



Legislative Bulletin.....June 26, 2013

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H.R. 1864 – To amend title 10, United States Code, to require an Inspector General investigation of allegations of retaliatory personnel actions taken in response to making protected communications regarding sexual assault

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Order of Business: H.R. 1864 is scheduled to be considered on Wednesday, June 26, 2013, under a motion to suspend the rules and pass the bill requiring a two-thirds majority vote for passage.

Summary: H.R. 1864 amends current law to require an Inspector General investigation into allegations of prohibited retaliatory personnel actions against Armed Forces members (member) who complain of or disclose information reasonably believed to violate rape, sexual assault, sexual harassment or other sexual misconduct laws or regulations. Current law under 10 U.S.C. 1034(b) prohibits such retaliatory personnel actions or the withholding (or threatening to withhold) of favorable personnel actions against members who communicate information reasonably believed to violate sexual harassment or unlawful discrimination laws or regulations to a Member of Congress, an Inspector General of the Department of Defense (DoD), the Department of Homeland Security,¹ or another authorized person or organization.² This bill adds language clarifying that such whistleblower protections apply to member disclosures relating to rape, sexual assault, or other sexual misconduct included in the Uniform Code of Military Justice in addition to sexual harassment. Section 1034 of Title 10 describes the required steps an Inspector General must take in an investigation regarding an alleged prohibited personnel action against a member.

¹ In the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy.
² Including any officer of the Armed Forces or employee of the DoD who is assigned or detailed to serve as an Inspector General at any level in the DoD; a member of a DoD audit, inspection, investigation, or law enforcement organization; any person or organization in the chain of command; or any other person or organization designated pursuant to regulations or other established administrative procedures for such communications.

The bill seeks to address underreporting of sexual assault in the U.S. Armed Forces. News [reports](#) explain that a [recently-released Pentagon survey](#) estimated that more than 26,000 troops in fiscal year 2012 experienced an episode of unwanted sexual conduct while 3,374 reported sexual assaults. According to the bill sponsor's Dear Colleague, "The goal of this legislation is to increase victims' confidence in the military justice process by removing many of the fears and stigmas that deter reporting. The underreporting of crimes of sexual assault poses a serious challenge to military readiness, as the potential consequences of sexual assault can be physically and mentally debilitating."

Section 537 of the recent [House-passed](#) National Defense Authorization Act for Fiscal Year 2014 ([H.R. 1960](#)) includes the same language of H.R. 1864.³

H.R. 1864 has 110 Cosponsors.

Committee Action: Representative Jackie Walorski (R-IN) introduced H.R. 1864 on May 7, 2013. On that day, it was referred to the House Committee on Armed Services. No further committee action has occurred on the bill.

Administration Position: No Statement of Administration Policy has been released.

Cost to Taxpayers: No Congressional Budget Office (CBO) analysis has been released.

Does the Bill Expand the Size and Scope of the Federal Government? The legislation includes disclosures of rape, sexual assault, and other sexual misconduct as forms of communication protected under current law whistleblower protections in the Armed Forces.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, "Congress has the power to enact this legislation pursuant to the following: This bill is enacted pursuant to the power granted to Congress under Article I, Section 8 of the United States Constitution."

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***NOTE:** RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

³ The House Armed Services Committee Report ([#113-102, page 4](#)) states that "The committee has made sexual assault prevention and prosecution a cornerstone of this [NDAA] bill."