

117TH CONGRESS  
1ST SESSION

# H. R. 6043

To clarify and improve accountability for certain members of the Armed Forces during consideration by a medical evaluation board, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2021

Mr. MAST (for himself, Mrs. MILLER-MEEKS, and Mrs. RODGERS of Washington) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To clarify and improve accountability for certain members of the Armed Forces during consideration by a medical evaluation board, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wounded Warrior Bill  
5 of Rights Act of 2021”.

6 **SEC. 2. ACCOUNTABILITY FOR CERTAIN MEMBERS OF THE**  
7 **ARMED FORCES DURING MEDICAL EVALUA-**  
8 **TION BOARD CONSIDERATION.**

9 (a) FINDINGS.—Congress finds the following:

1           (1) Wounded Warriors remain members of an  
2           Armed Force under the jurisdiction of the Secretary  
3           of a military department, and determinations re-  
4           garding the physical ability of such a member is the  
5           responsibility of the chain of command of the mem-  
6           ber, rather than of personnel within or under the di-  
7           rection of the Defense Health Agency.

8           (2) Section 1214 of title 10, United States  
9           Code, guarantees that “no member of the armed  
10          forces may be retired or separated for physical dis-  
11          ability without a full and fair hearing if he demands  
12          it.”

13          (3) Section 1216 of title 10, United States  
14          Code, grants the Secretaries concerned “all powers,  
15          functions, and duties incident to the determination”  
16          of “fitness for active duty of any member of the  
17          armed force under his jurisdiction.”

18          (4) Sections 7013, 8013, and 9013 of title 10,  
19          United States Code, “assign responsibility for” and  
20          grant the “authority necessary to conduct” the ad-  
21          ministration of “the morale and welfare of per-  
22          sonnel” to the Secretary of the Army, the Secretary  
23          of the Navy, and the Secretary of the Air Force, re-  
24          spectively.

1 (b) DECLARATION OF POLICY REGARDING ACCOUNT-  
2 ABILITY FOR WOUNDED WARRIORS.—It is declared to be  
3 the policy of Congress that—

4 (1) determinations of fitness for duty or phys-  
5 ical capability to perform a military occupational  
6 specialty of a member of the Armed Forces under  
7 the jurisdiction of the Secretary of a military depart-  
8 ment are the responsibility of such Secretary;

9 (2) determinations of fitness for a Wounded  
10 Warrior may be assessed by medical professionals  
11 outside the military department of the Wounded  
12 Warrior, and may be influenced by precedents across  
13 other military departments, but ultimately, such de-  
14 termination remains a decision of the Secretary of  
15 the military department concerned; and

16 (3) at no point during the medical evaluation of  
17 a Wounded Warrior shall the Wounded Warrior be  
18 denied the protections, privileges, or right to due  
19 process afforded under the laws and regulations of  
20 their military department.

21 (c) CLARIFICATION OF RESPONSIBILITIES REGARD-  
22 ING MEDICAL EVALUATION BOARDS.—Section 1073c of  
23 title 10, United States Code, is amended—

24 (1) by redesignating subsection (g) as sub-  
25 section (h); and

1           (2) by inserting after subsection (f) the fol-  
2           lowing new subsection (g):

3           “(g) **AUTHORITIES RESERVED TO SECRETARIES OF**  
4 **THE MILITARY DEPARTMENTS.**—Notwithstanding the re-  
5 sponsibilities and authorities of the Defense Health Agen-  
6 cy with respect to the administration of military medical  
7 treatment facilities as set forth in this section, the Sec-  
8 retary of each military department shall maintain author-  
9 ity over and responsibility for any member of the armed  
10 forces under the jurisdiction of the military department  
11 concerned while the member is being considered by a med-  
12 ical evaluation board. Such responsibility shall include the  
13 following:

14           “(1) Responsibility for administering the morale  
15           and welfare of the member.

16           “(2) Responsibility for determinations of fitness  
17           for active duty of the member.”.

18           (d) **OPPORTUNITY FOR HEARING.**—Not later than 90  
19 days after the date of the enactment of this Act, the Sec-  
20 retary of Defense shall update the policies and procedures  
21 applicable to the implementation of the Integrated Dis-  
22 ability Evaluation System to ensure that appeals made  
23 with respect to determinations of fitness for duty by recov-  
24 ering members of the Armed Forces under the jurisdiction  
25 of the Secretary of a military department include (if the

1 member demands it) a full and fair hearing on such deter-  
2 mination, to be conducted by the Secretary of the military  
3 department concerned.

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