

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 7445

To amend the Uniform Code of Military Justice to establish an independent convening authority for certain offenses, randomize jury selection, and improve reporting on racial and ethnic demographics, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2022

Mr. BROWN of Maryland introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To amend the Uniform Code of Military Justice to establish an independent convening authority for certain offenses, randomize jury selection, and improve reporting on racial and ethnic demographics, 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 “Equal Justice Under  
5 Military Law Act”.

1 **SEC. 2. MODIFICATIONS TO COVERED OFFENSES UNDER**  
2 **UNIFORM CODE OF MILITARY JUSTICE.**

3 (a) IN GENERAL.—Section 801(17)(A) of title 10,  
4 United States Code (article 1(17)(A) of the Uniform Code  
5 of Military Justice), as amended by section 533 of the Na-  
6 tional Defense Authorization Act for Fiscal Year 2022  
7 (Public Law 117–81), is amended—

8 (1) by inserting “, section 921 (article 121),  
9 section 921a (article 121a), section 922 (article  
10 122)” after “(article 120c)”; and

11 (2) by inserting “, section 926 (article 126),  
12 section 928(b) (article 128(b)), section 928(c) (arti-  
13 cle 128(c))” after “(article 125)”.

14 (b) EFFECTIVE DATE.—The amendments made by  
15 subsection (a) shall take effect immediately after the com-  
16 ing into effect of the amendments made by section 533  
17 of the National Defense Authorization Act for Fiscal Year  
18 2022 (Public Law 117–81) as provided in section 539C  
19 of that Act.

20 **SEC. 3. ESTABLISHMENT OF INDEPENDENT CONVENING**  
21 **AUTHORITY FOR CERTAIN OFFENSES.**

22 (a) GENERAL COURTS-MARTIAL.—Section 822 of  
23 title 10, United States Code (article 22 of the Uniform  
24 Code of Military Justice) is amended—

25 (1) in subsection (a), by striking “General  
26 courts-martial may be convened by” and inserting

1 “Subject to subsection (c), general courts-martial  
2 may be convened by”; and

3 (2) by adding at the end the following new sub-  
4 section:

5 “(c) A general court-martial involving a covered of-  
6 fense may be convened only by the independent convening  
7 authority designated by the President pursuant to section  
8 3(d) of the Equal Justice Under Military Law Act.”.

9 (b) SPECIAL COURTS-MARTIAL.—Section 823 of title  
10 10, United States Code (article 23 of the Uniform Code  
11 of Military Justice) is amended—

12 (1) in subsection (a), by striking “Special  
13 courts-martial may be convened by” and inserting  
14 “Subject to subsection (c), special courts-martial  
15 may be convened by”; and

16 (2) by adding at the end the following new sub-  
17 section:

18 “(c) A special court-martial involving a covered of-  
19 fense may be convened only by the independent convening  
20 authority designated by the President pursuant to section  
21 3(d) of the Equal Justice Under Military Law Act.”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 subsections (a) and (b) shall take effect immediately after  
24 the coming into effect of the amendments made by part  
25 1 of title V of the National Defense Authorization Act for

1 Fiscal Year 2022 (Public Law 117–81) as provided in sec-  
2 tion 539C of that Act.

3 (d) DESIGNATION OF INDEPENDENT AUTHORITY.—

4 (1) IN GENERAL.—Not later than the effective  
5 date specified in subsection (c), the President shall  
6 designate an independent convening authority who  
7 shall have exclusive authority for convening general  
8 and special courts-martial involving covered offenses  
9 in accordance with sections 822(c) and 823(c) of  
10 title 10, United States Code (articles 22(c) and  
11 23(c) of the Uniform Code of Military Justice), as  
12 added by subsection (a). An independent convening  
13 authority designated under this subsection shall be  
14 an individual who is independent of the military  
15 chains of command of both the victims and those ac-  
16 cused of covered offenses, and may include a special  
17 trial counsel.

18 (2) DEFINITIONS.—In this subsection:

19 (A) The term “covered offense” has the  
20 meaning given that term in section 801(17) of  
21 title 10, United States Code (article 1(17) of  
22 the Uniform Code of Military Justice), as added  
23 by section 533 of the National Defense Author-  
24 ization Act for Fiscal Year 2022 (Public Law

1 117–81) and further amended by section 2 of  
2 this Act.

