  
15 Code (article 56 of the Uniform Code of Military Justice), is  
16 amended to read as follows:

1    **“§856. Art. 56. Sentencing**

2           “(a) SENTENCE MAXIMUMS.—The punishment which a  
3 court-martial may direct for an offense may not exceed such  
4 limits as the President may prescribe for that offense.

5           “(b) SENTENCE MINIMUMS FOR CERTAIN OFFENSES.—(1)  
6 Except as provided in subsection (d) of section 853a of this title  
7 (article 53a), punishment for any offense specified in paragraph  
8 (2) shall include dismissal or dishonorable discharge, as  
9 applicable.

10          “(2) The offenses referred to in paragraph (1) are as  
11 follows:

12           “(A) Rape under subsection (a) of section 920 of  
13 this title (article 120).

14           “(B) Sexual assault under subsection (b) of such  
15 section (article).

16           “(C) Rape of a child under subsection (a) of  
17 section 920b of this title (article 120b).

18           “(D) Sexual assault of a child under subsection (b)  
19 of such section (article).

1           “(E) An attempt to commit an offense specified in  
2           subparagraph (A), (B), (C), or (D) that is punishable  
3           under section 880 of this title (article 80).

4           “(c) IMPOSITION OF SENTENCE.—

5           “(1) IN GENERAL.—In sentencing an accused under  
6           section 853 of this title (article 53), a court-martial shall  
7           impose punishment that is sufficient, but not greater than  
8           necessary, to promote justice and to maintain good order  
9           and discipline in the armed forces, taking into  
10          consideration—

11           “(A) the nature and circumstances of the  
12           offense and the history and characteristics of the  
13           accused;

14           “(B) the impact of the offense on—

15           “(i) the financial, social,  
16           psychological, or medical well-being of any  
17           victim of the offense; and

1                   “(ii) the mission, discipline, or  
2                   efficiency of the command of the accused  
3                   and any victim of the offense;  
4                   “(C) the need for the sentence—  
5                   “(i) to reflect the seriousness of the  
6                   offense;  
7                   “(ii) to promote respect for the law;  
8                   “(iii) to provide just punishment for  
9                   the offense;  
10                   “(iv) to promote adequate deterrence  
11                   of misconduct;  
12                   “(v) to protect others from further  
13                   crimes by the accused;  
14                   “(vi) to rehabilitate the accused; and  
15                   “(vii) to provide, in appropriate cases,  
16                   the opportunity for retraining and return to  
17                   duty to meet the needs of the service;  
18                   “(D) the sentences available under this  
19                   chapter; and

1                   “(E) the applicable sentencing parameters or  
2                   sentencing criteria prescribed under this section.

3                   “(2) APPLICATION OF SENTENCING PARAMETERS IN  
4                   GENERAL AND SPECIAL COURTS-MARTIAL.—

5                   “(A) Except as provided in subparagraph  
6                   (B), in a general or special court-martial in which  
7                   the accused is convicted of an offense with a  
8                   sentencing parameter under subsection (d), the  
9                   military judge shall sentence the accused for that  
10                  offense within the applicable parameter.

11                  “(B) The military judge may impose a  
12                  sentence outside a sentencing parameter upon  
13                  finding specific facts that warrant such a sentence.  
14                  The military judge shall include in the record a  
15                  written statement of the factual basis for any  
16                  sentence under this subparagraph.

17                  “(3) USE OF SENTENCING CRITERIA IN GENERAL AND  
18                  SPECIAL COURTS-MARTIAL.—In a general or special court-  
19                  martial in which the accused is convicted of an offense

1 with sentencing criteria under subsection (d), the military  
2 judge shall consider the applicable sentencing criteria in  
3 determining the sentence for that offense.

4 “(4) OFFENSE BASED SENTENCING IN GENERAL AND  
5 SPECIAL COURTS-MARTIAL.—In announcing the sentence  
6 under section 853 of this title (article 53) in a general or  
7 special court-martial, the military judge shall, with  
8 respect to each offense of which the accused is found  
9 guilty, specify the term of confinement, if any, and the  
10 amount of the fine, if any. If the accused is sentenced to  
11 confinement for more than one offense, the military  
12 judge shall specify whether the terms of confinement are  
13 to run consecutively or concurrently.

14 “(5) NONAPPLICABILITY TO DEATH PENALTY.—  
15 Sentencing parameters and sentencing criteria are not  
16 applicable to the issue of whether an offense should be  
17 punished by death.

18 “(6) SENTENCE OF CONFINEMENT FOR LIFE WITHOUT  
19 ELIGIBILITY FOR PAROLE.—(A) If an offense is subject to

1 a sentence of confinement for life, a court-martial may  
2 impose a sentence of confinement for life without  
3 eligibility for parole.

4 “(B) An accused who is sentenced to confinement  
5 for life without eligibility for parole shall be confined for  
6 the remainder of the accused’s life unless—

7 “(i) the sentence is set aside or otherwise  
8 modified as a result of—

9 “(I) action taken by the convening  
10 authority or the Secretary concerned; or

11 “(II) any other action taken during  
12 post-trial procedure and review under any  
13 other provision of subchapter IX of this  
14 chapter;

15 “(ii) the sentence is set aside or otherwise  
16 modified as a result of action taken by a Court of  
17 Criminal Appeals, the Court of Appeals for the  
18 Armed Forces, or the Supreme Court; or

19 “(iii) the accused is pardoned.

1           “(d) ESTABLISHMENT OF SENTENCING PARAMETERS AND  
2 SENTENCING CRITERIA.—

3           “(1) IN GENERAL.—The President shall prescribe  
4 regulations establishing sentencing parameters and  
5 sentencing criteria in accordance with this subsection.

6           “(2) SENTENCING PARAMETERS.—(A) A sentencing  
7 parameter provides a delineated sentencing range for an  
8 offense that is appropriate for a typical violation of the  
9 offense, taking into consideration—

10                   “(i) the severity of the offense;

11                   “(ii) the guideline or offense category that  
12 would apply to the offense if the offense were tried  
13 in a United States district court;

14                   “(iii) any military-specific sentencing  
15 factors; and

16                   “(iv) the need for the sentencing parameter  
17 to be sufficiently broad to allow for individualized  
18 consideration of the offense and the accused.

1           “(B) Sentencing parameters established under  
2 paragraph (1)—

3                   “(i) shall include no fewer than seven and no  
4 more than twelve offense categories;

5                   “(ii) other than for offenses identified under  
6 paragraph (5)(B), shall assign each offense under  
7 this chapter to an offense category;

8                   “(iii) shall delineate the confinement range  
9 for each offense category by setting an upper  
10 confinement limit and a lower confinement limit;  
11 and

12                   “(iv) shall be neutral as to the race, sex,  
13 national origin, creed, sexual orientation, and  
14 socioeconomic status of offenders.

15           “(3) SENTENCING CRITERIA.—Sentencing criteria  
16 are factors concerning available punishments that may  
17 aid the military judge in determining an appropriate  
18 sentence when there is no applicable sentencing  
19 parameter for a specific offense.

1                   “(4) MILITARY SENTENCING PARAMETERS AND  
2                   CRITERIA BOARD.—

3                   “(A) IN GENERAL.—There is established  
4                   within the Department of Defense a board, to be  
5                   known as the ‘Military Sentencing Parameters and  
6                   Criteria Board’, hereinafter referred to in this  
7                   subsection as the ‘Board’.

8                   “(B) VOTING MEMBERS.—The Board shall  
9                   have five voting members, as follows:

10                   “(i) The four chief trial judges  
11                   designated under section 826(g) of this title  
12                   (article 26(g)), except that, if the chief trial  
13                   judge of the Coast Guard is not available,  
14                   the Judge Advocate General of the Coast  
15                   Guard may designate as a voting member a  
16                   judge advocate of the Coast Guard with  
17                   substantial military justice experience.

18                   “(ii) A trial judge of the Navy,  
19                   designated under regulations prescribed by

1 the President, if the chief trial judges  
2 designated under section 826(g) of this title  
3 (article 26(g)) do not include a trial judge of  
4 the Navy.

5 “(iii) A trial judge of the Marine  
6 Corps, designated under regulations  
7 prescribed by the President, if the chief trial  
8 judges designated under section 826(g) of  
9 this title (article 26(g)) do not include a trial  
10 judge of the Marine Corps.

11 “(C) NONVOTING MEMBERS.—The Attorney  
12 General, the Chief Judge of the Court of Appeals  
13 for the Armed Forces, the Chairman of the Joint  
14 Chiefs of Staff, and the General Counsel of the  
15 Department of Defense shall each designate one  
16 nonvoting member of the Board.

17 “(D) CHAIR AND VICE-CHAIR.—The  
18 Secretary of Defense shall designate one voting

1 member as chair of the Board and one voting  
2 member as vice-chair.

3 “(5) DUTIES OF BOARD.—

4 “(A) As directed by the President, the Board  
5 shall submit to the President for approval—

6 “(i) sentencing parameters for all  
7 offenses under this chapter, other than  
8 offenses that are identified by the Board as  
9 unsuitable for sentencing parameters; and

10 “(ii) sentencing criteria to be used by  
11 military judges in determining appropriate  
12 sentences for offenses that are identified as  
13 unsuitable for sentencing parameters.

14 “(B) For purposes of this paragraph, an  
15 offense is unsuitable for sentencing parameters  
16 if—

17 “(i) the nature of the offense is  
18 indeterminate and unsuitable for  
19 categorization; and

1                   “(ii) there is no similar criminal  
2                   offense under the laws of the United States  
3                   or the laws of the District of Columbia.

4                   “(C) The Board shall consider the  
5                   appropriateness of sentencing parameters for  
6                   punitive discharges, fines, reductions, forfeitures,  
7                   and other punishments authorized under this  
8                   chapter.

9                   “(D) The Board shall regularly review, and  
10                  propose revision to, in consideration of comments  
11                  and data coming to its attention, the sentencing  
12                  parameters and sentencing criteria prescribed  
13                  under subsection (d)(1).

14                  “(E) The Board shall develop means of  
15                  measuring the degree to which applicable  
16                  sentencing, penal, and correctional practices are  
17                  effective with respect to the sentencing factors and  
18                  policies set forth in this section.

1                   “(F) In fulfilling its duties and in exercising  
2                   its powers, the Board shall consult authorities on,  
3                   and individual and institutional representatives of,  
4                   various aspects of the military criminal justice  
5                   system. The Board shall establish separate  
6                   advisory groups consisting of individuals with  
7                   current or recent experience in command and in  
8                   senior enlisted positions, individuals with  
9                   experience in the trial of courts-martial, and such  
10                  other groups as the Board deems appropriate.

11                  “(G) The Board shall submit to the President  
12                  proposed amendments to the rules for courts-  
13                  martial with respect to sentencing proceedings and  
14                  maximum punishments, together with statements  
15                  explaining the basis for the proposed amendments.

16                  “(H) The Board shall submit to the President  
17                  proposed amendments to the sentencing  
18                  parameters and sentencing criteria, together with

1 statements explaining the basis for the proposed  
2 amendments.

3 “(I) The Board may issue nonbinding policy  
4 statements to achieve the Board’s purposes and to  
5 guide military judges in fashioning appropriate  
6 sentences, including guidance on factors that may  
7 be relevant in determining where in a sentencing  
8 parameter a specification may fall, or whether a  
9 deviation outside of the sentencing range may be  
10 warranted.

11 “(J) The Federal Advisory Committee Act  
12 shall not apply with respect to the Board or any  
13 advisory group established by the Board.

14 “(6) VOTING REQUIREMENT.—An affirmative vote  
15 of at least three members is required for any action of the  
16 Board under this subsection.

17 “(e) APPEAL OF SENTENCE BY THE UNITED STATES.—(1)  
18 With the approval of the Judge Advocate General concerned,

1 the Government may appeal a sentence to the Court of Criminal  
2 Appeals, on the grounds that—

3 “(A) the sentence violates the law;

4 “(B) in the case of a sentence for an offense with a  
5 sentencing parameter under this section, the sentence is a  
6 result of an incorrect application of the parameter; or

7 “(C) the sentence is plainly unreasonable.

8 “(2) An appeal under this subsection must be filed within  
9 60 days after the date on which the judgment of a court-martial  
10 is entered into the record under section 860c of this title (article  
11 60c).

12 “(3) The Government may appeal a sentence under this  
13 section only after sentencing parameters are first prescribed  
14 under subsection (f).”.

15 (b) CONFORMING AMENDMENT.—Section 856a of title 10,  
16 United States Code (article 56a of the Uniform Code of  
17 Military Justice), is repealed.

18 (c) IMPLEMENTATION OF SENTENCING PARAMETERS AND  
19 CRITERIA.—(1) Not later than four years after the date of the

1 enactment of this Act, the President shall prescribe the  
2 regulations for sentencing parameters and criteria required by  
3 subsection (d) of section 856 of title 10, United States Code  
4 (article 56 of the Uniform Code of Military Justice).

5 (2) Not later than one year after the date of the enactment  
6 of this Act, the President shall prescribe interim guidance for  
7 use in sentencing at courts-martial before the implementation of  
8 sentencing parameters and criteria pursuant to the regulations  
9 referred to in paragraph (1). Insofar as the President considers  
10 practicable, the interim guidance shall be consistent with the  
11 purposes and procedures set forth in subsections (c) and (d) of  
12 section 856 of title 10, United States Code (article 56 of the  
13 Uniform Code of Military Justice), taking into account the  
14 interim nature of the guidance. For purposes of sentencing  
15 under chapter 47 of title 10, United States Code (the Uniform  
16 Code of Military Justice), the interim guidance shall be treated  
17 as sentencing parameters and criteria.

1           (3) The President shall prescribe the effective dates of the  
2 regulations referred to in paragraph (1) and of the interim  
3 guidance referred to in paragraph (2).

4           (d) PROSPECTIVE REPEAL OF SENTENCE MINIMUMS FOR  
5 CERTAIN OFFENSES.—Upon the taking effect of sentencing  
6 parameters for offenses specified in paragraph (2) of subsection  
7 (b) of section 856 of title 10, United States Code (article 56 of  
8 the Uniform Code of Military Justice), as in effect on the day  
9 after the date of the enactment of this Act—

10                   (1) section 856 of title 10, United States Code  
11                   (article 56 of the Uniform Code of Military Justice), is  
12                   amended—

13                           (A) in subsection (a), by striking “(a)  
14                           SENTENCE MAXIMUMS.—”; and

15                           (B) by striking subsection (b); and

16                   (2) section 853a of title 10, United States Code  
17                   (article 53a of the Uniform Code of Military Justice), is  
18                   amended by striking subsections (c) and (d) and inserting  
19                   the following new subsection:

1           “(c) LIMITATION ON ACCEPTANCE OF PLEA  
2 AGREEMENTS.—The military judge shall reject a plea  
3 agreement that—

4                   “(1) contains a provision that has not been  
5 accepted by both parties; or

6                   “(2) contains a provision that is not understood by  
7 the accused.”.

8 **SEC. 802. EFFECTIVE DATE OF SENTENCES.**

9           (a) IN GENERAL.—Section 857 of title 10, United States  
10 Code (article 57 of the Uniform Code of Military Justice), is  
11 amended to read as follows:

12 **“§857. Art. 57. Effective date of sentences**

13           “(a) EXECUTION OF SENTENCES.—A court-martial  
14 sentence shall be executed and take effect as follows:

15                   “(1) FORFEITURE AND REDUCTION.—A forfeiture of  
16 pay or allowances shall be applicable to pay and  
17 allowances accruing on and after the date on which the  
18 sentence takes effect. Any forfeiture of pay or allowances

1 or reduction in grade that is included in a sentence of a  
2 court-martial takes effect on the earlier of—

3 “(A) the date that is 14 days after the date on  
4 which the sentence is adjudged; or

5 “(B) in the case of a summary court-martial,  
6 the date on which the sentence is approved by the  
7 convening authority.

8 “(2) CONFINEMENT.—Any period of confinement  
9 included in a sentence of a court-martial begins to run  
10 from the date the sentence is adjudged by the court-  
11 martial, but periods during which the sentence to  
12 confinement is suspended or deferred shall be excluded  
13 in computing the service of the term of confinement.

14 “(3) APPROVAL OF SENTENCE OF DEATH.—If the  
15 sentence of the court-martial extends to death, that part of  
16 the sentence providing for death may not be executed  
17 until approved by the President. In such a case, the  
18 President may commute, remit, or suspend the sentence,

1 or any part thereof, as the President sees fit. That part of  
2 the sentence providing for death may not be suspended.

3 “(4) APPROVAL OF DISMISSAL.—If in the case of a  
4 commissioned officer, cadet, or midshipman, the  
5 sentence of a court-martial extends to dismissal, that part  
6 of the sentence providing for dismissal may not be  
7 executed until approved by the Secretary concerned or  
8 such Under Secretary or Assistant Secretary as may be  
9 designated by the Secretary concerned. In such a case,  
10 the Secretary, Under Secretary, or Assistant Secretary, as  
11 the case may be, may commute, remit, or suspend the  
12 sentence, or any part of the sentence, as the Secretary  
13 sees fit. In time of war or national emergency he may  
14 commute a sentence of dismissal to reduction to any  
15 enlisted grade. A person so reduced may be required to  
16 serve for the duration of the war or emergency and six  
17 months thereafter.

18 “(5) COMPLETION OF APPELLATE REVIEW.—If a  
19 sentence extends to death, dismissal, or a dishonorable or

1 bad-conduct discharge, that part of the sentence  
2 extending to death, dismissal, or a dishonorable or bad-  
3 conduct discharge may be executed, in accordance with  
4 service regulations, after completion of appellate review  
5 (and, with respect to death or dismissal, approval under  
6 paragraph (3) or (4), as appropriate).

