

FY2022 Military Personnel Issues: Extremism in the Military

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Background

Government agencies and other experts have warned of an increasing threat of [domestic violent extremism in the United States](#), efforts by supremacist and anti-government extremist groups to recruit those with military experience, and evidence of military-affiliated personnel membership and [participation](#) in these groups' activities. [Extremist](#) and [supremacist](#) activity among military-affiliated personnel has been the subject of several congressional hearings and legislative proposals over the past few years. This issue received further attention following [revelations](#) that several alleged perpetrators of crimes at the U.S. Capitol on January 6, 2021, had military backgrounds.

In response, the executive branch increased efforts to address these issues. On January 14, 2021, the [Department of Defense Inspector General \(DODIG\) announced](#) it will evaluate the extent to which the Department of Defense (DOD) has implemented policies and programs to address extremism in the ranks. In February 2021, [Defense Secretary Austin issued an order](#) for a 60-day DOD-wide stand down to address and discuss issues related to extremism. In June 2021, the National Security Council published a [National Strategy for Combatting Domestic Terrorism](#) highlighting some ongoing efforts by DOD and other agencies to address this issue.

Several provisions included in the National Defense Authorization Act for Fiscal Year 2022 (FY2022 NDAA) would seek to enhance oversight, awareness, and disciplinary authorities related to servicemember support for or participation in extremist activities (see [Table 1](#)).

Table 1. FY2022 NDAA Legislative Proposals

House-passed H.R. 4350	Senate Armed Services Committee-passed S. 2792
Section 525 would add a punitive article to the Uniform Code of Military Justice (UCMJ) on violent extremism.	Section 527 would require a DOD report on whether to establish a separate punitive article in the UCMJ on violent extremism.

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House-passed H.R. 4350	Senate Armed Services Committee-passed S. 2792
<p>Section 529A would</p> <ul style="list-style-type: none"> • Prohibit servicemembers from participation in extremist activities and organizations, • Establish a DOD oversight office with responsibility for countering extremism policies, • Require training on extremist insider threats, media literacy, and whistleblower protections, • Require data collection and reporting on extremist activities, • Provide authority to utilize online extremist content as cause for servicemember separation. <p>Section 518 would prohibit DOD from disciplining a servicemember for social media posts or online activity based on the output of an automated algorithmic, mathematical, or other analytic tool, unless an imminent threat of physical violence exists.</p> <p>Section 519 would prohibit DOD from taking disciplinary action against a servicemember for online speech regarding a political matter.</p>	<p>No similar provision.</p>

Discussion

[DOD policy](#) prohibits servicemembers from actively advocating for or participating in organizations that advocate for “supremacist, extremist, or criminal gang doctrine, ideology, or causes, including those that advance, encourage, or advocate illegal discrimination based on race, creed, color, sex, religion, ethnicity, or national origin or those that advance, encourage, or advocate the use of force, violence, or criminal activity or otherwise advance efforts to deprive individuals of their civil rights.” Those in [violation of these orders](#) may be subject to administrative action or prosecution under the [military justice system](#).

Section 525 of the House-passed bill would create a separate punitive article in the [Uniform Code of Military Justice \(UCMJ\)](#) criminalizing “violent extremism.” A similar proposal in the [House version of the FY2021 NDAA](#) was not enacted. The Senate bill would require DOD to make recommendations to the Congress on whether to add such a punitive article. “Violent extremism” is not defined in military law or policy. Other violent and destructive actions (e.g., [assault](#), [rioting](#), [threats](#)) are punishable under the UCMJ. The proposed article would tie these actions to intent to “intimidate or coerce any person or class of people,” or “influence, affect, or retaliate against the policy or conduct of the Government of the United States or any State.”

Section 529A of the House-passed bill would add a new chapter to Title 10, United States Code on “Countering Extremism.” The Senate bill does not include a similar proposal. This House provision would codify DOD’s policies (referenced above) with respect to support or activities related to extremism and would establish a new *Office of Countering Extremism* within the Office of the Secretary of Defense for oversight and programming to counter extremism within the military. This office would be required to coordinate with the [Deputy Inspector General for Diversity and Inclusion and Extremism in the Military](#) as established in the [FY2021 NDAA](#). Section 529A would also require counter extremism training for recruiters, new recruits, officers, and enlisted members prior to promotion to certain grades, and those transitioning out of the military. Another requirement of this provision would be enhanced data-tracking and reporting on extremist activities. The [FY2020](#) and [FY2021 NDAs](#) require DOD to include questions about experiences with extremist and supremacist activity in surveys, but does not require the services to collect and report incident data.

Another provision in Section 529A would authorize DOD to utilize online content expressing support for extremist activity that is “knowingly shared, disseminated, or otherwise made available” as a cause for involuntary separation from the Armed Forces. While Sections 518 and 519 of the House bill do not mention extremism, these provisions would seek to protect servicemembers from disciplinary actions related to online activity. A 2020 [congressionally mandated report](#) on screening enlistees for extremist or gang-related activity noted DOD was, “exploring the use of social media information in the conduct of background checks,” and cautioned against “complete reliance on data-driven solutions” due to potential vulnerabilities.

The [Biden Administration’s Statement of Administration Policy on H.R. 4350](#) opposes Section 529A on the grounds that “it would impose onerous and overly specific training and data collection requirements and would foreclose other options to address extremism.”

For more, see CRS Insight IN10299, *Sifting Domestic Terrorism from Hate Crime and Homegrown Violent Extremism*, CRS Report R45713, *Terrorism, Violent Extremism, and the Internet: Free Speech Considerations*, and CRS Legal Sidebar LSB10570, *Unrest at the Capitol: Potential Violations of the Uniform Code of Military Justice*

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