3 (B) The term “special trial counsel” has  
4 the meaning given that term in section 801(18)  
5 of title 10, United States Code (article 1(18) of  
6 the Uniform Code of Military Justice), as added  
7 by section 533 of the National Defense Author-  
8 ization Act for Fiscal Year 2022 (Public Law  
9 117–81).

10 (e) CONFORMING AMENDMENT.—Title V of the Na-  
11 tional Defense Authorization Act for Fiscal Year 2022  
12 (Public Law 117–81) is amended by striking section 534.

13 **SEC. 4. SELECTION PROCESS FOR MEMBERS TO SERVE ON**  
14 **COURTS-MARTIAL.**

15 Section 825(e) of title 10, United States Code (article  
16 25(e) of the Uniform Code of Military Justice), is amend-  
17 ed—

18 (1) by redesignating paragraphs (1), (2), and  
19 (3) as paragraphs (3), (4), and (5), respectively;

20 (2) by inserting after the subsection enumerator  
21 the following new paragraphs: “(1) When convening  
22 a court-martial, the convening authority shall detail  
23 as members thereof members of the armed forces  
24 under such regulations as the President may pre-  
25 scribe for the randomized selection of qualified per-

1       sonnel available to the convening authority for de-  
2       tail.

3       “(2) The randomized selection process developed and  
4       implemented under paragraph (1) may include parameter  
5       controls that—

6               “(A) allow for exclusions based on availability;

7               “(B) allow for controls based on military rank;

8       and

9               “(C) allow for controls based on equitable rep-  
10       resentation on the basis of race, sex, and ethnicity.”;

11       and

12               (3) in paragraph (4), as so redesignated—

13                       (A) by striking the first sentence; and

14                       (B) by striking “when he is” and inserting

15                       “when the member is”.

16       **SEC. 5. MODIFICATIONS TO ANNUAL REPORTS ON RACIAL**  
17                       **AND ETHNIC DEMOGRAPHICS IN THE MILI-**  
18                       **TARY JUSTICE SYSTEM.**

19       Section 486 of title 10, United States Code, is  
20       amended—

21               (1) in subsection (b)—

22                       (A) in the matter preceding paragraph (1),

23                       by inserting “and other information” after

24                       “statistics”;

1 (B) in paragraph (7), by striking “and” at  
2 the end;

3 (C) in paragraph (8), by striking the pe-  
4 riod at the end and inserting a semicolon; and

5 (D) by adding at the end the following new  
6 paragraphs:

7 “(9) an estimate, based on survey data from  
8 the Armed Forces Workplace and Equal Oppor-  
9 tunity Surveys, of the number of offenses committed  
10 by members of the armed force, disaggregated by—

11 “(A) statistical category as related to the  
12 victim; and

13 “(B) statistical category as related to the  
14 principal;

15 “(10) an analysis of any disparities among race,  
16 sex, and ethnicity in the incidence, reporting, dis-  
17 position, and prosecution of offenses by units, com-  
18 mands, and installations during the year covered by  
19 the report, including trends relating to—

20 “(A) the prosecution of offenses; and

21 “(B) the prevalence of offenses, set forth  
22 separately for—

23 “(i) each installation with 5,000 or  
24 more servicemembers;

1           “(ii) the major career fields of any in-  
2           dividuals involved in such incidents, includ-  
3           ing the fields of combat arms, aviation, lo-  
4           gistics, maintenance, administration, and  
5           medical; and

6           “(iii) in the case of the Navy, the  
7           operational status (whether sea duty or  
8           shore duty) of any individuals involved in  
9           such incidents; and

10           “(11) the policies, procedures, and processes  
11           implemented by the Secretary concerned during the  
12           year covered by the report in response to any race,  
13           sex, or ethnicity disparities involving members of the  
14           armed force concerned.”; and

15           (2) by inserting after subsection (c) the fol-  
16           lowing new subsection:

17           “(d) PUBLICATION.—The Secretary of Defense  
18 shall—

19           “(1) publish on an appropriate publicly avail-  
20           able website of the Department of Defense the re-  
21           ports required by subsection (a); and

22           “(2) ensure that any data included with each  
23           such report is made available in a machine-readable



- 1 format that is downloadable, searchable, and sort-
- 2 able.”.