7 “(6) OTHER SENTENCES.—Except as otherwise  
8 provided in this subsection, a general or special court-  
9 martial sentence is effective upon entry of judgment and  
10 a summary court-martial sentence is effective when the  
11 convening authority acts on the sentence.

12 “(b) DEFERRAL OF SENTENCES.—(1) On application by an  
13 accused, the convening authority or, if the accused is no longer  
14 under his jurisdiction, the officer exercising general court-  
15 martial jurisdiction over the command to which the accused is  
16 currently assigned, may, in his or her sole discretion, defer the  
17 effective date of a sentence of confinement, reduction, or  
18 forfeiture. The deferment shall terminate upon entry of  
19 judgment or, in the case of a summary court-martial, when the

1 convening authority acts on the sentence. The deferment may  
2 be rescinded at any time by the officer who granted it or, if the  
3 accused is no longer under his jurisdiction, by the officer  
4 exercising general court-martial jurisdiction over the command  
5 to which the accused is currently assigned.

6 “(2) In any case in which a court-martial sentences a  
7 person referred to in paragraph (3) to confinement, the  
8 convening authority may defer the service of the sentence to  
9 confinement, without the consent of that person, until after the  
10 person has been permanently released to the armed forces by a  
11 State or foreign country referred to in that paragraph.

12 “(3) Paragraph (2) applies to a person subject to this  
13 chapter who—

14 “(A) while in the custody of a State or foreign  
15 country is temporarily returned by that State or foreign  
16 country to the armed forces for trial by court-martial; and

17 “(B) after the court-martial, is returned to that  
18 State or foreign country under the authority of a mutual  
19 agreement or treaty, as the case may be.

1           “(4) In this subsection, the term ‘State’ includes the  
2 District of Columbia and any Commonwealth, territory, or  
3 possession of the United States.

4           “(5) In any case in which a court-martial sentences a  
5 person to confinement, but in which review of the case under  
6 section 867(a)(2) of this title (article 67(a)(2)) is pending, the  
7 Secretary concerned may defer further service of the sentence  
8 to confinement while that review is pending.

9           “(c) APPELLATE REVIEW.—(1) Appellate review is  
10 complete under this section when—

11                   “(A) a review under section 865 of this title (article  
12 65) is completed; or

13                   “(B) an appeal is filed with a Court of Criminal  
14 Appeals or the sentence includes death, and review is  
15 completed by a Court of Criminal Appeals and—

16                           “(i) the time for the accused to file a petition  
17 for review by the Court of Appeals for the Armed  
18 Forces has expired and the accused has not filed a

1           timely petition for such review and the case is not  
2           otherwise under review by that Court;

3                   “(ii) such a petition is rejected by the Court  
4           of Appeals for the Armed Forces; or

5                   “(iii) review is completed in accordance  
6           with the judgment of the Court of Appeals for the  
7           Armed Forces and—

8                   “(I) a petition for a writ of certiorari is  
9           not filed within the time limits prescribed by  
10          the Supreme Court;

11                   “(II) such a petition is rejected by the  
12          Supreme Court; or

13                   “(III) review is otherwise completed  
14          in accordance with the judgment of the  
15          Supreme Court.

16           “(2) The completion of appellate review shall constitute a  
17   final judgment as to the legality of the proceedings.”.

18           (b) CONFORMING AMENDMENTS.—(1) Subchapter VIII of  
19   chapter 47 of title 10, United States Code, is amended by

1 striking section 857a (article 57a of the Uniform Code of  
2 Military Justice).

3 (2) Subchapter IX of chapter 47 of title 10, United States  
4 Code, is amended by striking section 871 (article 71 of the  
5 Uniform Code of Military Justice).

6 (3) The second sentence of subsection (a)(1) of section  
7 858b of title 10, United States Code (article 58b of the Uniform  
8 Code of Military Justice), is amended by striking “section  
9 857(a) of this title (article 57(a))” and inserting “section 857 of  
10 this title (article 57)”.

11 **SEC. 803. SENTENCE OF REDUCTION IN ENLISTED**  
12 **GRADE.**

13 Section 858a of title 10, United States Code (article 58a  
14 of the Uniform Code of Military Justice), is amended—

15 (1) in subsection (a)—

16 (A) by striking “as approved by the  
17 convening authority” and inserting “as set forth in  
18 the judgment of the court-martial entered into the

1 record under section 860c of this title (article  
2 60c)”; and

3 (B) in the matter after paragraph (3), by  
4 striking “of that approval” and inserting “on which  
5 the judgment is so entered”; and

6 (2) in subsection (b), by striking “disapproved, or,  
7 as finally approved” and inserting “reduced, or, as finally  
8 affirmed”.

9 **SEC. 804. REPEAL OF SENTENCE REDUCTION**  
10 **PROVISION WHEN PARAMETERS TAKE**  
11 **EFFECT.**

12 Effective on the effective date of sentencing parameters  
13 prescribed by the President under section 856 of title 10, United  
14 States Code (article 56 of the Uniform Code of Military  
15 Justice), as amended by section 801, section 858a of title 10,  
16 United States Code (article 58a of the Uniform Code of  
17 Military Justice), is repealed.

1       **TITLE IX—POST-TRIAL PROCEDURE AND**  
2                   **REVIEW OF COURTS-MARTIAL**  
3       **SEC. 901. POST-TRIAL PROCESSING IN GENERAL**  
4                   **AND SPECIAL COURTS-MARTIAL.**

5           Section 860 of title 10, United States Code (article 60 of  
6 the Uniform Code of Military Justice), is amended to read as  
7 follows:

8       **“§860. Art. 60. Post-trial processing in general and special**  
9                   **courts-martial**

10           “(a) STATEMENT OF TRIAL RESULTS.—(1) The military  
11 judge of a general or special court-martial shall enter into the  
12 record of trial a document entitled ‘Statement of Trial Results’,  
13 which shall set forth—

14                   “(A) each plea and finding;

15                   “(B) the sentence, if any; and

16                   “(C) such other information as the President may  
17 prescribe by regulation.

1           “(2) Copies of the Statement of Trial Results shall be  
2 provided promptly to the convening authority, the accused, and  
3 any victim of the offense.

4           “(b) POST-TRIAL MOTIONS.—In accordance with  
5 regulations prescribed by the President, the military judge in a  
6 general or special court-martial shall address all post-trial  
7 motions and other post-trial matters that—

8                   “(1) may affect a plea, a finding, the sentence, the  
9 Statement of Trial Results, the record of trial, or any  
10 post-trial action by the convening authority; and

11                   “(2) are subject to resolution by the military judge  
12 before entry of judgment.”.

13 **SEC. 902. LIMITED AUTHORITY TO ACT ON**  
14 **SENTENCE IN SPECIFIED POST-TRIAL**  
15 **CIRCUMSTANCES.**

16           Subchapter IX of chapter 47 of title 10, United States  
17 Code, is amended by inserting after section 860 (article 60 of  
18 the Uniform Code of Military Justice), as amended by section  
19 901, the following new section (article):

1    **“§860a. Art. 60a. Limited authority to act on sentence in**  
2           **specified post-trial circumstances**

3           “(a) IN GENERAL.—(1) The convening authority of a  
4 general or special court-martial described in paragraph (2)—

5                   “(A) may act on the sentence of the court-martial  
6 only as provided in subsection (b), (c), or (d); and

7                   “(B) may not act on the findings of the court-  
8 martial.

9           “(2) The courts-martial referred to in paragraph (1) are  
10 the following:

11                   “(A) A general or special court-martial in which  
12 the maximum sentence of confinement established under  
13 subsection (a) of section 856 of this title (article 56) for  
14 any offense of which the accused is found guilty is more  
15 than two years.

16                   “(B) A general or special court-martial in which  
17 the total of the sentences of confinement imposed,  
18 running consecutively, is more than six months.

1           “(C) A general or special court-martial in which  
2           the sentence imposed includes a dismissal, dishonorable  
3           discharge, or bad-conduct discharge.

4           “(D) A general or special court-martial in which  
5           the accused is found guilty of a violation of subsection  
6           (a) or (b) of section 920 of this title (article 120), section  
7           920b of this title (article 120b), or such other offense as  
8           the Secretary of Defense may specify by regulation.

9           “(3) Except as provided in subsection (d), the convening  
10          authority may act under this section only before entry of  
11          judgment.

12          “(4) Under regulations prescribed by the Secretary  
13          concerned, a commissioned officer commanding for the time  
14          being, a successor in command, or any person exercising  
15          general court-martial jurisdiction may act under this section in  
16          place of the convening authority.

17          “(b) REDUCTION, COMMUTATION, AND SUSPENSION OF  
18          SENTENCES GENERALLY.—(1) Except as provided in subsection

1 (c) or (d), the convening authority may not reduce, commute, or  
2 suspend any of the following sentences:

3 “(A) A sentence of confinement, if the total period  
4 of confinement imposed for all offenses involved,  
5 running consecutively, is greater than six months.

6 “(B) A sentence of dismissal, dishonorable  
7 discharge, or bad-conduct discharge.

8 “(C) A sentence of death.

9 “(2) The convening authority may reduce, commute, or  
10 suspend any sentence not specified in paragraph (1).

11 “(c) SUSPENSION OF CERTAIN SENTENCES UPON  
12 RECOMMENDATION OF MILITARY JUDGE.—(1) Upon  
13 recommendation of the military judge, as included in the  
14 Statement of Trial Results, together with an explanation of the  
15 facts supporting the recommendation, the convening authority  
16 may suspend—

17 “(A) a sentence of confinement, in whole or in  
18 part; or

1           “(B) a sentence of dismissal, dishonorable  
2 discharge, or bad-conduct discharge.

3           “(2) The convening authority may not, under paragraph  
4 (1)—

5           “(A) suspend a mandatory minimum sentence; or

6           “(B) suspend a sentence to an extent in excess of  
7 the suspension recommended by the military judge.

8           “(d) REDUCTION OF SENTENCE FOR SUBSTANTIAL  
9 ASSISTANCE BY ACCUSED.—(1) Upon a recommendation by the  
10 trial counsel, if the accused, after sentencing and before entry of  
11 judgment, provides substantial assistance in the investigation or  
12 prosecution of another person, the convening authority may  
13 reduce, commute, or suspend a sentence, in whole or in part,  
14 including any mandatory minimum sentence.

15           “(2) Upon a recommendation by a trial counsel,  
16 designated in accordance with rules prescribed by the President,  
17 if the accused, after entry of judgment, provides substantial  
18 assistance in the investigation or prosecution of another person,  
19 a convening authority, designated under such regulations, may

1 reduce, commute, or suspend a sentence, in whole or in part,  
2 including any mandatory minimum sentence.

3 “(3) In evaluating whether the accused has provided  
4 substantial assistance under this subsection, the convening  
5 authority may consider the presentence assistance of the  
6 accused.

7 “(e) SUBMISSIONS BY ACCUSED AND VICTIM.—(1) In  
8 accordance with rules prescribed by the President, in  
9 determining whether to act under this section, the convening  
10 authority shall consider matters submitted in writing by the  
11 accused or any victim of an offense. Such rules shall include—

12 “(A) procedures for notice of the opportunity to  
13 make such submissions;

14 “(B) the deadlines for such submissions; and

15 “(C) procedures for providing the accused and any  
16 victim of an offense with a copy of the recording of any  
17 open sessions of the court-martial and copies of, or  
18 access to, any admitted, unsealed exhibits.

1           “(2) The convening authority shall not consider under  
2 this section any submitted matters that relate to the character of  
3 a victim unless such matters were presented as evidence at trial  
4 and not excluded at trial.

5           “(f) DECISION OF CONVENING AUTHORITY.—(1) The  
6 decision of the convening authority under this section shall be  
7 forwarded to the military judge, with copies provided to the  
8 accused and to any victim of the offense.

9           “(2) If, under this section, the convening authority  
10 reduces, commutes, or suspends the sentence, the decision of  
11 the convening authority shall include a written explanation of  
12 the reasons for such action.

13           “(3) If, under subsection (d)(2), the convening authority  
14 reduces, commutes, or suspends the sentence, the decision of  
15 the convening authority shall be forwarded to the chief trial  
16 judge for appropriate modification of the entry of judgment,  
17 which shall be transmitted to the Judge Advocate General for  
18 appropriate action.”.

1 **SEC. 903. POST-TRIAL ACTIONS IN SUMMARY**  
2 **COURTS-MARTIAL AND CERTAIN GENERAL**  
3 **AND SPECIAL COURTS-MARTIAL.**

4 Subchapter IX of chapter 47 of title 10, United States  
5 Code, is amended by inserting after section 860a (article 60a of  
6 the Uniform Code of Military Justice), as amended by section  
7 902, the following new section (article):

8 **“§860b. Art. 60b. Post-trial actions in summary courts-**  
9 **martial and certain general and special courts-martial**

10 “(a) IN GENERAL.—(1) In a court-martial not specified in  
11 subsection (a)(2) of section 860a of this title (article 60a), the  
12 convening authority may—

13 “(A) dismiss any charge or specification by setting  
14 aside the finding of guilty;

15 “(B) change a finding of guilty to a charge or  
16 specification to a finding of guilty to a lesser included  
17 offense;

18 “(C) disapprove the findings and the sentence and  
19 dismiss the charges and specifications;

1           “(D) disapprove the findings and the sentence and  
2           order a rehearing as to the findings and the sentence;

3           “(E) disapprove, commute, or suspend the  
4           sentence, in whole or in part; or

5           “(F) disapprove the sentence and order a rehearing  
6           as to the sentence.

7           “(2) In a summary court-martial, the convening authority  
8           shall approve the sentence or take other action on the sentence  
9           under paragraph (1).

10          “(3) Except as provided in paragraph (4), the convening  
11          authority may act under this section only before entry of  
12          judgment.

13          “(4) The convening authority may act under this section  
14          after entry of judgment in a general or special court-martial in  
15          the same manner as the convening authority may act under  
16          subsection (d)(2) of section 860a of this title (article 60a). Such  
17          action shall be forwarded to the chief trial judge, who shall  
18          ensure appropriate modification to the entry of judgment and

1 shall transmit the entry of judgment to the Judge Advocate  
2 General for appropriate action.

3 “(5) Under regulations prescribed by the Secretary  
4 concerned, a commissioned officer commanding for the time  
5 being, a successor in command, or any person exercising  
6 general court-martial jurisdiction may act under this section in  
7 place of the convening authority.

8 “(b) LIMITATIONS ON REHEARINGS.—The convening  
9 authority may not order a rehearing under this section—

10 “(1) as to the findings, if there is insufficient  
11 evidence in the record to support the findings;

12 “(2) to reconsider a finding of not guilty of any  
13 specification or a ruling which amounts to a finding of  
14 not guilty; or

15 “(3) to reconsider a finding of not guilty of any  
16 charge, unless there has been a finding of guilty under a  
17 specification laid under that charge, which sufficiently  
18 alleges a violation of some article of this chapter.

1           “(c) SUBMISSIONS BY ACCUSED AND VICTIM.—In  
2 accordance with rules prescribed by the President, in  
3 determining whether to act under this section, the convening  
4 authority shall consider matters submitted in writing by the  
5 accused or any victim of the offense. Such rules shall include  
6 the matter required by subsection (e) of section 860a of this title  
7 (article 60a).

8           “(d) DECISION OF CONVENING AUTHORITY.—(1) In a  
9 general or special court-martial, the decision of the convening  
10 authority under this section shall be forwarded to the military  
11 judge, with copies provided to the accused and to any victim of  
12 the offense.

13           “(2) If the convening authority acts on the findings or the  
14 sentence under subsection (a)(1), the decision of the convening  
15 authority shall include a written explanation of the reasons for  
16 such action.”.

17   **SEC. 904. ENTRY OF JUDGMENT.**

18           Subchapter IX of chapter 47 of title 10, United States  
19 Code, is amended by inserting after section 860b (article 60b of

1 the Uniform Code of Military Justice), as added by section 903,  
2 the following new section (article):

3 **“§860c. Art 60c. Entry of judgment**

4 “(a) ENTRY OF JUDGMENT OF GENERAL OR SPECIAL  
5 COURT-MARTIAL.—(1) In accordance with rules prescribed by  
6 the President, in a general or special court-martial, the military  
7 judge shall enter into the record of trial the judgment of the  
8 court. The judgment of the court shall consist of the following:

9 “(A) The Statement of Trial Results under section  
10 860 of this title (article 60).

11 “(B) Any modifications of, or supplements to, the  
12 Statement of Trial Results by reason of—

13 “(i) any post-trial action by the convening  
14 authority; or

15 “(ii) any ruling, order, or other  
16 determination of the military judge that affects a  
17 plea, a finding, or the sentence.

18 “(2) Under rules prescribed by the President, the  
19 judgment under paragraph (1) shall be—

1           “(A) provided to the accused and to any victim of  
2           the offense; and

3           “(B) made available to the public.

4           “(b) SUMMARY COURT-MARTIAL JUDGMENT.—The  
5           findings and sentence of a summary court-martial, as modified  
6           by any post-trial action by the convening authority under  
7           section 860b of this title (article 60b), constitutes the judgment  
8           of the court-martial and shall be recorded and distributed under  
9           rules prescribed by the President.”.

10   **SEC. 905. WAIVER OF RIGHT TO APPEAL AND**  
11           **WITHDRAWAL OF APPEAL.**

12           Section 861 of title 10, United States Code (article 61 of  
13           the Uniform Code of Military Justice), is amended to read as  
14           follows:

15   **“§861. Art. 61. Waiver of right to appeal; withdrawal of**  
16           **appeal**

17           “(a) WAIVER OF RIGHT TO APPEAL.—After entry of  
18           judgment in a general or special court-martial, under procedures

1 prescribed by the Secretary concerned, the accused may waive  
2 the right to appeal. Such a waiver shall be —

3 “(1) signed by the accused and by defense counsel;

4 and

5 “(2) attached to the record of trial.

