

**THE UNIFORM
CODE OF MILITARY
JUSTICE, TODAY
AND TOMORROW**



ROLE OF THE COMMANDER

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MILITARY JUSTICE IMPROVEMENT ACT, S.1752



Military Justice Improvement Act's Text

<http://thomas.loc.gov/cgi-bin/query/z?c113:S.1752:>

Military Justice Improvement Act

1. Partial transfer of prosecutorial discretion from commanders to judge advocates.

Military Justice Improvement Act

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- 2. New CAs for cases in which judge advocate disposition authority directs trial by SPCM or GCM.**

Military Justice Improvement Act

- 1. Partial transfer of prosecutorial discretion from commanders to judge advocates.**
- 2. New CAs for cases in which judge advocate disposition authority directs trial by SPCM or GCM.**
- 3. No new resources.**

Military Justice Improvement Act

**March 6, 2014:
Cloture failed
55 - 45.**



Military Justice Improvement Act

Cloture vote:

	Yea	Nay
Democrats (including independents who caucus with Democrats)	44	11
Republicans	11	34

Military Justice Improvement Act

Cloture vote:

Yea

Nay



Military Justice Improvement Act

Cloture vote:

Yea

Nay



Military Justice Improvement Act

Cloture vote:

Yea

Nay

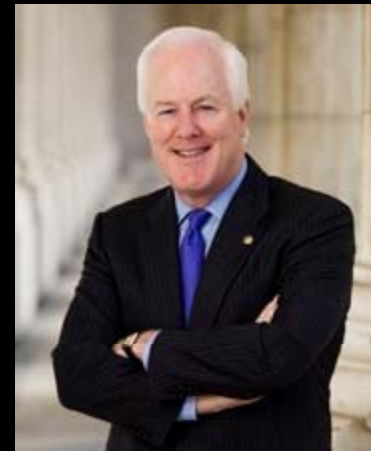


Military Justice Improvement Act

Cloture vote:

Yea

Nay



Military Justice Improvement Act

Cloture vote:

Yea

Nay



Military Justice Improvement Act

Cloture vote:

Yea



Nay



Military Justice Improvement Act

Cloture vote:

Yea



Nay



Military Justice Improvement Act

Cloture vote:

Yea



Nay



Military Justice Improvement Act

Cloture vote:

Yea



Nay

Military Justice Improvement Act

Cloture vote:

Yea

Nay



Military Justice Improvement Act

Cloture vote:

Yea

Nay



Military Justice Improvement Act

Cloture vote:

15 Senators who served in the military

Military Justice Improvement Act

Cloture vote:

15 Senators who served in the military

Yea: 3

Nay: 12

Military Justice Improvement Act

Cloture vote:

15 Senators who served in the military

Democrats

Republicans

Yea: 2

Yea: 1

Nay: 2

Nay: 10

Military Justice Improvement Act

1. Partial transfer of prosecutorial discretion:

**Removes prosecutorial discretion
from commanders for most non-
military offenses carrying a
maximum confinement for more
than a year.**

Military Justice Improvement Act

**Transfers prosecutorial discretion
to a judge advocate who is:**

- **An O-6 or higher;**
- **Has “significant experience in trials by general or special court-martial”; and**
- **Is “outside the [accused’s] chain of command.”**

Military Justice Improvement Act

If judge advocate disposition authority chooses not to refer to a GCM or SPCM, the commander may refer to SCM or resolve charge by NJP.

Military Justice Improvement Act

2. New CAs

Army Chief of Staff, Air Force Chief of Staff, CNO, CMC, and Commandant of the Coast Guard to establish office to convene courts-martial and detail members for courts-martial directed by judge advocate disposition authorities.

