

FY2023 NDAA: Selective Service and Draft Registration

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Background

Several provisions in the Senate Armed Services Committee (SASC)-reported National Defense Authorization Act for Fiscal Year 2023 (NDAA; S. 4543) would make changes to the Military Selective Service Act (MSSA; [50 U.S.C. §3801 et seq.](#)). The MSSA provides statutory authority for the federal government to maintain an independent Selective Service Agency responsible for managing the [Selective Service System](#) (SSS) and for delivering qualified civilian men for induction into the Armed Forces of the United States when authorized by the President and Congress. Under the MSSA, all male U.S. citizens and most male noncitizen residents of the United States between the ages of 18 and 26 are required to register with the SSS. Knowingly or willfully failing to register may result in certain federal and state penalties including [fines, imprisonment](#), and ineligibility for [federal employment](#) or [workforce programs](#). While legislative proposals have been introduced to require women to register, none of these has been enacted.

Conscription (“the draft”) of registered males has been used to meet military manpower needs at various times in U.S. history since the Civil War. The President’s draft induction authority last [expired on July 2, 1973](#), preceding the transition to an all-volunteer force. In 1975, President Gerald Ford temporarily [terminated](#) the [registration requirement](#) and the SSS reduced its functions. In 1980, in response to Cold War threats, President Jimmy Carter [reinstated](#) the male registration requirement, which remains in force. While the registration requirement remains in effect, Congress has not taken any action to reinstate the draft induction authority. If Congress and the President reinstated the draft induction authority, some [deferments and exemptions](#), including religious exemptions, would apply under current law. The SSS manages the registration requirement and mobilization planning. Its [proposed budget for FY2023](#) is \$29.7 million—\$500,000 more than the FY2022 appropriation of \$29.2 million, according to the accompanying report (H.Rept. 117-393).

In the FY2017 NDAA (P.L. 114-328), Congress established a National Commission on Military, National, and Public Service (MNAPS Commission) to help consider options for the future of the MSSA. The Commission’s [final report](#), released in March 2020, included recommendations for amending the MSSA, [including requiring women to register for the draft](#). These recommendations formed the basis of the

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Inspire to Serve Act of 2020 (H.R. 6415) introduced in the 116th Congress. Some of the provisions of this Act were enacted with the FY2022 NDAA (P.L. 117-81) (see CRS Insight IN11780, *FY2022 NDAA: Selective Service and Draft Registration*, by Kristy N. Kamarck.) **Table 1** provides an overview of proposals for the FY2023 NDAA.

Table 1. FY2023 NDAA Legislative Proposals on Selective Service

House-passed (H.R. 7900)	SASC-reported (S. 4543)
No similar language	Section 521 would <ul style="list-style-type: none"> • Amend the congressional declaration of the purpose of the SSS; • Convey the “solemnity of military service” to registrants; • Specify representation objectives for local board appointments; • Require certain mobilization exercises; and • Require women to register.
No similar language	Section 522 would require express congressional authorization to induct individuals for training or service.

Source: CRS analysis of legislation on Congress.gov.

Discussion

The House-passed version of the FY2023 NDAA (H.R. 7900) did not include provisions related to the SSS. Section 521 of the SASC-reported bill (S. 4543), titled *Modernization of the Selective Service System*, would amend the congressional intent of the system. Current text of [50 U.S.C. §3801\(b\)](#) states, “The Congress declares that an adequate armed strength must be achieved and maintained to insure the security of this Nation.” The amended version would state,

The Congress declares that the security of the Nation requires that adequate military strength be achieved and maintained by ensuring a requisite number of personnel with the necessary capabilities to meet the diverse mobilization needs of the Department of Defense during a time of war.

This section would also add language requiring the SSS to convey the “solemnity of military service” to registrants.

Under [50 U.S.C. §3809\(b\)\(3\)](#), the President has the authority to appoint volunteer civilians to [local boards](#). In the event of a draft authorization, these boards would decide draft deferments, postponements, and exemptions based upon claims filed by persons who are selected for induction. Section 521 would amend this authority to specify that “to the maximum extent practicable” the boards are proportionally representative of registrants in the jurisdiction on the basis of race, color, religion, sex, or national origin (as specified under [42 U.S.C. §2000e–2\(a\)](#)).

According to [SSS annual reporting](#), the agency conducts periodic readiness exercises of the lottery system for drafting registrants, and mobilization of local boards. Section 521 would also require the SSS to periodically exercise its mobilization plans and processes, conduct a full interagency exercise every four years, and conduct public awareness campaigns in conjunction with such exercises.

This section would also require women to register for the draft. The question of whether women should be required to register for the draft has been the subject of legislative proposals in prior Congresses and decisions by the [courts](#). Similar [provisions](#) in the House- and Senate-reported versions of the FY2022 NDAA (H.R. 4350, §513; and S. 2792, §511; respectively) would have required women to register, but

were not enacted. [The Biden Administration](#) and some [women's](#) and [men's](#) advocacy groups support expanding registration requirements. Other [advocacy groups](#) are opposed to requiring women to register for the draft, with [some observers arguing](#) that Congress should reconsider the registration requirement for all Americans.

Section 522 of the SASC-reported bill would amend 50 U.S.C. §3809 to state, “No person shall be inducted for training and service in the Armed Forces under this title unless Congress first passes and there is enacted a law expressly authorizing such induction into service.” This provision may remove some ambiguity about Congress’s role in authorizing the draft. Current law ([50 U.S.C. §3803\(a\)](#)) authorizes the President “from time to time, whether or not a state of war exists, to select and induct into the Armed Forces of the United States for training and service,” but also states under [50 U.S.C. §3815](#) that, “no person shall be inducted for training and service in the Armed Forces after July 1, 1973.”

Author Information

Kristy N. Kamarck
Specialist in Military Manpower

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