6 “(b) WITHDRAWAL OF APPEAL.—In a general or special  
7 court-martial, the accused may withdraw an appeal at any time.

8 “(c) DEATH PENALTY CASE EXCEPTION.—

9 Notwithstanding subsections (a) and (b), an accused may not  
10 waive the right to appeal or withdraw an appeal with respect to  
11 a judgment that includes a sentence of death.

12 “(d) WAIVER OR WITHDRAWAL AS BAR.—A waiver or  
13 withdrawal under this section bars review under section 866 of  
14 this title (article 66).”.

15 **SEC. 906. APPEAL BY THE UNITED STATES.**

16 Section 862 of title 10, United States Code (article 62 of  
17 the Uniform Code of Military Justice), is amended—

18 (1) in paragraph (1) of subsection (a)—

1 (A) in the matter before subparagraph (A),  
2 by striking “court-martial” and all that follows  
3 through the colon at the end and inserting “general  
4 or special court-martial or in a pretrial proceeding  
5 under section 830a of this title (article 30a), the  
6 United States may appeal the following.”; and

7 (B) by adding at the end the following new  
8 subparagraph:

9 “(G) An order or ruling of the military judge  
10 entering a finding of not guilty with respect to a charge or  
11 specification following the return of a finding of guilty  
12 by the members.”;

13 (2) in paragraph (2) of subsection (a)—

14 (A) by striking “(2)” and inserting “(2)(A)”;

15 and

16 (B) by adding at the end the following new  
17 subparagraph:

18 “(B) An appeal of an order or ruling may not be taken  
19 when prohibited by section 844 of this title (article 44).”; and

1 (3) by adding at the end the following:

2 “(d) The United States may appeal a ruling or order of a  
3 military magistrate in the same manner as had the ruling or  
4 order been made by a military judge, except that the issue shall  
5 first be presented to the military judge who designated the  
6 military magistrate or to a military judge detailed to hear the  
7 issue.

8 “(e) The provisions of this article shall be liberally  
9 construed to effect its purposes.”.

10 **SEC. 907. REHEARINGS.**

11 Section 863 of title 10, United States Code (article 63 of  
12 the Uniform Code of Military Justice), is amended—

13 (1) by inserting “(a)” before “Each rehearing”;

14 (2) in the second sentence, by striking “may be  
15 approved” and inserting “may be adjudged”;

16 (3) by striking the third sentence; and

17 (4) by adding at the end the following new  
18 subsections:

1           “(b) If the sentence adjudged by the first court-martial  
2 was in accordance with a plea agreement under section 853a of  
3 this title (article 53a) and the accused at the rehearing does not  
4 comply with the agreement, or if a plea of guilty was entered  
5 for an offense at the first court-martial and a plea of not guilty  
6 was entered at the rehearing, the sentence as to those charges or  
7 specifications may include any punishment not in excess of that  
8 which could have been adjudged at the first court-martial.

9           “(c) If, after appeal by the Government under section  
10 856(e) of this title (article 56(e)), the sentence adjudged is set  
11 aside and a rehearing on sentence is ordered by the Court of  
12 Criminal Appeals or Court of Appeals for the Armed Forces,  
13 the court-martial may impose any sentence that is in accordance  
14 with the order or ruling setting aside the adjudged sentence.”.

15   **SEC. 908. JUDGE ADVOCATE REVIEW OF FINDING**  
16           **OF GUILTY IN SUMMARY COURT-MARTIAL.**

17           (a) IN GENERAL.—Subsection (a) of section 864 of title  
18 10, United States Code (article 64 of the Uniform Code of

1 Military Justice), is amended by striking the first two sentences  
2 and inserting the following:

3           “(a) IN GENERAL.—Under regulations prescribed by the  
4 Secretary concerned, each summary court-martial in which  
5 there is a finding of guilty shall be reviewed by a judge  
6 advocate. A judge advocate may not review a case under this  
7 subsection if the judge advocate has acted in the same case as  
8 an accuser, preliminary hearing officer, member of the court,  
9 military judge, or counsel or has otherwise acted on behalf of  
10 the prosecution or defense.”.

11           (b) TECHNICAL AND CONFORMING AMENDMENTS.—(1)  
12 The heading for such section (article) is amended to read as  
13 follows:

14           **“§864. Art. 64. Judge advocate review of finding of guilty in  
15           summary court-martial”.**

16           (2) Subsection (b) of such section is amended—

17                   (A) by striking “(b) The record” and inserting “(b)  
18           RECORD.—The record”;

19                   (B) by inserting “or” at the end of paragraph (1);

1 (C) by striking paragraph (2); and

2 (D) by redesignating paragraph (3) as paragraph  
3 (2).

4 (3) Subsection (c)(3) of such section (article) is amended  
5 by striking “section 869(b) of this title (article 69(b)).” and  
6 inserting “section 869 of this title (article 69).”.

7 **SEC. 909. TRANSMITTAL AND REVIEW OF**  
8 **RECORDS.**

9 Section 865 of title 10, United States Code (article 65 of  
10 the Uniform Code of Military Justice), is amended to read as  
11 follows:

12 **“§865. Art. 65. Transmittal and review of records**

13 “(a) TRANSMITTAL OF RECORDS.—(1) If the judgment of  
14 a general or special court-martial entered under section 860c of  
15 this title (article 60c) includes a finding of guilty, the record  
16 shall be transmitted to the Judge Advocate General.

17 “(2) In all other cases, records of trial by court-martial  
18 and related documents shall be transmitted and disposed of as  
19 the Secretary concerned may prescribe by regulation.

1 “(b) CASES ELIGIBLE FOR DIRECT APPEAL—

2 “(1) MANDATORY REVIEW.—If the judgment  
3 includes a sentence of death, the Judge Advocate General  
4 shall forward the record of trial to the Court of Criminal  
5 Appeals for review under section 866(b)(2) of this title  
6 (article 66(b)(2)).

7 “(2) CASES ELIGIBLE FOR DIRECT APPEAL  
8 REVIEW.—(A) If the case is eligible for direct review  
9 under section 866(b)(1) of this title (article 66(b)(1)), the  
10 Judge Advocate General shall—

11 “(i) forward a copy of the record of trial to  
12 an appellate defense counsel who shall be detailed  
13 to review the case and, upon request of the  
14 accused, to represent the accused before the Court  
15 of Criminal Appeals; and

16 “(ii) upon written request of the accused,  
17 forward a copy of the record of trial to civilian  
18 counsel provided by the accused.

1           “(B) Subparagraph (A) shall not apply if the  
2           accused—

3                   “(i) waives the right to appeal under section  
4                   61 of this title (article 61); or

5                   “(ii) declines in writing the detailing of  
6                   appellate defense counsel under paragraph  
7                   (2)(A)(i).

8           “(c) NOTICE OF RIGHT TO APPEAL.—(1) The Judge  
9           Advocate General shall provide notice to the accused of the  
10          right to file an appeal under section 866(b)(1) of this title  
11          (article 66(b)(1)) by means of depositing in the United States  
12          mails for delivery by first class certified mail to the accused at  
13          an address provided by the accused or, if no such address has  
14          been provided by the accused, at the latest address listed for the  
15          accused in the official service record of the accused.

16                   “(2) Paragraph (1) shall not apply if the accused waives  
17          the right to appeal under section 61 of this title (article 61).

18                   “(d) REVIEW BY JUDGE ADVOCATE GENERAL.—

1           “(1) BY WHOM.—A review conducted under this  
2 subsection may be conducted by an attorney within the  
3 Office of the Judge Advocate General or another attorney  
4 designated under regulations prescribed by the Secretary  
5 concerned.

6           “(2) REVIEW OF CASES NOT ELIGIBLE FOR DIRECT  
7 APPEAL.—

8           “(A) A review under subparagraph (B) shall  
9 be completed in each general and special court-  
10 martial that is not eligible for direct appeal under  
11 paragraph (1) or (2) of section 866(b) of this title  
12 (article 66(b)).

13           “(B) A review referred to in subparagraph  
14 (A) shall include a written decision providing each  
15 of the following:

16           “(i) A conclusion as to whether the  
17 court had jurisdiction over the accused and  
18 the offense.

1                   “(ii) A conclusion as to whether the  
2 charge and specification stated an offense.

3                   “(iii) A conclusion as to whether the  
4 sentence was within the limits prescribed as  
5 a matter of law.

6                   “(iv) A response to each allegation of  
7 error made in writing by the accused.

8                   “(3) REVIEW WHEN DIRECT APPEAL IS WAIVED,  
9 WITHDRAWN OR NOT FILED.—

10                   “(A) A review under subparagraph (B) shall  
11 be completed in each general and special court-  
12 martial if—

13                   “(i) the accused waives the right to  
14 appeal or withdraws appeal under section  
15 861 of this title (article 61); or

16                   “(ii) the accused does not file a timely  
17 appeal in a case eligible for direct appeal  
18 under subparagraph (A) or (B) of section  
19 866(b)(1) of this title (article 66(b)(1)).

1                   “(B) A review referred to in subparagraph  
2                   (A) shall include a written decision limited to  
3                   providing conclusions on the matters specified in  
4                   clauses (i), (ii), and (iii) of paragraph (2)(B).

5                   “(e) REMEDY.—(1) If after a review of a record under  
6                   subsection (d), the attorney conducting the review believes  
7                   corrective action may be required, the record shall be forwarded  
8                   to the Judge Advocate General, who may set aside the findings  
9                   or sentence, in whole or in part.

10                  “(2) In setting aside findings or sentence, the Judge  
11                  Advocate General may order a rehearing, except that a  
12                  rehearing may not be ordered in violation of section 844 of this  
13                  title (article 44).

14                  “(3)(A) If the Judge Advocate General sets aside findings  
15                  and sentence and does not order a rehearing, the Judge  
16                  Advocate General shall dismiss the charges.

17                  “(B) If the Judge Advocate General sets aside findings  
18                  and orders a rehearing and the convening authority determines

1 that a rehearing would be impractical, the convening authority  
2 shall dismiss the charges.”.

3 **SEC. 910. COURTS OF CRIMINAL APPEALS.**

4 (a) APPELLATE MILITARY JUDGES.—Subsection (a) of  
5 section 866 of chapter 47 of title 10, United States Code (article  
6 66 of the Uniform Code of Military Justice), is amended—

7 (1) in the second sentence, by striking “subsection  
8 (f)” and inserting “subsection (i)”;

9 (2) in the fourth sentence, by inserting after  
10 “highest court of a State” the following: “and must be  
11 certified by the Judge Advocate General as qualified, by  
12 reason of education, training, experience, and judicial  
13 temperament, for duty as an appellate military judge”;  
14 and

15 (3) by adding at the end the following new  
16 sentence: “In accordance with regulations prescribed by  
17 the President, assignments of appellate military judges  
18 under this section (article) shall be for appropriate

1 minimum periods, subject to such exceptions as may be  
2 authorized in the regulations.”.

3 (b) REVISION OF APPELLATE PROCEDURES.—Such section  
4 (article) is further amended—

5 (1) by redesignating subsections (e), (f), (g), and  
6 (h) as subsections (h), (i), (j), and (k), respectively; and

7 (2) by striking subsections (b), (c), and (d) and  
8 inserting the following new subsections:

9 “(b) REVIEW.—

10 “(1) APPEALS BY ACCUSED.—A Court of Criminal  
11 Appeals shall have jurisdiction of a timely appeal from  
12 the judgment of a court-martial, entered into the record  
13 under section 860c of this title (article 60c), as follows:

14 “(A) On appeal by the accused in a case in  
15 which the sentence extends to dismissal of a  
16 commissioned officer, cadet, or midshipman,  
17 dishonorable or bad-conduct discharge, or  
18 confinement for more than six months.

1                   “(B) On appeal by the accused in a case in  
2                   which the Government previously filed an appeal  
3                   under sections 856(e) or 862 of this title (articles  
4                   56(e) or 62).

5                   “(C) In a case in which the accused filed an  
6                   application for review with the Court under section  
7                   869(d)(1)(B) of this title (article 69(d)(1)(B)) and  
8                   the application has been granted by the Court.

9                   “(2) REVIEW OF CAPITAL CASES.—A Court of  
10                  Criminal Appeals shall have jurisdiction of a court-  
11                  martial in which the judgment entered into the record  
12                  under section 860c of this title (article 60c) includes a  
13                  sentence of death.

14                  “(c) TIMELINESS.—An appeal under subsection (b) is  
15                  timely if it is filed as follows:

16                         “(1) In the case of an appeal by the accused under  
17                         subsection (b)(1)(A) or (b)(1)(B), if filed before the later  
18                         of—

1                   “(A) the end of the 90-day period beginning  
2                   on the date the accused is provided notice of  
3                   appellate rights under section 865(c) of this title  
4                   (article 65(c)); or

5                   “(B) the date set by the Court of Criminal  
6                   Appeals by rule or order.

7                   “(2) In the case of an appeal by the accused under  
8                   subsection (b)(1)(C), if filed before the later of—

9                   “(A) the end of the 90-day period beginning  
10                  on the date the accused is notified that the  
11                  application for review has been granted by letter  
12                  placed in the United States mails for delivery by  
13                  first class certified mail to the accused at an  
14                  address provided by the accused or, if no such  
15                  address has been provided by the accused, at the  
16                  latest address listed for the accused in his official  
17                  service record; or

18                  “(B) the date set by the Court of Criminal  
19                  Appeals by rule or order.

1           “(d) DUTIES.—

2                   “(1) In any case before the Court of Criminal  
3 Appeals under paragraph (1) of subsection (b), the Court  
4 shall affirm, set aside, or modify the findings, sentence,  
5 or order appealed.

6                   “(2) In any case before the Court of Criminal  
7 Appeals under paragraph (2) of subsection (b), the Court  
8 shall review the record of trial and affirm, set aside, or  
9 modify the findings or sentence.

10                   “(3) In any case before the Court of Criminal  
11 Appeals under paragraph (1) or (2) of subsection (b), the  
12 Court may provide appropriate relief if the accused  
13 demonstrates error or excessive delay in the processing  
14 of the court-martial after the judgment was entered into  
15 the record under section 860c of this title (article 60c).

16           “(e) CONSIDERATION OF THE EVIDENCE.—

17                   “(1) In an appeal of a finding of guilty under  
18 paragraph (1)(A), (1)(B), or (2) of subsection (b), the  
19 Court of Criminal Appeals, upon request of the accused,

1           may consider the weight of the evidence upon a specific  
2           showing of deficiencies in proof by the accused. The  
3           Court may set aside and dismiss a finding if clearly  
4           convinced that the finding was against the weight of the  
5           evidence. The Court may affirm a lesser finding. A  
6           rehearing may not be ordered.

7                   “(2) When considering a case under paragraph  
8           (1)(A), (1)(B), or (2) of subsection (b), the Court may  
9           weigh the evidence and determine controverted questions  
10          of fact, subject to—

11                           “(A) appropriate deference to the fact that  
12                           the court-martial saw and heard the witnesses and  
13                           other evidence; and

14                           “(B) appropriate deference to findings of  
15                           fact entered into the record by the military judge.

16                   “(f) CONSIDERATION OF SENTENCE.—(1) In considering a  
17           sentence on appeal, other than as provided in section 856(e) of  
18           this title (article 56(e)), the Court of Criminal Appeals may  
19           consider—

1           “(A) whether the sentence violates the law;

2           “(B) whether the sentence is inappropriately

3           severe—

4                   “(i) if the sentence is for an offense for

5                   which there is no sentencing parameter under

6                   section 856(d) of this title (article 56(d)); or

7                   “(ii) in the case of an offense with a

8                   sentencing parameter under section 856(d) of this

9                   title (article 56(d)), if the sentence is above the

10                  upper range under subsection (d)(2)(B)(iii).

11           “(C) in the case of a sentence for an offense with a

12           sentencing parameter under this section, whether the

13           sentence is a result of an incorrect application of the

14           parameter;

15           “(D) whether the sentence is plainly unreasonable;

16           and

17                   “(E) in review of a sentence to death or to life in

18                   prison without eligibility for parole determined by the

19                   members in a capital case under section 853(d) of this

1 title (article 53(d)), whether the sentence is otherwise  
2 appropriate, under rules prescribed by the President.

3 “(2) In an appeal under this subsection or section 856(e)  
4 of this title (article 56(e)), other than review under subsection  
5 (b)(2), the record on appeal shall consist of—

6 “(A) any portion of the record in the case that is  
7 designated as pertinent by either of the parties;

8 “(B) the information submitted during the  
9 sentencing proceeding; and

10 “(C) any information required by rule or order of  
11 the Court of Criminal Appeals.

12 “(g) LIMITS OF AUTHORITY.—

13 “(1)(A) If the Court of Criminal Appeals sets aside  
14 the findings, the Court—

15 “(i) may affirm any lesser included offense;

16 and

17 “(ii) may, except when prohibited by section  
18 844 of this title (article 44), order a rehearing.

1           “(B) If the Court of Criminal Appeals orders a  
2           rehearing on a charge and the convening authority finds a  
3           rehearing impracticable, the convening authority may  
4           dismiss the charge.

5           “(C) If the Court of Criminal Appeals sets aside  
6           the findings and does not order a rehearing, the Court  
7           shall order that the charges be dismissed.

8           “(2) If the Court of Criminal Appeals sets aside the  
9           sentence, the Court may—

10           “(A) modify the sentence to a lesser sentence; or

11           “(B) order a rehearing.

12           “(3) If the Court determines that additional  
13           proceedings are warranted, the Court may order a hearing  
14           as may be necessary to address a substantial issue,  
15           subject to such limitations as the Court may direct and  
16           under such regulations as the President may prescribe.”.

17           (c) ACTION WHEN REHEARING IMPRACTICABLE AFTER  
18           REHEARING ORDER.—Subsection (h) of such section (article),  
19           as redesignated by subsection (b)(1), is amended—

1 (1) in the first sentence, by striking “convening  
2 authority” and inserting “appropriate authority”; and

3 (2) by striking the last sentence.