Military Justice Improvement Act

**New CA can't be in the victim's
chain of command.**

Military Justice Improvement Act

3. No new resources:

- MJIA to be implemented “using personnel, funds, and resources otherwise authorized by law.”**
- MJIA “shall not be construed as authorizations for personnel, personnel billets, or funds for the discharge of the requirements in such sections.”**

Military Justice Improvement Act

**March 6, 2014:
Cloture failed
55 - 45.**



May 7, 2014

HASC rejected two proposals to restrict commanders' prosecutorial discretion



May 7, 2014



- **Proposal to move prosecutorial discretion for all serious non-military offenses to a chief prosecutor for each Service defeated 13-49**

May 7, 2014



- **Proposal to move prosecutorial discretion for sexual assault offenses to a chief prosecutor for each Service defeated 28-34**

VICTIMS PROTECTION ACT, S.1917



Victims Protection Act's Text

<http://thomas.loc.gov/cgi-bin/query/z?c113:S.1917:>

**March 10, 2014:
Passed Senate
without amendment
97 – 0.**





**April 16, 2014:
Referred to House
Judiciary Committee's
Subcommittee on Crime,
Terrorism, Homeland
Security, and
Investigations.**

Victims Protection Act

<http://thomas.loc.gov/cgi-bin/query/D?c113:2:./temp/~c113zhzqRU::>

Victims Protection Act

- 1. Additional trigger for Service Secretary review of non-referral decisions.**



Victims Protection Act

1. Additional trigger for Service Secretary review of non-referral decisions.

In a case in which the staff judge advocate and the convening authority agree that charges for a sex-related offense should not be referred to court-martial, the convening authority must forward the case file to the Service Secretary for review if “the senior trial counsel detailed to the case” recommends referral.

Victims Protection Act

Response System Panel's Comparative Systems Subcommittee

- **Recommendation 46-A : Congress repeal FY14 NDAA, Section 1744**
- **Recommendation 46-B: Congress not enact Section 2 of the VPA, which would require the next higher convening authority or Service Secretary to review a case if the senior trial counsel disagreed with the SJA's recommendation against referral or the convening authority's decision not to refer one of these sexual assault cases.**

Victims Protection Act

- 2. Soliciting and giving great weight to sexual assault victim's preference for military vs. civilian prosecution. [RSP CSS recommended Congress not enact this provision]**
- 3. Limiting admissibility of good military character evidence during the findings stage to instances where it is relevant to an element of a charged offense.**
- 4. Requiring performance appraisals to include an assessment of the extent to which the rated service member supports the Service's sexual assault prevention and response program.**

Victims Protection Act

**5. Command climate assessments required “following an incident involving a covered sexual offense for each of the command of the accused and the command of the victim.”
[RSP CSS recommended Congress not enact this provision]**

6. Each Service required to establish a confidential process through boards of correction of military records for sexual assault victims to challenge the characterization of their discharge or separation.

7. Application of Title XVII of the NDAA for FY 14 to Military Service Academies and Coast Guard Academy.

8. Collaboration between DoD and DOJ in prevention of and response to sexual assaults.

**May 13, 2014:
Howard P. "Buck"
McKeon National
Defense Authorization
Act for Fiscal Year 2015
reported as amended by
House Armed Services
Committee**



**9 sections in military
justice subtitle**





1. Improved DoD collection and reporting of domestic violence statistics.

2. Requirement for Judicial Proceedings Panel to study use of alleged victims' mental health records in Article 32s and courts-martial.



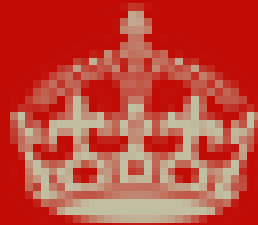
- 3. Ensuring that Title XVII of NDAA for FY 2014 applies to military service academies.**
- 4. Requiring consultation with victim as to preference for military or civilian prosecution of sex-related offenses in U.S.**

5. Mandamus review of alleged violations of a victim's rights under Mil. R. Evid. 412 or 513; CCA to decide case within 72 hours; a single judge may rule.

6. Two-year mandatory minimum confinement for penetrative sexual offenses or attempts.



- 7. Admissibility of good military character evidence circumscribed for findings purposes.**
- 8. Confidential review of characterization of discharge for victims of sexual offenses.**
- 9. Elimination of “constitutionally required” exception for Mil. R. Evid. 513.**



KEEP
CALM
AND

DISCUSS OUR
NEW SYSTEM