4 (d) SECTION HEADING.—The heading for such section  
5 (article) is amended to read as follows:

6 **“§866. Art. 66. Courts of Criminal Appeals”.**

7 **SEC. 911. REVIEW BY COURT OF APPEALS FOR THE**  
8 **ARMED FORCES.**

9 (a) JAG NOTIFICATION.—Subsection (a)(2) of section 867  
10 of title 10, United States Code (article 67 of the Uniform Code  
11 of Military Justice), is amended by inserting after “the Judge  
12 Advocate General” the following: “, after appropriate  
13 notification to the other Judge Advocates General,”.

14 (b) BASIS FOR REVIEW.—Subsection (c) of such section  
15 (article) is amended—

16 (1) by inserting “(1)” after “(c)”;

17 (2) by designating the second sentence as  
18 paragraph (2);

1 (3) by designating the third sentence as paragraph

2 (3);

3 (4) by designating the fourth sentence as paragraph

4 (4); and

5 (5) in paragraph (1), as designated by paragraph

6 (1) of this subsection, by striking “only with respect to”

7 and all that follows through the end of the sentence and

8 inserting the following:

9 “only with respect to—

10 “(A) the findings and sentence set forth in the

11 entry of judgment, as affirmed or set aside as incorrect in

12 law by the Court of Criminal Appeals; or

13 “(B) a decision, judgment, or order by a military

14 judge, as affirmed or set aside as incorrect in law by the

15 Court of Criminal Appeals.”.

16 **SEC. 912. SUPREME COURT REVIEW.**

17 The second sentence of subsection (a) of section 867a of

18 title 10, United States Code (article 67a of the Uniform Code of

1 Military Justice), is amended by inserting before “Court of  
2 Appeals” the following: “United States”.

3 **SEC. 913. REVIEW BY JUDGE ADVOCATE GENERAL.**

4 Section 869 of title 10, United States Code (article 69 of  
5 the Uniform Code of Military Justice), is amended to read as  
6 follows:

7 **“§869. Art. 69. Review by Judge Advocate General**

8 “(a) IN GENERAL.—Upon application by the accused and  
9 subject to subsections (b), (c), and (d), the Judge Advocate  
10 General may modify or set aside, in whole or in part, the  
11 findings and sentence in a court-martial that is not reviewed  
12 under section 866 of this title (article 66).

13 “(b) TIMING.—To qualify for consideration, an  
14 application under subsection (a) must be submitted to the Judge  
15 Advocate General not later than one year after the date of  
16 completion of review under section 864 or 865 of this title  
17 (article 64 or 65), as the case may be. The Judge Advocate  
18 General may, for good cause shown, extend the period for  
19 submission of an application, but may not consider an

1 application submitted more than three years after such  
2 completion date.

3 “(c) SCOPE.—(1)(A) In a case reviewed under section  
4 864 or section 865(d) of this title (article 64 or 65(d)), the Judge  
5 Advocate General may set aside the findings or sentence, in  
6 whole or in part on the grounds of newly discovered evidence,  
7 fraud on the court, lack of jurisdiction over the accused or the  
8 offense, error prejudicial to the substantial rights of the accused,  
9 or the appropriateness of the sentence.

10 “(B) In setting aside findings or sentence, the Judge  
11 Advocate General may order a rehearing, except that a  
12 rehearing may not be ordered in violation of section 844 of this  
13 title (Article 44).

14 “(C) If the Judge Advocate General sets aside findings  
15 and sentence and does not order a rehearing, the Judge  
16 Advocate General shall dismiss the charges.

17 “(D) If the Judge Advocate General sets aside findings  
18 and orders a rehearing and the convening authority determines

1 that a rehearing would be impractical, the convening authority  
2 shall dismiss the charges.

3 “(2) In a case reviewed under section 865(d) of this title  
4 (article 65(d)), review under this section is limited to the issue  
5 of whether the waiver, withdrawal, or failure to file an appeal  
6 was invalid under the law. If the Judge Advocate General  
7 determines that the waiver, withdrawal, or failure to file an  
8 appeal was invalid, the Judge Advocate General shall order  
9 appropriate corrective action under rules prescribed by the  
10 President.

11 “(d) COURT OF CRIMINAL APPEALS.—(1) A Court of  
12 Criminal Appeals may review the action taken by the Judge  
13 Advocate General under subsection (c)—

14 “(A) in a case sent to the Court of Criminal  
15 Appeals by order of the Judge Advocate General; or

16 “(B) in a case submitted to the Court of Criminal  
17 Appeals by the accused in an application for review.

18 “(2) The Court of Criminal Appeals may grant an  
19 application under paragraph (1)(B) only if—

1           “(A) the application demonstrates a substantial  
2 basis for concluding that the action on review under  
3 subsection (c) constituted prejudicial error; and

4           “(B) the application is filed not later than the  
5 earlier of—

6                   “(i) 60 days after the date on which the  
7 accused is notified of the decision of the Judge  
8 Advocate General; or

9                   “(ii) 60 days after the date on which a copy  
10 of the decision of the Judge Advocate General is  
11 deposited in the United States mails for delivery by  
12 first-class certified mail to the accused at an  
13 address provided by the accused or, if no such  
14 address has been provided by the accused, at the  
15 latest address listed for the accused in his official  
16 service record.

17           “(3) The submission of an application for review under  
18 this subsection does not constitute a proceeding before the

1 Court of Criminal Appeals for purposes of section 870(c)(1) of  
2 this title (article 70(c)(1)).

3 “(e) Notwithstanding section 866 of this title (article 66),  
4 in any case reviewed by a Court of Criminal Appeals under  
5 subsection (d), the Court may take action only with respect to  
6 matters of law.”.

7 **SEC. 914. APPELLATE DEFENSE COUNSEL IN DEATH**  
8 **PENALTY CASES.**

9 Section 870 of title 10, United States Code (article 70 of  
10 the Uniform Code of Military Justice), is amended by adding at  
11 the end the following new subsection:

12 “(f) To the greatest extent practicable, in any capital case,  
13 at least one defense counsel under subsection (c) shall, as  
14 determined by the Judge Advocate General, be learned in the  
15 law applicable to such cases. If necessary, this counsel may be a  
16 civilian and, if so, may be compensated in accordance with  
17 regulations prescribed by the Secretary of Defense.”.

18 **SEC. 915. AUTHORITY FOR HEARING ON VACATION**  
19 **OF SUSPENSION OF SENTENCE TO BE**

1           **CONDUCTED BY QUALIFIED JUDGE**  
2           **ADVOCATE.**

3           (a) **IN GENERAL.**—Subsection (a) of section 872 of title  
4 10, United States Code (article 72) of the Uniform Code of  
5 Military Justice), is amended by inserting after the first  
6 sentence the following new sentence: “The special court-martial  
7 convening authority may detail a judge advocate, who is  
8 certified under section 827(b) of this title (article 27(b)), to  
9 conduct the hearing.”.

10          (b) **TECHNICAL AMENDMENTS.**—Such section (article) is  
11 further amended—

12                 (1) in the last sentence of subsection (a), by  
13 striking “if he so desires” and inserting “if the  
14 probationer so desires”; and

15                 (2) in the second sentence of subsection (b)—

16                         (A) by striking “If he” and inserting “If the  
17 officer exercising general court-martial  
18 jurisdiction”; and

1 (B) by striking “section 871(c) of this title  
2 (article 71(c)).” and inserting “section 857 of this  
3 title (article 57)).”.

4 **SEC. 916. EXTENSION OF TIME FOR PETITION FOR**  
5 **NEW TRIAL.**

6 The first sentence of section 873 of title 10, United States  
7 Code (article 73 of the Uniform Code of Military Justice), is  
8 amended by striking “two years after approval by the convening  
9 authority of a court-martial sentence,” and inserting “three  
10 years after the date of the entry of judgment under section 860c  
11 of this title (article 60c),”.

12 **SEC. 917. RESTORATION.**

13 Section 875 of title 10, United States Code (article 75 of  
14 the Uniform Code of Military Justice), is amended by adding at  
15 the end the following new subsection:

16 “(d) The President shall prescribe regulations, with such  
17 limitations as the President considers appropriate, governing  
18 eligibility for pay and allowances for the period after the date

1 on which an executed part of a court-martial sentence is set  
2 aside.”.

3 **SEC. 918. LEAVE REQUIREMENTS PENDING REVIEW**  
4 **OF CERTAIN COURT-MARTIAL CONVICTIONS.**

5 Section 876a of title 10, United States Code (article 76a  
6 of the Uniform Code of Military Justice), is amended—

7 (1) in the first sentence, by striking “, as approved  
8 under section 860 of this title (article 60),”; and

9 (2) in the second sentence, by striking “on which  
10 the sentence is approved under section 860 of this title  
11 (article 60)” and inserting “of the entry of judgment  
12 under section 860c of this title (article 60c)”.

13 **TITLE X—PUNITIVE ARTICLES**

14 **SEC. 1001. REORGANIZATION OF PUNITIVE**  
15 **ARTICLES.**

16 Sections of subchapter X of chapter 47 of title 10, United  
17 States Code (articles of the Uniform Code of Military Justice),  
18 are transferred within subchapter X and redesignated as  
19 follows:

1           (1) ENLISTMENT AND SEPARATION.—Sections 883  
2           and 884 (articles 83 and 84) are transferred so as to  
3           appear (in that order) after section 904 (article 104) and  
4           are redesignated as sections 904a and 904b (articles 104a  
5           and 104b), respectively.

6           (2) RESISTANCE, FLIGHT, BREACH OF ARREST, AND  
7           ESCAPE.—Section 895 (article 95) is transferred so as to  
8           appear after section 887 (article 87) and is redesignated  
9           as section 887a (article 87a).

10          (3) NONCOMPLIANCE WITH PROCEDURAL RULES.—  
11          Section 898 (article 98) is transferred so as to appear  
12          after section 931 (article 131) and is redesignated as  
13          section 931f (article 131f).

14          (4) CAPTURED OR ABANDONED PROPERTY.—  
15          Section 903 (article 103) is transferred so as to appear  
16          after section 908 (article 108) and is redesignated as  
17          section 908a (article 108a).

18          (5) AIDING THE ENEMY.—Section 904 (article 104)  
19          is redesignated as section 903b (article 103b).

1           (6) MISCONDUCT AS PRISONER.—Section 905  
2           (article 105) is transferred so as to appear after section  
3           897 (article 97) and is redesignated as section 898 (article  
4           98).

5           (7) SPIES; ESPIONAGE.—Sections 906 and 906a  
6           (articles 106 and 106a) are transferred so as to appear (in  
7           that order) after section 902 (article 102) and are  
8           redesignated as sections 903 and 903a (articles 103 and  
9           103a), respectively.

10           (8) MISBEHAVIOR OF SENTINEL.—Section 913  
11           (article 113) is transferred so as to appear after section  
12           894 (article 94) and is redesignated as section 895 (article  
13           95).

14           (9) DRUNKEN OR RECKLESS OPERATION OF A  
15           VEHICLE, AIRCRAFT, OR VESSEL.—Section 911 (article  
16           111) is transferred so as to appear after section 912a  
17           (article 912a) and is redesignated as section 913 (article  
18           113).

1           (10) HOUSEBREAKING.—Section 930 (article 130)  
2 is redesignated as section 929a (article 129a).

3           (11) STALKING.—Section 920a (article 120a) is  
4 transferred so as to appear after section 929a (article  
5 129a), as redesignated by paragraph (10), and is  
6 redesignated as section 930 (article 130).

7           (12) FORGERY.—Section 923 (article 123) is  
8 transferred so as to appear after section 904b (article  
9 104b), as transferred and redesignated by paragraph (1),  
10 and is redesignated as section 905 (article 105).

11           (13) MAIMING.—Section 924 (article 124) is  
12 transferred so as to appear after section 928 (article 128)  
13 and is redesignated as section 928a (article 128a).

14           (14) FRAUDS AGAINST THE UNITED STATES.—  
15 Section 932 of (article 132) is transferred so as to appear  
16 after section 923a (article 123a) and is redesignated as  
17 section 924 (article 124).

1 **SEC. 1002. CONVICTION OF OFFENSE CHARGED,**  
2 **LESSER INCLUDED OFFENSES, AND**  
3 **ATTEMPTS.**

4 Section 879 of title 10, United States Code (article 79 of  
5 the Uniform Code of Military Justice), is amended to read as  
6 follows:

7 **“§879. Art. 79. Conviction of offense charged, lesser**  
8 **included offenses, and attempts**

9 “(a) IN GENERAL.—An accused may be found guilty of  
10 any of the following:

11 “(1) The offense charged.

12 “(2) A lesser included offense.

13 “(3) An attempt to commit the offense charged.

14 “(4) An attempt to commit a lesser included  
15 offense, if the attempt is an offense in its own right.

16 “(b) DEFINITION.—In this section (article), the term  
17 ‘lesser included offense’ means—

18 “(1) an offense that is necessarily included in the  
19 offense charged; and

1           “(2) any lesser included offense so designated by  
2           regulation prescribed by the President.

3           “(c) REGULATORY AUTHORITY.—Any designation of a  
4           lesser included offense in a regulation referred to in subsection  
5           (b) shall be reasonably included in the greater offense.”.

6           **SEC. 1003. SOLICITING COMMISSION OF OFFENSES.**

7           Section 882 of title 10, United States Code (article 82 of  
8           the Uniform Code of Military Justice), is amended to read as  
9           follows:

10          **“§882. Art. 82. Soliciting commission of offenses**

11           “(a) SOLICITING COMMISSION OF OFFENSES  
12           GENERALLY.—Any person subject to this chapter who solicits  
13           or advises another to commit an offense under this chapter  
14           (other than an offense specified in subsection (b)) shall be  
15           punished as a court-martial may direct.

16           “(b) SOLICITING DESERTION, MUTINY, SEDITION, OR  
17           MISBEHAVIOR BEFORE THE ENEMY.—Any person subject to this  
18           chapter who solicits or advises another to violate section 885 of

1 this title (article 85), section 894 of this title (article 94), or  
2 section 99 of this title (article 99)—

3 “(1) if the offense solicited or advised is attempted  
4 or is committed, shall be punished with the punishment  
5 provided for the commission of the offense; and

6 “(2) if the offense solicited or advised is not  
7 attempted or committed, shall be punished as a court-  
8 martial may direct.”.

9 **SEC. 1004. MALINGERING.**

10 Subchapter X of chapter 47 of title 10, United States  
11 Code, is amended by inserting after section 882 (article 82 of  
12 the Uniform Code of Military Justice), as amended by section  
13 1003, the following new section (article):

14 **“§883. Art. 83. Malingering**

15 “Any person subject to this chapter who, with the intent  
16 to avoid work, duty, or service—

17 “(1) feigns illness, physical disablement, mental  
18 lapse, or mental derangement; or

19 “(2) intentionally inflicts self-injury;

1 shall be punished as a court-martial may direct.”.

2 **SEC. 1005. BREACH OF MEDICAL QUARANTINE.**

3 Subchapter X of chapter 47 of title 10, United States  
4 Code, is amended by inserting after section 883 (article 83 of  
5 the Uniform Code of Military Justice), as added by section  
6 1004, the following new section (article):

7 **“§884. Art. 84. Breach of medical quarantine**

8 “Any person subject to this chapter—

9 “(1) who is ordered into medical quarantine by a  
10 person authorized to issue such order; and

11 “(2) who, with knowledge of the quarantine and  
12 the limits of the quarantine, goes beyond those limits  
13 before being released from the quarantine by proper  
14 authority;

15 shall be punished as a court-martial may direct.”.

1    **SEC. 1006. MISSING MOVEMENT; JUMPING FROM**  
2           **VESSEL.**

3           Section 887 of title 10, United States Code (article 87 of  
4    the Uniform Code of Military Justice), is amended to read as  
5    follows:

6    **“§887. Art. 87. Missing movement; jumping from vessel**

7           “(a) MISSING MOVEMENT.—Any person subject to this  
8    chapter who, through neglect or design, misses the movement  
9    of a ship, aircraft, or unit with which the person is required in  
10   the course of duty to move shall be punished as a court-martial  
11   may direct.

12          “(b) JUMPING FROM VESSEL INTO THE WATER.—Any  
13   person subject to this chapter who wrongfully and intentionally  
14   jumps into the water from a vessel in use by the armed forces  
15   shall be punished as a court-martial may direct.”.

16   **SEC. 1007. OFFENSES AGAINST CORRECTIONAL**  
17           **CUSTODY AND RESTRICTION.**

18          Subchapter X of chapter 47 of title 10, United States  
19   Code, is amended by inserting after section 887a (article 87a of

1 the Uniform Code of Military Justice), as transferred and  
2 redesignated by section 1001(2), the following new section  
3 (article):

4 **“§887b. Art. 87b. Offenses against correctional custody and**  
5 **restriction**

6 “(a) ESCAPE FROM CORRECTIONAL CUSTODY.—Any  
7 person subject to this chapter—

8 “(1) who is placed in correctional custody by a  
9 person authorized to do so;

10 “(2) who, while in correctional custody, is under  
11 physical restraint; and

12 “(3) who escapes from the physical restraint before  
13 being released from the physical restraint by proper  
14 authority;

15 shall be punished as a court-martial may direct.

16 “(b) BREACH OF CORRECTIONAL CUSTODY.—Any person  
17 subject to this chapter—

18 “(1) who is placed in correctional custody by a  
19 person authorized to do so;

1           “(2) who, while in correctional custody, is under  
2           restraint other than physical restraint; and

3           “(3) who goes beyond the limits of the restraint  
4           before being released from the correctional custody or  
5           relieved of the restraint by proper authority;

6           shall be punished as a court-martial may direct.

7           “(c) BREACH OF RESTRICTION.—Any person subject to  
8           this chapter—

9           “(1) who is ordered to be restricted to certain limits  
10          by a person authorized to do so; and

11          “(2) who, with knowledge of the limits of the  
12          restriction, goes beyond those limits before being  
13          released by proper authority;

14          shall be punished as a court-martial may direct.”.

1 **SEC. 1008. DISRESPECT TOWARD SUPERIOR**  
2 **COMMISSIONED OFFICER; ASSAULT OF**  
3 **SUPERIOR COMMISSIONED OFFICER.**

4 Section 889 of title 10, United States Code (article 89 of  
5 the Uniform Code of Military Justice), is amended to read as  
6 follows:

7 **“§889. Art. 89. Disrespect toward superior commissioned**  
8 **officer; assault of superior commissioned officer**

9 “(a) DISRESPECT.—Any person subject to this chapter  
10 who behaves with disrespect toward that person’s superior  
11 commissioned officer shall be punished as a court-martial may  
12 direct.

13 “(b) ASSAULT.—Any person subject to this chapter who  
14 strikes that person’s superior commissioned officer or draws or  
15 lifts up any weapon or offers any violence against that officer  
16 while the officer is in the execution of the officer’s office shall  
17 be punished—

1           “(1) if the offense is committed in time of war, by  
2           death or such other punishment as a court-martial may  
3           direct; and

4           “(2) if the offense is committed at any other time,  
5           by such punishment, other than death, as a court-martial  
6           may direct.”.

7   **SEC. 1009. WILLFULLY DISOBEYING SUPERIOR**  
8   **COMMISSIONED OFFICER.**

9           Section 890 of title 10, United States Code (article 90 of  
10   the Uniform Code of Military Justice), is amended to read as  
11   follows:

12   **“§890. Art. 90. Willfully disobeying superior commissioned**  
13   **officer**

14           “Any person subject to this chapter who willfully  
15   disobeys a lawful command of that person’s superior  
16   commissioned officer shall be punished—

17           “(1) if the offense is committed in time of war, by  
18           death or such other punishment as a court-martial may  
19           direct; and

1           “(2) if the offense is committed at any other time,  
2           by such punishment, other than death, as a court-martial  
3           may direct.”.

4   **SEC. 1010. PROHIBITED ACTIVITIES WITH**  
5           **MILITARY RECRUIT OR TRAINEE BY PERSON**  
6           **IN POSITION OF SPECIAL TRUST.**

7           Subchapter X of chapter 47 of title 10, United States  
8   Code, is amended by inserting after section 893 (article 93 of  
9   the Uniform Code of Military Justice), the following new  
10   section (article):

11   **“§893a. Art. 93a. Prohibited activities with military recruit**  
12           **or trainee by person in position of special trust**

13           “(a) ABUSE OF TRAINING LEADERSHIP POSITION.—Any  
14   person subject to this chapter—

15                   “(1) who is an officer, a noncommissioned officer,  
16                   or a petty officer;

17                   “(2) who is in a training leadership position with  
18                   respect to a specially protected junior member of the  
19                   armed forces; and

1           “(3) who engages in prohibited sexual activity with  
2           such specially protected junior member of the armed  
3           forces;  
4           shall be punished as a court-martial may direct.

5           “(b) ABUSE OF POSITION AS MILITARY RECRUITER.—Any  
6           person subject to this chapter—

7           “(1) who is a military recruiter and engages in  
8           prohibited sexual activity with an applicant for military  
9           service; or

10           “(2) who is a military recruiter and engages in  
11           prohibited sexual activity with a specially protected  
12           junior member of the armed forces who is enlisted under  
13           a delayed entry program;  
14           shall be punished as a court-martial may direct.

15           “(c) CONSENT.—Consent is not a defense for any conduct  
16           at issue in a prosecution under this section (article).

17           “(d) DEFINITIONS.—In this section (article):

1           “(1) SPECIALLY PROTECTED JUNIOR MEMBER OF THE  
2 ARMED FORCES.—The term ‘specially protected junior  
3 member of the armed forces’ means—

4           “(A) a member of the armed forces who is  
5 assigned to, or is awaiting assignment to, basic  
6 training or other initial active duty for training,  
7 including a member who is enlisted under a  
8 delayed entry program;

9           “(B) a member of the armed forces who is a  
10 cadet, a midshipman, an officer candidate, or a  
11 student in any other officer qualification program;  
12 and

13           “(C) a member of the armed forces in any  
14 program that, by regulation prescribed by the  
15 Secretary concerned, is identified as a training  
16 program for initial career qualification.

17           “(2) TRAINING LEADERSHIP POSITION.—The term  
18 ‘training leadership position’ means, with respect to a

1 specially protected junior member of the armed forces,  
2 any of the following:

3 “(A) Any drill instructor position or other  
4 leadership position in a basic training program, an  
5 officer candidate school, a reserve officers’  
6 training corps unit, a training program for entry  
7 into the armed forces, or any program that, by  
8 regulation prescribed by the Secretary concerned,  
9 is identified as a training program for initial career  
10 qualification.

11 “(B) Faculty and staff of the United States  
12 Military Academy, the United States Naval  
13 Academy, the United States Air Force Academy,  
14 and the United States Coast Guard Academy.

15 “(3) APPLICANT FOR MILITARY SERVICE.—The term  
16 ‘applicant for military service’ means a person who,  
17 under regulations prescribed by the Secretary concerned,  
18 is an applicant for original enlistment or appointment in  
19 the armed forces.

1           “(4) PROHIBITED SEXUAL ACTIVITY.—The term  
2           ‘prohibited sexual activity’ means, as specified in  
3           regulations prescribed by the Secretary concerned,  
4           inappropriate physical intimacy under circumstances  
5           described in such regulations.”.

6   **SEC. 1011. OFFENSES BY SENTINEL OR LOOKOUT.**

7           Section 895 of title 10, United States Code (article 95 of  
8           the Uniform Code of Military Justice), as transferred and  
9           redesignated by section 1001(8), is amended to read as follows:

10   **“§895. Art. 95. Offenses by sentinel or lookout**

11           “(a) DRUNK OR SLEEPING ON POST, OR LEAVING POST  
12           BEFORE BEING RELIEVED.—Any sentinel or lookout who is  
13           drunk on post, who sleeps on post, or who leaves post before  
14           being regularly relieved, shall be punished—

15                   “(1) if the offense is committed in time of war, by  
16           death or such other punishment as a court-martial may  
17           direct; and

1           “(2) if the offense is committed other than in time  
2           of war, by such punishment, other than death, as a court-  
3           martial may direct.

4           “(b) LOITERING OR WRONGFULLY SITTING ON POST.—  
5           Any sentinel or lookout who loiters or wrongfully sits down on  
6           post shall be punished as a court-martial may direct.”.

7           **SEC. 1012. DISRESPECT TOWARD SENTINEL OR**  
8           **LOOKOUT.**

9           Subchapter X of chapter 47 of title 10, United States  
10          Code, is amended by inserting after section 895 (article 95 of  
11          the Uniform Code of Military Justice), as amended by section  
12          1011, the following new section (article):

13          **“§895a. Art. 95a. Disrespect toward sentinel or lookout**

14          “(a) DISRESPECTFUL LANGUAGE TOWARD SENTINEL OR  
15          LOOKOUT.—Any person subject to this chapter who, knowing  
16          that another person is a sentinel or lookout, uses wrongful and  
17          disrespectful language that is directed toward and within the  
18          hearing of the sentinel or lookout, who is in the execution of

1 duties as a sentinel or lookout, shall be punished as a court-  
2 martial may direct.

3 “(b) DISRESPECTFUL BEHAVIOR TOWARD SENTINEL OR  
4 LOOKOUT.—Any person subject to this chapter who, knowing  
5 that another person is a sentinel or lookout, behaves in a  
6 wrongful and disrespectful manner that is directed toward and  
7 within the sight of the sentinel or lookout, who is in the  
8 execution of duties as a sentinel or lookout, shall be punished as  
9 a court-martial may direct.”.

10 **SEC. 1013. RELEASE OF PRISONER WITHOUT**  
11 **AUTHORITY; DRINKING WITH PRISONER.**

12 Section 896 of title 10, United States Code (article 96 of  
13 the Uniform Code of Military Justice), is amended to read as  
14 follows:

15 **“§896. Art. 96. Release of prisoner without authority;**  
16 **drinking with prisoner**

17 “(a) RELEASE OF PRISONER WITHOUT AUTHORITY.—Any  
18 person subject to this chapter—

1           “(1) who, without authority to do so, releases a  
2           prisoner; or

3           “(2) who, through neglect or design, allows a  
4           prisoner to escape;

5           shall be punished as a court-martial may direct, whether or not  
6           the prisoner was committed in strict compliance with the law.

7           “(b) DRINKING WITH PRISONER.—Any person subject to  
8           this chapter who unlawfully drinks any alcoholic beverage with  
9           a prisoner shall be punished as a court-martial may direct.”.

10   **SEC. 1014. PENALTY FOR ACTING AS A SPY.**

11           Section 903 of title 10, United States Code (article 103 of  
12           the Uniform Code of Military Justice), as transferred and  
13           redesignated by section 1001(7), is amended by inserting before  
14           the period at the end of the first sentence the following: “or  
15           such other punishment as a court-martial or a military  
16           commission may direct”.

17   **SEC. 1015. PUBLIC RECORDS OFFENSES.**

18           Subchapter X of chapter 47 of title 10, United States  
19           Code, is amended by inserting after section 903b (article 103b

1 of the Uniform Code of Military Justice), as redesignated by  
2 section 1001(5), the following new section (article):

3 **“§904. Art. 104. Public records offenses**

4 “Any person subject to this chapter who, willfully and  
5 unlawfully—

6 “(1) alters, conceals, removes, mutilates,  
7 obliterates, or destroys a public record; or

8 “(2) takes a public record with the intent to alter,  
9 conceal, remove, mutilate, obliterate, or destroy the  
10 public record;

11 shall be punished as a court-martial may direct.”.

12 **SEC. 1016. FALSE OR UNAUTHORIZED PASS**  
13 **OFFENSES.**

14 Subchapter X of chapter 47 of title 10, United States  
15 Code, is amended by inserting after section 905 (article 105 of  
16 the Uniform Code of Military Justice), as transferred and  
17 redesignated by section 1001(12), the following new section  
18 (article):

1    **“§905a. Art. 105a. False or unauthorized pass offenses**

2           “(a) WRONGFUL MAKING, ALTERING, ETC.—Any person  
3 subject to this chapter who, wrongfully and falsely, makes,  
4 alters, counterfeits, or tampers with a military or official pass,  
5 permit, discharge certificate, or identification card shall be  
6 punished as a court-martial may direct.

7           “(b) WRONGFUL SALE, ETC.—Any person subject to this  
8 chapter who wrongfully sells, gives, lends, or disposes of a  
9 false or unauthorized military or official pass, permit, discharge  
10 certificate, or identification card, knowing that the pass, permit,  
11 discharge certificate, or identification card is false or  
12 unauthorized, shall be punished as a court-martial may direct.

13           “(c) WRONGFUL USE OR POSSESSION.—Any person  
14 subject to this chapter who wrongfully uses or possesses a false  
15 or unauthorized military or official pass, permit, discharge  
16 certificate, or identification card, knowing that the pass, permit,  
17 discharge certificate, or identification card is false or  
18 unauthorized, shall be punished as a court-martial may direct.”.

1    **SEC. 1017. IMPERSONATION OFFENSES.**

2           Subchapter X of chapter 47 of title 10, United States  
3 Code, is amended by inserting after section 905a (article 105a  
4 of the Uniform Code of Military Justice), as added by section  
5 1016, the following new section (article):

6    **“§906. Art. 106. Impersonation of officer, noncommissioned**  
7           **or petty officer, or agent or official**

8           “(a) IN GENERAL.—Any person subject to this chapter  
9 who, wrongfully and willfully, impersonates—

10                   “(1) an officer, a noncommissioned officer, or a  
11 petty officer;

12                   “(2) an agent of superior authority of one of the  
13 armed forces; or

14                   “(3) an official of a government;

15 shall be punished as a court-martial may direct.

16           “(b) IMPERSONATION WITH INTENT TO DEFRAUD.—Any  
17 person subject to this chapter who, wrongfully, willfully, and  
18 with intent to defraud, impersonates any person referred to in

1 paragraph (1), (2), or (3) of subsection (a) shall be punished as a  
2 court-martial may direct.

3 “(c) IMPERSONATION OF GOVERNMENT OFFICIAL WITHOUT  
4 INTENT TO DEFRAUD.—Any person subject to this chapter who,  
5 wrongfully, willfully, and without intent to defraud,  
6 impersonates an official of a government by committing an act  
7 that exercises or asserts the authority of the office that the  
8 person claims to have shall be punished as a court-martial may  
9 direct.”.

#### 10 **SEC. 1018. INSIGNIA OFFENSES.**

11 Subchapter X of chapter 47 of title 10, United States  
12 Code, is amended by inserting after section 906 (article 106 of  
13 the Uniform Code of Military Justice), as added by section  
14 1017, the following new section (article):

15 **“§906a. Art. 106a. Wearing unauthorized insignia,  
16 decoration, badge, ribbon, device, or lapel button**

17 “Any person subject to this chapter—

18 “(1) who is not authorized to wear an insignia,  
19 decoration, badge, ribbon, device, or lapel button; and

1           “(2) who wrongfully wears such insignia,  
2           decoration, badge, ribbon, device, or lapel button upon  
3           the person’s uniform or civilian clothing;  
4           shall be punished as a court-martial may direct.”.

5           **SEC. 1019. FALSE OFFICIAL STATEMENTS; FALSE**  
6           **SWEARING.**

7           Section 907 of title 10, United States Code (article 107 of  
8           the Uniform Code of Military Justice), is amended to read as  
9           follows:

10          **“§907. Art. 107. False official statements; false swearing**

11           “(a) FALSE OFFICIAL STATEMENTS.—Any person subject  
12          to this chapter who, with intent to deceive—

13                   “(1) signs any false record, return, regulation,  
14                   order, or other official document, knowing it to be false;  
15                   or

16                   “(2) makes any other false official statement  
17                   knowing it to be false;  
18          shall be punished as a court-martial may direct.

1           “(b) FALSE SWEARING.—Any person subject to this  
2 chapter—

3                   “(1) who takes an oath that—

4                           “(A) is administered in a matter in which  
5                           such oath is required or authorized by law; and

6                           “(B) is administered by a person with  
7                           authority to do so; and

8                   “(2) who, upon such oath, makes or subscribes to a  
9           statement;

10 if the statement is false and at the time of taking the oath, the  
11 person does not believe the statement to be true, shall be  
12 punished as a court-martial may direct.”.

13 **SEC. 1020. PAROLE VIOLATION.**

14           Subchapter X of chapter 47 of title 10, United States  
15 Code, is amended by inserting after section 907 (article 107 of  
16 the Uniform Code of Military Justice), as amended by section  
17 1019, the following new section (article):

**“§907a. Art. 107a. Parole violation**

18           “Any person subject to this chapter—

1           “(1) who, having been a prisoner as the result of a  
2           court-martial conviction or other criminal proceeding, is  
3           on parole with conditions; and

4           “(2) who violates the conditions of parole;  
5           shall be punished as a court-martial may direct.”.

6           **SEC. 1021. WRONGFUL TAKING, OPENING, ETC. OF**  
7           **MAIL MATTER**

8           Subchapter X of chapter 47 of title 10, United States  
9           Code, is amended by inserting after section 909 (article 109 of  
10          the Uniform Code of Military Justice), the following new  
11          section (article):

12          **“§909a. Art. 109a. Mail matter: wrongful taking, opening,**  
13          **etc.**

14          “(a) TAKING.—Any person subject to this chapter who,  
15          with the intent to obstruct the correspondence of, or to pry into  
16          the business or secrets of, any person or organization,  
17          wrongfully takes mail matter before the mail matter is delivered  
18          to or received by the addressee shall be punished as a court-  
19          martial may direct.

1           “(b) OPENING, SECRETING, DESTROYING, STEALING.—  
2 Any person subject to this chapter who wrongfully opens,  
3 secretes, destroys, or steals mail matter before the mail matter is  
4 delivered to or received by the addressee shall be punished as a  
5 court-martial may direct.”.

6       **SEC. 1022. IMPROPER HAZARDING OF VESSEL OR**  
7           **AIRCRAFT.**

8           Section 910 of title 10, United States Code (article 110 of  
9 the Uniform Code of Military Justice), is amended to read as  
10 follows:

11       **“§910. Art. 110. Improper hazarding of vessel or aircraft**

12           “(a) WILLFUL AND WRONGFUL HAZARDING.—Any person  
13 subject to this chapter who, willfully and wrongfully, hazards or  
14 suffers to be hazarded any vessel or aircraft of the armed forces  
15 shall be punished by death or such other punishment as a court-  
16 martial may direct.

17           “(b) NEGLIGENT HAZARDING.—Any person subject to  
18 this chapter who negligently hazards or suffers to be hazarded

1 any vessel or aircraft of the armed forces shall be punished as a  
2 court-martial may direct.”.

3 **SEC. 1023. LEAVING SCENE OF VEHICLE ACCIDENT.**

4 Subchapter X of chapter 47 of title 10, United States  
5 Code, is amended by inserting after section 910 (article 110 of  
6 the Uniform Code of Military Justice), as amended by section  
7 1022, the following new section (article):

8 **“§911. Art. 111. Leaving scene of vehicle accident**

9 “(a) DRIVER.—Any person subject to this chapter—

10 “(1) who is the driver of a vehicle that is involved  
11 in an accident that results in personal injury or property  
12 damage; and

13 “(2) who wrongfully leaves the scene of the  
14 accident—

15 “(A) without providing assistance to an  
16 injured person; or

17 “(B) without providing personal  
18 identification to others involved in the accident or  
19 to appropriate authorities;

1 shall be punished as a court-martial may direct.

2 “(b) SENIOR PASSENGER.—Any person subject to this  
3 chapter—

4 “(1) who is a passenger in a vehicle that is  
5 involved in an accident that results in personal injury or  
6 property damage;

7 “(2) who is the superior commissioned or  
8 noncommissioned officer of the driver of the vehicle or is  
9 the commander of the vehicle; and

10 “(3) who wrongfully and unlawfully orders,  
11 causes, or permits the driver to leave the scene of the  
12 accident—

13 “(A) without providing assistance to an  
14 injured person; or

15 “(B) without providing personal  
16 identification to others involved in the accident or  
17 to appropriate authorities;

18 shall be punished as a court-martial may direct.”.

1 **SEC. 1024. DRUNKENNESS AND OTHER**  
2 **INCAPACITATION OFFENSES.**

3 Section 912 of title 10, United States Code (article 112 of  
4 the Uniform Code of Military Justice), is amended to read as  
5 follows:

6 **“§912. Art. 112. Drunkenness and other incapacitation**  
7 **offenses**

8 “(a) DRUNK ON DUTY.—Any person subject to this  
9 chapter who is drunk on duty shall be punished as a court-  
10 martial may direct.

11 “(b) INCAPACITATION FOR DUTY FROM DRUNKENNESS OR  
12 DRUG USE.—Any person subject to this chapter who, as a result  
13 of indulgence in any alcoholic beverage or any drug, is  
14 incapacitated for the proper performance of duty shall be  
15 punished as a court-martial may direct.

16 “(c) DRUNK PRISONER.—Any person subject to this  
17 chapter who is a prisoner and, while in such status, is drunk  
18 shall be punished as a court-martial may direct.”.

1    **SEC. 1025. LOWER BLOOD ALCOHOL CONTENT**  
2           **LIMITS FOR CONVICTION OF DRUNKEN OR**  
3           **RECKLESS OPERATION OF VEHICLE,**  
4           **AIRCRAFT, OR VESSEL.**

5           Subsection (b)(3) of section 913 of title 10, United States  
6 Code (article 113 of the Uniform Code of Military Justice), as  
7 transferred and redesignated by section 1001(9), is amended—

8                   (1) by striking “0.10 grams” both places it appears  
9                   and inserting “0.08 grams”; and

10                   (2) by adding at the end the following new  
11 sentence: “The Secretary may by regulation prescribe  
12 limits that are lower than the limits specified in the  
13 preceding sentence, if such lower limits are based on  
14 scientific developments, as reflected in Federal law of  
15 general applicability.”.

16    **SEC. 1026. ENDANGERMENT OFFENSES.**

17           Section 914 of title 10, United States Code (article 114 of  
18 the Uniform Code of Military Justice), is amended to read as  
19 follows:

1    **“§914. Art. 114. Endangerment offenses**

2           “(a) RECKLESS ENDANGERMENT.—Any person subject to  
3 this chapter who engages in conduct that—

4                   “(1) is wrongful and reckless or is wanton; and

5                   “(2) is likely to produce death or grievous bodily  
6 harm to another person;

7 shall be punished as a court-martial may direct.

8           “(b) DUELING.—Any person subject to this chapter—

9                   “(1) who fights or promotes, or is concerned in or  
10 connives at fighting a duel; or

11                   “(2) who, having knowledge of a challenge sent or  
12 about to be sent, fails to report the facts promptly to the  
13 proper authority;

14 shall be punished as a court-martial may direct.

15           “(c) FIREARM DISCHARGE, ENDANGERING HUMAN LIFE.—

16 Any person subject to this chapter who, willfully and wrongly,  
17 discharges a firearm, under circumstances such as to endanger  
18 human life shall be punished as a court-martial may direct.

1           “(d) CARRYING CONCEALED WEAPON.—Any person  
2 subject to this chapter who unlawfully carries a dangerous  
3 weapon concealed on or about his person shall be punished as a  
4 court-martial may direct.”.

5 **SEC. 1027. COMMUNICATING THREATS.**

6           Section 915 of title 10, United States Code (article 115 of  
7 the Uniform Code of Military Justice), is amended to read as  
8 follows:

9 **“§915. Art. 115. Communicating threats**

10           “(a) COMMUNICATING THREATS GENERALLY.—Any  
11 person subject to this chapter who wrongfully communicates a  
12 threat to injure the person, property, or reputation of another  
13 shall be punished as a court-martial may direct.

14           “(b) COMMUNICATING THREAT TO USE EXPLOSIVE,  
15 ETC.—Any person subject to this chapter who wrongfully  
16 communicates a threat to injure the person or property of  
17 another by use of (1) an explosive, (2) a weapon of mass  
18 destruction, (3) a biological or chemical agent, substance, or

1 weapon, or (4) a hazardous material, shall be punished as a  
2 court-martial may direct.

3           “(c) COMMUNICATING FALSE THREAT CONCERNING USE  
4 OF EXPLOSIVE, ETC.—Any person subject to this chapter who  
5 maliciously communicates a false threat concerning injury to  
6 the person or property of another by use of (1) an explosive, (2)  
7 a weapon of mass destruction, (3) a biological or chemical  
8 agent, substance, or weapon, or (4) a hazardous material, shall  
9 be punished as a court-martial may direct. As used in the  
10 preceding sentence, the term ‘false threat’ means a threat that,  
11 at the time the threat is communicated, is known to be false by  
12 the person communicating the threat.”

13 **SEC. 1028. TECHNICAL AMENDMENT RELATING TO**  
14 **MURDER.**

15           Section 918(4) of title 10, United States Code (article  
16 118(4) of the Uniform Code of Military Justice), is amended by  
17 striking “forcible sodomy,”.

1    **SEC. 1029. CHILD ENDANGERMENT.**

2           Subchapter X of chapter 47 of title 10, United States  
3 Code, is amended by inserting after section 919a (article 119a  
4 of the Uniform Code of Military Justice), the following new  
5 section (article):

6    **“§919b. Art. 119b. Child endangerment**

7           “Any person subject to this chapter—

8                   “(1) who has a duty for the care of a child under  
9 the age of 16 years; and

10                   “(2) who, through design or culpable negligence,  
11 endangers the child’s mental or physical health, safety, or  
12 welfare;

13 shall be punished as a court-martial may direct.”.

14    **SEC. 1030. DEFINITION OF SEXUAL ACT FOR RAPE**  
15           **AND SEXUAL ASSAULT OFFENSES.**

16           (a) RAPE AND SEXUAL ASSAULT GENERALLY.—Paragraph  
17 (1) of section 920(g) of title 10, United States Code (article  
18 120(g) of the Uniform Code of Military Justice), is amended to  
19 read as follows:

1           “(1) SEXUAL ACT.—The term ‘sexual act’ means—  
2                           “(A) contact between the penis and the  
3                           vulva or the penis and the anus, and for purpose of  
4                           this subparagraph contact involving the penis  
5                           occurs upon penetration, however slight;  
6                           “(B) contact between the mouth and the  
7                           penis, the mouth and the vulva, or the mouth and  
8                           the anus; or  
9                           “(C) the penetration, however slight, of the  
10                          anal or genital opening of another by a hand or  
11                          finger or by any object, with an intent to abuse,  
12                          humiliate, harass, degrade, or arouse or gratify the  
13                          sexual desire of any person.”.

14           (b) RAPE AND SEXUAL ASSAULT OF A CHILD.—Section  
15   920b of title 10, United States Code (article 120b of the  
16   Uniform Code of Military Justice), is amended in subsection  
17   (h)(1) by inserting before the period at the end the following:  
18   “, except that the term ‘sexual act’ also includes the intentional  
19   touching, not through the clothing, of the genitalia of another

1 person who has not attained the age of 16 years with an intent  
2 to abuse, humiliate, harass, degrade, or arouse or gratify the  
3 sexual desire of any person”.

4 **SEC. 1031. DEPOSIT OF OBSCENE MATTER IN THE**  
5 **MAIL.**

6 Subchapter X of chapter 47 of title 10, United States  
7 Code, is amended by inserting after section 920 (article 120 of  
8 the Uniform Code of Military Justice), the following new  
9 section (article):

10 **“§920a. Art. 120a. Mails: deposit of obscene matter**

11 “Any person subject to this chapter who, wrongfully and  
12 knowingly, deposits obscene matter for mailing and delivery  
13 shall be punished as a court-martial may direct.”.

14 **SEC. 1032. FRAUDULENT USE OF CREDIT CARDS,**  
15 **DEBIT CARDS, AND OTHER ACCESS DEVICES.**

16 Subchapter X of chapter 47 of title 10, United States  
17 Code, is amended by inserting after section 921 (article 121 of  
18 the Uniform Code of Military Justice), the following new  
19 section (article):

1    **“§921a. Art. 121a. Fraudulent use of credit cards, debit**  
2           **cards, and other access devices**

3           “(a) IN GENERAL.—Any person subject to this chapter  
4 who, with intent to defraud, uses—

5                 “(1) a stolen credit card, debit card, or other access  
6 device;

7                 “(2) a revoked, cancelled, or otherwise invalid credit  
8 card, debit card, or other access device; or

9                 “(3) a credit card, debit card, or other access device  
10 without the authorization of a person whose authorization  
11 is required for such use;

12 to obtain money, property, services, or anything else of value  
13 shall be punished as a court-martial may direct.

14           “(b) DEFINITION.—In this section (article), the term  
15 ‘access device’ has the meaning given that term in section 1029  
16 of title 18.”.

17    **SEC. 1033. FALSE PRETENSES TO OBTAIN SERVICES.**

18           Subchapter X of chapter 47 of title 10, United States  
19 Code, is amended by inserting after section 921a (article 121a

1 of the Uniform Code of Military Justice), as added by section  
2 1032, the following new section (article):

3 **“§921b. Art. 121b. False pretenses to obtain services**

4 “Any person subject to this chapter who, with intent to  
5 defraud, knowingly uses false pretenses to obtain services shall  
6 be punished as a court-martial may direct.”.

7 **SEC. 1034. ROBBERY.**

8 Section 922 of title 10, United States Code (article 122 of  
9 the Uniform Code of Military Justice), is amended to read as  
10 follows:

11 **“§922. Art. 122. Robbery**

12 “Any person subject to this chapter who takes anything  
13 of value from the person or in the presence of another, against  
14 his will, by means of force or violence or fear of immediate or  
15 future injury to his person or property or to the person or  
16 property of a relative or member of his family or of anyone in  
17 his company at the time of the robbery, is guilty of robbery and  
18 shall be punished as a court-martial may direct.”.

1    **SEC. 1035. RECEIVING STOLEN PROPERTY.**

2           Subchapter X of chapter 47 of title 10, United States  
3 Code, is amended by inserting after section 922 (article 122 of  
4 the Uniform Code of Military Justice), as amended by section  
5 1034, the following new section (article):

6    **“§922a. Art. 122a. Receiving stolen property**

7           “Any person subject to this chapter who wrongfully  
8 receives, buys, or conceals stolen property, knowing the  
9 property to be stolen property, shall be punished as a court-  
10 martial may direct.”.

11   **SEC. 1036. OFFENSES CONCERNING GOVERNMENT**  
12       **COMPUTERS.**

13           Subchapter X of chapter 47 of title 10, United States  
14 Code, is amended by inserting after section 922a (article 122a  
15 of the Uniform Code of Military Justice), as added by section  
16 1035, the following new section (article):

1   **“§923. Art. 123. Offenses concerning Government**  
2           **computers**

3           “(a) IN GENERAL.—Any person subject to this chapter  
4 who—

5                   “(1) knowingly accesses a Government computer,  
6 with an unauthorized purpose, and by doing so obtains  
7 classified information, with reason to believe such  
8 information could be used to the injury of the United  
9 States, or to the advantage of any foreign nation, and  
10 intentionally communicates, delivers, transmits, or  
11 causes to be communicated, delivered, or transmitted  
12 such information to any person not entitled to receive it;

13                   “(2) intentionally accesses a Government  
14 computer, with an unauthorized purpose, and thereby  
15 obtains classified or other protected information from  
16 any such Government computer; or

17                   “(3) knowingly causes the transmission of a  
18 program, information, code, or command, and as a

1 result of such conduct, intentionally causes damage  
2 without authorization, to a Government computer;  
3 shall be punished as a court-martial may direct.

4 “(b) DEFINITIONS.—In this section:

5 “(1) The term ‘computer’ has the meaning given  
6 that term in section 1030 of title 18.

7 “(2) The term ‘Government computer’ means a  
8 computer owned or operated by or on behalf of the  
9 United States Government.

10 “(3) The term ‘damage’ has the meaning given that  
11 term in section 1030 of title 18.”.

12 **SEC. 1037. BRIBERY.**

13 Subchapter X of chapter 47 of title 10, United States  
14 Code, is amended by inserting after section 924 (article 124 of  
15 the Uniform Code of Military Justice), as transferred and  
16 redesignated by section 1001(14), the following new section  
17 (article):

1    **“§924a. Art. 124a. Bribery**

2           “(a) ASKING, ACCEPTING, OR RECEIVING THING OF  
3 VALUE.—Any person subject to this chapter—

4                   “(1) who occupies an official position or who has  
5 official duties; and

6                   “(2) who wrongfully asks, accepts, or receives a  
7 thing of value with the intent to have the person’s  
8 decision or action influenced with respect to an official  
9 matter in which the United States is interested;

10 shall be punished as a court-martial may direct.

11           “(b) PROMISING, OFFERING, OR GIVING THING OF  
12 VALUE.—Any person subject to this chapter who wrongfully  
13 promises, offers, or gives a thing of value to another person,  
14 who occupies an official position or who has official duties,  
15 with the intent to influence the decision or action of the other  
16 person with respect to an official matter in which the United  
17 States is interested, shall be punished as a court-martial may  
18 direct.”.

1 **SEC. 1038. GRAFT.**

2 Subchapter X of chapter 47 of title 10, United States  
3 Code, is amended by inserting after section 924a (article 124a  
4 of the Uniform Code of Military Justice), as added by section  
5 1037, the following new section (article):

6 **“§924b. Art. 124b. Graft**

7 “(a) ASKING, ACCEPTING, OR RECEIVING THING OF  
8 VALUE.—Any person subject to this chapter—

9 “(1) who occupies an official position or who has  
10 official duties; and

11 “(2) who wrongfully asks, accepts, or receives a  
12 thing of value as compensation for or in recognition of  
13 services rendered or to be rendered by the person with  
14 respect to an official matter in which the United States is  
15 interested;

16 shall be punished as a court-martial may direct.

17 “(b) PROMISING, OFFERING, OR GIVING THING OF  
18 VALUE.—Any person subject to this chapter who wrongfully  
19 promises, offers, or gives a thing of value to another person,

1 who occupies an official position or who has official duties, as  
2 compensation for or in recognition of services rendered or to be  
3 rendered by the other person with respect to an official matter  
4 in which the United States is interested, shall be punished as a  
5 court-martial may direct.”.

6 **SEC. 1039. KIDNAPPING.**

7 Section 925 of title 10, United States Code (article 125 of  
8 the Uniform Code of Military Justice), is amended to read as  
9 follows:

10 **“§925. Art. 125. Kidnapping**

11 “Any person subject to this chapter who wrongfully—

12 “(1) seizes, confines, inveigles, decoys, or carries  
13 away another person; and

14 “(2) holds the other person against that person’s  
15 will;

16 shall be punished as a court-martial may direct.”.

1 **SEC. 1040. ARSON; BURNING PROPERTY WITH**  
2 **INTENT TO DEFRAUD.**

3 Section 926 of title 10, United States Code (article 126 of  
4 the Uniform Code of Military Justice), is amended to read as  
5 follows:

6 **“§926. Art. 126. Arson; burning property with intent to**  
7 **defraud**

8 “(a) AGGRAVATED ARSON.—Any person subject to this  
9 chapter who, willfully and maliciously, burns or sets on fire an  
10 inhabited dwelling, or any other structure, movable or  
11 immovable, wherein, to the knowledge of that person, there is  
12 at the time a human being, is guilty of aggravated arson and  
13 shall be punished as a court-martial may direct.

14 “(b) SIMPLE ARSON.—Any person subject to this chapter  
15 who, willfully and maliciously, burns or sets fire to the property  
16 of another is guilty of simple arson and shall be punished as a  
17 court-martial may direct.

18 “(c) BURNING PROPERTY WITH INTENT TO DEFRAUD.—  
19 Any person subject to this chapter who, willfully, maliciously,

1 and with intent to defraud, burns or sets fire to any property  
2 shall be punished as a court-martial may direct.”.

3 **SEC. 1041. ASSAULT.**

4 Section 928 of title 10, United States Code (article 128 of  
5 the Uniform Code of Military Justice), is amended to read as  
6 follows:

7 **“§928. Art. 128. Assault**

8 “(a) ASSAULT.—Any person subject to this chapter who,  
9 unlawfully and with force or violence—

10 “(1) attempts to do bodily harm to another person;

11 “(2) offers to do bodily harm to another person; or

12 “(3) does bodily harm to another person;

13 is guilty of assault and shall be punished as a court-martial may  
14 direct.

15 “(b) AGGRAVATED ASSAULT.—Any person subject to this  
16 chapter—

17 “(1) who, with the intent to do bodily harm, offers  
18 to do bodily harm with a dangerous weapon; or

1           “(2) who, in committing an assault, inflicts  
2           substantial bodily harm, or grievous bodily harm on  
3           another person;  
4           is guilty of aggravated assault and shall be punished as a court-  
5           martial may direct.

6           “(c) ASSAULT WITH INTENT TO COMMIT SPECIFIED  
7           OFFENSES.—

8           “(1) IN GENERAL.—Any person subject to this  
9           chapter who commits assault with intent to commit an  
10          offense specified in paragraph (2) shall be punished as a  
11          court-martial may direct.

12          “(2) OFFENSES SPECIFIED.—The offenses referred  
13          to in paragraph (1) are murder, voluntary manslaughter,  
14          rape, sexual assault, rape of a child, sexual assault of a  
15          child, robbery, arson, burglary, and kidnapping.”.

16       **SEC. 1042. BURGLARY AND UNLAWFUL ENTRY.**

17          Section 929 of title 10, United States Code (article 129 of  
18          the Uniform Code of Military Justice), and section 929a of such

1 title (article 129a), as redesignated by section 1001(10), are  
2 amended to read as follows:

3 **“§929. Art. 129. Burglary; unlawful entry**

4 “(a) BURGLARY.—Any person subject to this chapter  
5 who, with intent to commit an offense under this chapter,  
6 breaks and enters the building or structure of another shall be  
7 punished as a court-martial may direct.

8 “(b) UNLAWFUL ENTRY.—Any person subject to this  
9 chapter who unlawfully enters—

10 “(1) the real property of another; or

11 “(2) the personal property of another which  
12 amounts to a structure usually used for habitation or  
13 storage;

14 shall be punished as a court-martial may direct.”.

15 **SEC. 1043. STALKING.**

16 Section 930 of title 10, United States Code (article 130 of  
17 the Uniform Code of Military Justice), as transferred and  
18 redesignated by section 1001(11), is amended to read as  
19 follows:

1    **“930. Art. 130. Stalking**

2           “(a) IN GENERAL.—Any person subject to this chapter—

3                   “(1) who wrongfully engages in a course of  
4           conduct directed at a specific person that would cause a  
5           reasonable person to fear death or bodily harm, including  
6           sexual assault, to himself or herself, to a member of his  
7           or her immediate family, or to his or her intimate partner;

8                   “(2) who has knowledge, or should have  
9           knowledge, that the specific person will be placed in  
10          reasonable fear of death or bodily harm, including sexual  
11          assault, to himself or herself, to a member of his or her  
12          immediate family, or to his or her intimate partner; and

13                  “(3) whose conduct induces reasonable fear in the  
14          specific person of death or bodily harm, including sexual  
15          assault, to himself or herself, to a member of his or her  
16          immediate family, or to his or her intimate partner;

17    is guilty of stalking and shall be punished as a court-martial  
18    may direct.

19           “(b) DEFINITIONS.—In this section:

1           “(1) The term ‘conduct’ means conduct of any  
2           kind, including use of surveillance, the mails, an  
3           interactive computer service, an electronic  
4           communication service, or an electronic communication  
5           system.

6           “(2) The term ‘course of conduct’ means—

7                   “(A) a repeated maintenance of visual or  
8                   physical proximity to a specific person;

9                   “(B) a repeated conveyance of verbal threat,  
10                  written threats, or threats implied by conduct, or a  
11                  combination of such threats, directed at or toward  
12                  a specific person; or

13                  “(C) a pattern of conduct composed of  
14                  repeated acts evidencing a continuity of purpose.

15           “(3) The term ‘repeated’, with respect to conduct,  
16           means two or more occasions of such conduct.

17           “(4) The term ‘immediate family’, in the case of a  
18           specific person, means—

1                   “(A) that person’s spouse, parent, brother or  
2                   sister, child, or other person to whom he or she  
3                   stands in loco parentis; or

4                   “(B) any other person living in his or her  
5                   household and related to him or her by blood or  
6                   marriage.

7                   “(5) The term ‘intimate partner’ in the case of a  
8                   specific person, means—

9                   “(A) a former spouse of the specific person,  
10                  a person who shares a child in common with the  
11                  specific person, or a person who cohabits with or  
12                  has cohabited as a spouse with the specific person;  
13                  or

14                  “(B) a person who has been in a social  
15                  relationship of a romantic or intimate nature with  
16                  the specific person, as determined by the length of  
17                  the relationship, the type of relationship, and the  
18                  frequency of interaction between the persons  
19                  involved in the relationship.”.

1    **SEC. 1044. SUBORNATION OF PERJURY.**

2           Subchapter X of chapter 47 of title 10, United States  
3 Code, is amended by inserting after section 931 (article 131 of  
4 the Uniform Code of Military Justice), the following new  
5 section (article):

6    **“§931a. Art. 131a. Subornation of perjury**

7           “(a) IN GENERAL.—Any person subject to this chapter  
8 who induces and procures another person—

9                   “(1) to take an oath; and

10                   “(2) to falsely testify, depose, or state upon such  
11 oath;

12 shall, if the conditions specified in subsection (b) are satisfied,  
13 be punished as a court-martial may direct.

14           “(b) CONDITIONS.—The conditions referred to in  
15 subsection (a) are the following:

16                   “(1) The oath is administered with respect to a  
17 matter for which such oath is required or authorized by  
18 law.

1           “(2) The oath is administered by a person having  
2 authority to do so.

3           “(3) Upon the oath, the other person willfully  
4 makes or subscribes a statement.

5           “(4) The statement is material.

6           “(5) The statement is false.

7           “(6) When the statement is made or subscribed, the  
8 person subject to this chapter and the other person do not  
9 believe that the statement is true.”.

10 **SEC. 1045. OBSTRUCTING JUSTICE.**

11           Subchapter X of chapter 47 of title 10, United States  
12 Code, is amended by inserting after section 931a (article 131a  
13 of the Uniform Code of Military Justice), as added by section  
14 1044, the following new section (article):

15 **“§931b. Art. 131b. Obstructing justice**

16           “Any person subject to this chapter who engages in  
17 conduct in the case of a certain person against whom the  
18 accused had reason to believe there were or would be criminal  
19 or disciplinary proceedings pending, with intent to influence,

1 impede, or otherwise obstruct the due administration of justice  
2 shall be punished as a court-martial may direct.”.

3 **SEC. 1046. MISPRISION OF SERIOUS OFFENSE.**

4 Subchapter X of chapter 47 of title 10, United States  
5 Code, is amended by inserting after section 931b (article 131b  
6 of the Uniform Code of Military Justice), as added by section  
7 1045, the following new section (article):

8 **“§931c. Art. 131c. Misprison of serious offense**

9 “(a) IN GENERAL.—Any person subject to this chapter—

10 “(1) who knows that another person has committed  
11 a serious offense; and

12 “(2) wrongfully conceals the commission of the  
13 offense and fails to make the commission of the offense  
14 known to civilian or military authorities as soon as  
15 possible;

16 shall be punished as a court-martial may direct.”.

17 **SEC. 1047. WRONGFUL REFUSAL TO TESTIFY.**

18 Subchapter X of chapter 47 of title 10, United States  
19 Code, is amended by inserting after section 931c (article 131c

1 of the Uniform Code of Military Justice), as added by section  
2 1046, the following new section (article):

3 **“§931d. Art. 131d. Wrongful refusal to testify**

4 “Any person subject to this chapter who, in the presence  
5 of a court-martial, a board of officers, a military commission, a  
6 court of inquiry, preliminary hearing, or an officer taking a  
7 deposition, of or for the United States, wrongfully refuses to  
8 qualify as a witness or to answer a question after having been  
9 directed to do so by the person presiding shall be punished as a  
10 court-martial may direct.”.

11 **SEC. 1048. PREVENTION OF AUTHORIZED SEIZURE**  
12 **OF PROPERTY.**

13 Subchapter X of chapter 47 of title 10, United States  
14 Code, is amended by inserting after section 931d (article 131d  
15 of the Uniform Code of Military Justice), as added by section  
16 1047, the following new section (article):

1    **“§931e. Art. 131e. Prevention of authorized seizure of**  
2            **property**

3            “Any person subject to this chapter who, knowing that  
4 one or more persons authorized to make searches and seizures  
5 are seizing, are about to seize, or are endeavoring to seize  
6 property, destroys, removes, or otherwise disposes of the  
7 property with intent to prevent the seizure thereof shall be  
8 punished as a court-martial may direct.”.

9    **SEC. 1049. WRONGFUL INTERFERENCE WITH**  
10            **ADVERSE ADMINISTRATIVE PROCEEDING.**

11            Subchapter X of chapter 47 of title 10, United States  
12 Code, is amended by inserting after section 931f (article 131f of  
13 the Uniform Code of Military Justice), as transferred and  
14 redesignated by section 1001(3), the following new section  
15 (article):

16    **“§931g. Art. 131g. Wrongful interference with adverse**  
17            **administrative proceeding**

18            “Any person subject to this chapter who, having reason  
19 to believe that an adverse administrative proceeding is pending

1 against any person subject to this chapter, wrongfully acts with  
2 the intent—

3 “(1) to influence, impede, or obstruct the conduct  
4 of the proceeding; or

5 “(2) otherwise to obstruct the due administration of  
6 justice;

7 shall be punished as a court-martial may direct.”.

8 **SEC. 1050. RETALIATION.**

9 Subchapter X of chapter 47 of title 10, United States  
10 Code, is amended by inserting after section 931g (article 131g  
11 of the Uniform Code of Military Justice), as added by section  
12 1049, the following new section (article):

13 **“§932. Art. 132. Retaliation**

14 “Any person subject to this chapter who, with the intent  
15 to retaliate against any person for reporting or planning to  
16 report a criminal offense, or with the intent to discourage any  
17 person from reporting a criminal offense—

18 “(1) wrongfully takes or threatens to take an  
19 adverse personnel action against any person; or

1           “(2) wrongfully withholds or threatens to withhold  
2           a favorable personnel action with respect to any person;  
3           shall be punished as a court-martial may direct.”.

4           **SEC. 1051. EXTRATERRITORIAL APPLICATION OF**  
5           **CERTAIN OFFENSES.**

6           Section 934 of title 10, United States Code (article 134 of  
7           the Uniform Code of Military Justice), is amended by adding at  
8           the end the following new sentence: “As used in the preceding  
9           sentence, the term ‘crimes and offenses not capital’ includes  
10          any conduct engaged in outside the United States, as defined in  
11          section 5 of title 18, that would constitute a crime or offense not  
12          capital if the conduct had been engaged in within the special  
13          maritime and territorial jurisdiction of the United States, as  
14          defined in section 7 of title 18.”.

15          **SEC. 1052. TABLE OF SECTIONS.**

16          The table of sections at the beginning of subchapter X of  
17          chapter 47 of title 10, United States Code, is amended to read as  
18          follows:

                                  “SUBCHAPTER X—PUNITIVE ARTICLES

“Sec.	Art.	
“877.	77.	Principals.
“878.	78.	Accessory after the fact.
“879.	79.	Conviction of offense charged, lesser included offenses, and attempts.
“880.	80.	Attempts.
“881.	81.	Conspiracy.
“882.	82.	Soliciting commission of offenses.
“883.	83.	Malingering.
“884.	84.	Breach of medical quarantine.
“885.	85.	Desertion.
“886.	86.	Absence without leave.
“887.	87.	Missing movement; jumping from vessel.
“887a.	87a.	Resistance, flight, breach of arrest, and escape.
“887b.	87b.	Offenses against correctional custody and restriction.
“888.	88.	Contempt toward officials.
“889.	89.	Disrespect toward superior commissioned officer; assault of superior commissioned officer.
“890.	90.	Willfully disobeying superior commissioned officer.
“891.	91.	Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer.
“892.	92.	Failure to obey order or regulation.
“893.	93.	Cruelty and maltreatment.
“893a.	93a.	Prohibited activities with military recruit or trainee by person in position of special trust.
“894.	94.	Mutiny or sedition.
“895.	95.	Offenses by sentinel or lookout.
“895a.	95a.	Disrespect toward sentinel or lookout.
“896.	96.	Release of prisoner without authority; drinking with prisoner.
“897.	97.	Unlawful detention.
“898.	98.	Misconduct as prisoner.
“899.	99.	Misbehavior before the enemy.
“900.	100.	Subordinate compelling surrender.
“901.	101.	Improper use of countersign.
“902.	102.	Forcing a safeguard.
“903.	103.	Spies.
“903a.	103a.	Espionage.
“903b.	103b.	Aiding the enemy.
“904.	104.	Public records offenses.
“904a.	104a.	Fraudulent enlistment, appointment, or separation.

“904b.	104b.	Unlawful enlistment, appointment, or separation.
“905.	105.	Forgery.
“905a.	105a.	False or unauthorized pass offenses.
“906.	106.	Impersonation of officer, noncommissioned or petty officer, or agent or official
“906a.	106a.	Wearing unauthorized insignia, decoration, badge, ribbon, device, or lapel button.
“907.	107.	False official statements; false swearing.
“907a.	107a.	Parole violation.
“908	108	Military property of United States—Loss, damage, destruction, or wrongful, disposition.
“908a.	108a.	Captured or abandoned property.
“909.	109.	Property other than military property of United States— Waste, spoilage, or destruction.
“909a.	109a.	Mail matter: wrongful taking, opening, etc.
“910.	110.	Improper hazarding of vessel or aircraft.
“911.	111.	Leaving scene of vehicle accident.
“912.	112.	Drunkenness and other incapacitation offenses.
“912a.	112a.	Wrongful use, possession, etc., of controlled substances.
“913.	113.	Drunken or reckless operation of vehicle, aircraft, or vessel.
“914.	114.	Endangerment offenses.
“915.	115.	Communicating threats.
“916.	116.	Riot or breach of peace.
“917.	117.	Provoking speeches or gestures.
“918.	118.	Murder.
“919.	119.	Manslaughter.
“919a.	119a.	Death or injury of an unborn child.
“919b.	119b.	Child endangerment.
“920.	120.	Rape and sexual assault generally.
“920a.	120a.	Mails: deposit of obscene matter.
“920b.	120b.	Rape and sexual assault of a child.
“920c.	120c.	Other sexual misconduct.
“921.	121.	Larceny and wrongful appropriation.
“921a.	121a.	Fraudulent use of credit cards, debit cards, and other access devices.
“921b.	121b.	False pretenses to obtain services.
“922.	122.	Robbery.
“922a.	122a.	Receiving stolen property.
“923.	123.	Offenses concerning Government computers.
“923a.	123a.	Making, drawing, or uttering check, draft, or order without sufficient funds.
“924.	124.	Frauds against the United States.

“924a.	124a.	Bribery.
“924b.	124b.	Graft.
“925.	125.	Kidnapping.
“926.	126.	Arson; burning property with intent to defraud.
“927.	127.	Extortion.
“928.	128.	Assault.
“928a.	128a.	Maiming.
“929.	129.	Burglary; unlawful entry.
“930.	130.	Stalking.
“931.	131.	Perjury.
“931a.	131a.	Subornation of perjury.
“931b.	131b.	Obstructing justice.
“931c.	131c.	Misprision of serious offense.
“931d.	131d.	Wrongful refusal to testify.
“931e.	131e.	Prevention of authorized seizure of property.
“931f.	131f.	Noncompliance with procedural rules.
“931g.	131g.	Wrongful interference with adverse administrative proceeding.
“932.	132.	Retaliation.
“933.	133.	Conduct unbecoming an officer and a gentleman.
“934.	134.	General article.”.

1       **TITLE XI—MISCELLANEOUS PROVISIONS**

2       **SEC. 1101. TECHNICAL AMENDMENT RELATING TO**  
3       **COURTS OF INQUIRY.**

4           Section 935(c) of title 10, United States Code (article  
5       135(c) of the Uniform Code of Military Justice), is amended—

6                   (1) by striking “(c) Any person” and inserting  
7       “(c)(1) Any person”;

1           (2) by designating the second and third sentences  
2 as paragraphs (2) and (3), respectively; and

3           (3) in paragraph (2), as so designated, by striking  
4 “subject to this chapter or employed by the Department  
5 of Defense” and inserting “who is (A) subject to this  
6 chapter, (B) employed by the Department of Defense, or  
7 (C) employed by the Department of Homeland Security  
8 with respect to the Coast Guard when it is not operating  
9 as a service in the Navy, and”.

10 **SEC. 1102. TECHNICAL AMENDMENT TO ARTICLE**  
11 **136.**

12           Section 936 of title 10, United States Code (article 136 of  
13 the Uniform Code of Military Justice), is amended by striking  
14 the last five words in the section heading.

15 **SEC. 1103. ARTICLES OF UNIFORM CODE OF**  
16 **MILITARY JUSTICE TO BE EXPLAINED TO**  
17 **OFFICERS UPON COMMISSIONING.**

18           Section 937 of title 10, United States Code (article 137 of  
19 the Uniform Code of Military Justice), is amended—

1           (1) in subsection (a), by striking “(a)(1) The  
2 sections of this title (articles of the Uniform Code of  
3 Military Justice)” and inserting “(a) ENLISTED  
4 MEMBERS.—(1) The sections (articles) of this chapter  
5 (the Uniform Code of Military Justice)”;

6           (2) by striking subsection (b); and

7           (3) by inserting after subsection (a) the following  
8 new subsections:

9           “(b) OFFICERS.—(1) The sections (articles) of this  
10 chapter (the Uniform Code of Military Justice) specified in  
11 paragraph (2) shall be carefully explained to each officer at the  
12 time of (or within six months after)—

13           “(A) the initial entrance of the officer on active  
14 duty as an officer; or

15           “(B) the initial commissioning of the officer in a  
16 reserve component.

17           “(2) This subsection applies with respect to the sections  
18 (articles) specified in subsection (a)(3) and such other sections

1 (articles) as the Secretary concerned may prescribe by  
2 regulation.

3       “(c) TRAINING FOR CERTAIN OFFICERS.—Under  
4 regulations prescribed by the Secretary concerned, officers with  
5 the authority to convene courts-martial or to impose non-  
6 judicial punishment shall receive periodic training regarding the  
7 purposes and administration of this chapter. Under regulations  
8 prescribed by the Secretary of Defense, officers assigned to  
9 duty in a combatant command, who have such authority, shall  
10 receive additional specialized training regarding the purposes  
11 and administration of this chapter.

12       “(d) AVAILABILITY AND MAINTENANCE OF TEXT.—The  
13 text of this chapter (the Uniform Code of Military Justice) and  
14 the text of the regulations prescribed by the President under this  
15 chapter shall be—

16               “(1) made available to a member on active duty or  
17               to a member of a reserve component, upon request by the  
18               member, for the member’s personal examination; and

1           “(2) maintained by the Secretary of Defense in  
2           electronic formats that are updated periodically and made  
3           available on the Internet.”.

4   **SEC. 1104. MILITARY JUSTICE CASE MANAGEMENT;**  
5           **DATA COLLECTION AND ACCESSIBILITY.**

6           (a) IN GENERAL.—Subchapter XI of chapter 47 of title  
7   10, United States Code (the Uniform Code of Military Justice),  
8   is amended by adding at the end the following new section  
9   (article):

10   **“§940a. Art. 140a. Case management; data collection and**  
11           **accessibility**

12           “The Secretary of Defense shall prescribe uniform  
13   standards and criteria for conduct of each of the following  
14   functions at all stages of the military justice system, including  
15   pretrial, trial, post-trial, and appellate processes, using, insofar  
16   as practicable, the best practices of Federal and State courts:

17           “(1) Collection and analysis of data concerning  
18           substantive offenses and procedural matters in a manner  
19           that facilitates case management and decision making

1 within the military justice system, and that enhances the  
2 quality of periodic reviews under section 946 of this title  
3 (article 146).

4 “(2) Case processing and management.

5 “(3) Timely, efficient, and accurate production and  
6 distribution of records of trial within the military justice  
7 system.

8 “(4) Facilitation of access to docket information,  
9 filings, and records, taking into consideration restrictions  
10 appropriate to judicial proceedings and military  
11 records.”.

12 (b) EFFECTIVE DATES.—(1) Not later than 2 years after  
13 the date of the enactment of this Act, the Secretary of Defense  
14 shall carry out section 940a of title 10, United States Code  
15 (article 140a of the Uniform Code of Military Justice), as added  
16 by subsection (a).

17 (2) Not later than 4 years after the date of the enactment  
18 of this Act, the standards and criteria under section 940a of title

1 10, United States Code (article 140a of the Uniform Code of  
2 Military Justice), as added by subsection (a), shall take effect.

3 **TITLE XII—MILITARY JUSTICE REVIEW**

4 **PANEL AND ANNUAL REPORTS**

5 **SEC. 1201. MILITARY JUSTICE REVIEW PANEL.**

6 Section 946 of title 10, United States Code (article 146 of  
7 the Uniform Code of Military Justice), is amended to read as  
8 follows:

9 **“§946. Art. 146. Military Justice Review Panel**

10 “(a) ESTABLISHMENT.—The Secretary of Defense shall  
11 establish a panel to conduct independent periodic reviews and  
12 assessments of the operation of this chapter. The panel shall be  
13 known as the ‘Military Justice Review Panel’, in this section  
14 referred to as the ‘Panel’.

15 “(b) MEMBERS.—(1) The Panel shall be composed of  
16 thirteen members.

17 “(2) Each of the following shall select one member of the  
18 Panel:

1           “(A) The Secretary of Defense (in consultation  
2 with the Secretary of Homeland Security).

3           “(B) The Attorney General.

4           “(C) The Judge Advocates General of the Army,  
5 Navy, Air Force, and Coast Guard, and the Staff Judge  
6 Advocate to the Commandant of the Marine Corps.

7           “(3) The Secretary of Defense shall select the remaining  
8 members of the Panel, taking into consideration  
9 recommendations made by each of the following:

10           “(A) The chairman and ranking minority member  
11 of the Committee on Armed Services of the Senate and  
12 the Committee on Armed Services of the House of  
13 Representatives.

14           “(B) The Chief Justice of the United States.

15           “(C) The Chief Judge of the United States Court of  
16 Appeals for the Armed Forces.

17           “(c) QUALIFICATIONS OF MEMBERS.—The members of  
18 the Panel shall be appointed from among private United States  
19 citizens with expertise in criminal law, as well as appropriate

1 and diverse experience in investigation, prosecution, defense,  
2 victim representation, or adjudication with respect to courts-  
3 martial, Federal civilian courts, or State courts.

4 “(d) CHAIR.—The Secretary of Defense shall select the  
5 chair of the Panel from among the members.

6 “(e) TERM; VACANCIES.—Each member shall be  
7 appointed for a term of eight years, and no member may serve  
8 more than one term. Any vacancy shall be filled in the same  
9 manner as the original appointment.

10 “(f) REVIEWS AND REPORTS.—

11 “(1) INITIAL REVIEW OF RECENT AMENDMENTS TO  
12 UCMJ.—During fiscal year 2020, the Panel shall conduct  
13 an initial review and assessment of the implementation of  
14 the amendments made to this chapter during the  
15 preceding five years. In conducting the initial review and  
16 assessment, the Panel may review such other aspects of  
17 the operation of this chapter as the Panel considers  
18 appropriate.

1           “(2) PERIODIC COMPREHENSIVE REVIEWS.—During  
2           fiscal year 2024 and every eight years thereafter, the  
3           Panel shall conduct a comprehensive review and  
4           assessment of the operation of this chapter.

5           “(3) PERIODIC INTERIM REVIEWS.—During fiscal  
6           year 2028 and every eight years thereafter, the Panel  
7           shall conduct an interim review and assessment of such  
8           other aspects of the operation of this chapter as the Panel  
9           considers appropriate. In addition, at the request of the  
10          Secretary of Defense, the Panel may, at any time, review  
11          and assess other specific matters relating to the operation  
12          of this chapter.

13          “(4) REPORTS.—Not later than December 31 of  
14          each year during which the Panel conducts a review and  
15          assessment under this subsection, the Panel shall submit a  
16          report on the results, including the Panel’s findings and  
17          recommendations, through the Secretary of Defense to  
18          the Committees on Armed Services of the Senate and the  
19          House of Representatives.

1           “(g) HEARINGS.—The Panel may hold such hearings, sit  
2 and act at such times and places, take such testimony, and  
3 receive such evidence as the Panel considers appropriate to  
4 carry out its duties under this section.

5           “(h) INFORMATION FROM FEDERAL AGENCIES.—Upon  
6 request of the chair of the Panel, a department or agency of the  
7 Federal Government shall provide information that the Panel  
8 considers necessary to carry out its duties under this section.

9           “(i) ADMINISTRATIVE MATTERS.—

10                   “(1) MEMBERS TO SERVE WITHOUT PAY.—Members  
11 of the Panel shall serve without pay, but shall be allowed  
12 travel expenses, including per diem in lieu of subsistence,  
13 at rates authorized for employees of agencies under  
14 subchapter I of chapter 57 of title 5, while away from  
15 their homes or regular places of business in the  
16 performance of services for the Panel.

17                   “(2) STAFFING AND RESOURCES.—The Secretary of  
18 Defense shall provide staffing and resources to support  
19 the Panel.

1           “(j) FEDERAL ADVISORY COMMITTEE ACT.—The Federal  
2 Advisory Committee Act (5 U.S.C. App.) shall not apply to the  
3 Panel.”.

4   **SEC. 1202. ANNUAL REPORTS.**

5           Subchapter XII of chapter 47 of title 10, United States  
6 Code (the Uniform Code of Military Justice), is amended by  
7 adding at the end the following new section (article):

8   **“§946a. Art. 146a. Annual reports**

9           “(a) COURT OF APPEALS FOR THE ARMED FORCES.—Not  
10 later than December 31 of each year, the Court of Appeals for  
11 the Armed Forces shall submit a report that, with respect to the  
12 previous fiscal year, provides information on the number and  
13 status of pending cases and such other matters as the Court  
14 considers appropriate regarding the operation of this chapter.

15           “(b) SERVICE REPORTS.—Not later than December 31 of  
16 each year, the Judge Advocates General and the Staff Judge  
17 Advocate to the Commandant of the Marine Corps shall each  
18 submit a report, with respect to the preceding fiscal year,  
19 containing the following:

1           “(1) Data on the number and status of pending  
2 cases.

3           “(2) Information on the appellate review process,  
4 including—

5                   “(A) information on compliance with  
6 processing time goals;

7                   “(B) descriptions of the circumstances  
8 surrounding cases in which general or special  
9 court-martial convictions were (i) reversed because  
10 of command influence or denial of the right to  
11 speedy review or (ii) otherwise remitted because of  
12 loss of records of trial or other administrative  
13 deficiencies; and

14                   “(C) an analysis of each case in which a  
15 provision of this chapter was held unconstitutional.

16           “(3)(A) An explanation of measures implemented  
17 by the armed force involved to ensure the ability of judge  
18 advocates—

1                   “(i) to participate competently as trial  
2                   counsel and defense counsel in cases under this  
3                   chapter;

4                   “(ii) to preside as military judges in cases  
5                   under this chapter; and

6                   “(iii) to perform the duties of Special  
7                   Victims’ Counsel, when so designated under  
8                   section 1044e of this title.

9                   “(B) The explanation under subparagraph (A) shall  
10                  specifically identify the measures that focus on capital  
11                  cases, national security cases, sexual assault cases, and  
12                  proceedings of military commissions.

13                  “(4) The independent views of each Judge  
14                  Advocate General and of the Staff Judge Advocate to the  
15                  Commandant of the Marine Corps as to the sufficiency of  
16                  resources available within the respective armed forces,  
17                  including total workforce, funding, training, and officer  
18                  and enlisted grade structure, to capably perform military  
19                  justice functions.

1           “(5) Such other matters regarding the operation of  
2           this chapter as may be appropriate.

3           “(c) SUBMISSION.—Each report under this section shall  
4           be submitted—

5                   “(1) to the Committee on Armed Services of the  
6           Senate and the Committee on Armed Services of the  
7           House of Representatives; and

8                   “(2) to the Secretary of Defense, the Secretaries of  
9           the military departments, and the Secretary of Homeland  
10          Security.”.

11       **TITLE XIII— CONFORMING AMENDMENTS**

12                   **AND EFFECTIVE DATES**

13       **SEC. 1301. AMENDMENTS TO UCMJ SUBCHAPTER**

14                   **TABLES OF SECTIONS.**

15           The tables of sections for the specified subchapters of  
16          chapter 47 of title 10, United States Code (the Uniform Code of  
17          Military Justice), are amended as follows:

1           (1) The table of sections at the beginning of  
2           subchapter II is amended by striking the item relating to  
3           section 810 and inserting the following new item:

“810. 10. Restraint of persons charged.”.

4           (2) The table of sections at the beginning of  
5           subchapter II, as amended by paragraph (1), is amended  
6           by striking the item relating to section 812 and inserting  
7           the following new item:

“812. 12. Prohibition of confinement of armed forces members with  
          enemy prisoners and certain others.”.

8           (3) The table of sections at the beginning of  
9           subchapter V is amended by striking the item relating to  
10          section 825a and inserting the following new item:

“825a. 25a. Number of court-martial members in capital cases.”.

11          (4) The table of sections at the beginning of  
12          subchapter V, as amended by paragraph (3), is amended  
13          by inserting after the item relating to section 826 the  
14          following new item:

“826a. 26a. Military magistrates.”.

1           (5) The table of sections at the beginning of  
2 subchapter V, as amended by paragraphs (3) and (4), is  
3 amended by striking the item relating to section 829 and  
4 inserting the following new item:

“829. 29.     Assembly and impaneling of members; detail of new members  
                  and military judges.”.

5           (6) The table of sections at the beginning of  
6 subchapter VI is amended by inserting after the item  
7 relating to section 830 the following new item:

“830a. 30a.   Proceedings conducted before referral.”.

8           (7) The table of sections at the beginning of  
9 subchapter VI, as amended by paragraph (6), is amended  
10 by striking the item relating to section 832 and inserting  
11 the following new item:

“832. 32.     Preliminary hearing required before referral to general court-  
                  martial.”.

12          (8) The table of sections at the beginning of  
13 subchapter VI, as amended by paragraphs (6) and (7), is  
14 amended by striking the item relating to section 833 and  
15 inserting the following new item:

“833. 33.     Disposition guidance.”.

1           (9) The table of sections at the beginning of  
2 subchapter VI, as amended by paragraphs (6), (7), and  
3 (8), is amended by striking the item relating to section  
4 834 and inserting the following new item:

“834. 34. Advice to convening authority before referral for trial.”

5           (10) The table of sections at the beginning of  
6 subchapter VI, as amended by paragraphs (6), (7), (8),  
7 and (9), is amended by striking the item relating to  
8 section 835 and inserting the following new item:

“835. 35. Service of charges; commencement of trial.”

9           (11) The table of sections at the beginning of  
10 subchapter VII is amended by striking the item relating to  
11 section 847 and inserting the following new item:

“847. 47. Refusal of person not subject to chapter to appear, testify, or  
produce evidence.”

12           (12) The table of sections at the beginning of  
13 subchapter VII, as amended by paragraph (11), is  
14 amended by striking the item relating to section 848 and  
15 inserting the following new item:

“848. 48. Contempt.”

1           (13) The table of sections at the beginning of  
2           subchapter VII, as amended by paragraphs (11) and (12),  
3           is amended by striking the item relating to section 850  
4           and inserting the following new item:

“850. 50.     Admissibility of sworn testimony from records of courts of  
                  inquiry.”.

5           (14) The table of sections at the beginning of  
6           subchapter VII, as amended by paragraphs (11), (12), and  
7           (13), is amended by striking the item relating to section  
8           852 and inserting the following new item:

“852. 52.     Votes required for conviction, sentencing, and other matters.”.

9           (15) The table of sections at the beginning of  
10          subchapter VII, as amended by paragraphs (11), (12),  
11          (13), and (14), is amended by striking the item relating to  
12          section 853 and inserting the following new item:

“853. 53.     Findings and sentencing.”.

13          (16) The table of sections at the beginning of  
14          subchapter VIII is amended by striking the item relating  
15          to section 856 and inserting the following new item:

“856. 56.     Sentencing.”.

1           (17) The table of sections at the beginning of  
2 subchapter VIII, as amended by paragraph (16), is  
3 amended by striking the items relating to section 856a  
4 and 857a.

5           (18) The table of sections at the beginning of  
6 subchapter IX is amended by striking the item relating to  
7 section 860 and inserting the following new item:

“860. 60. Post-trial processing in general and special courts-martial.”.

8           (19) The table of sections at the beginning of  
9 subchapter IX is amended by inserting after the item  
10 relating to section 860, as amended by paragraph (18),  
11 the following new items:

“860a. 60a. Limited authority to act on sentence in specified post-trial  
circumstances.

“860b. 60b. Post-trial actions in summary courts-martial and certain general  
and special courts-martial.

“860c. 60c. Entry of judgment.”.

12           (20) The table of sections at the beginning of  
13 subchapter IX, as amended by paragraphs (18) and (19),  
14 is amended by striking the item relating to section 861  
15 and inserting the following new item:

“861. 61. Waiver of right to appeal; withdrawal of appeal.”.

1           (21) The table of sections at the beginning of  
2           subchapter IX, as amended by paragraphs (18), (19), and  
3           (20), is amended by striking the item relating to section  
4           864 and inserting the following new item:

“864. 64. Judge advocate review of finding of guilty in summary court-  
martial.”.

5           (22) The table of sections at the beginning of  
6           subchapter IX, as amended by paragraphs (18), (19),  
7           (20), and (21), is amended by striking the item relating to  
8           section 865 and inserting the following new item:

“865. 65. Transmittal and review of records.”.

9           (23) The table of sections at the beginning of  
10          subchapter IX, as amended by paragraphs (18), (19),  
11          (20), (21), and (22), is amended by striking the item  
12          relating to section 866 and inserting the following new  
13          item:

“866. 66. Courts of Criminal Appeals.”.

14          (24) The table of sections at the beginning of  
15          subchapter IX, as amended by paragraphs (18), (19),  
16          (20), and (21), (22), and (23), is amended by striking the

1 item relating to section 869 and inserting the following  
2 new item:

“869. 69. Review by Judge Advocate General.”

3 (25) The table of sections at the beginning of  
4 subchapter IX, as amended by paragraphs (18), (19),  
5 (20), (21), (22), (23), and (24), is amended by striking the  
6 item relating to section 871 and inserting the following  
7 new item:

“871. 71. [Repealed.]”

8 (26) The table of sections at the beginning of  
9 subchapter XI is amended by striking the item relating to  
10 section 936 and inserting the following new item:

“936. 136. Authority to administer oaths.”

11 (27) The table of sections at the beginning of  
12 subchapter XI, as amended by paragraph (26), is  
13 amended by inserting after the item relating to section  
14 940 the following new item:

“940a. 140a. Case management; data collection and accessibility.”

1           (28) The table of sections at the beginning of  
2           subchapter XII is amended by striking the item relating to  
3           section 946 and inserting the following new items:

“946. 146. Military Justice Review Panel.  
“946a. 146a. Annual reports.”.

4           **SEC. 1302. EFFECTIVE DATES.**

5           (a) Except as otherwise provided in this Act, the  
6           amendments made by this Act shall take effect on the first day  
7           of the first calendar month that begins one year after the date of  
8           the enactment of this Act.

9           (b) The amendments made by this Act shall not apply to  
10          any case in which charges are referred to trial by court-martial  
11          before the effective date of such amendments. Proceedings in  
12          any such case shall be held in the same manner and with the  
13          same effect as if such amendments had not been enacted.

14          (c)(1)(A) The amendments made by title X shall not  
15          apply to any offense committed before the effective date of  
16          such amendments.

1           (B) Nothing in subparagraph (A) shall be construed to  
2 invalidate the prosecution of any offense committed before the  
3 effective date of such amendments.

4           (2) The regulations prescribing the authorized  
5 punishments for any offense committed before the effective  
6 date of the amendments made by title VIII shall apply the  
7 authorized punishments for the offense, as in effect at the time  
8 the offense is committed.