

Statement on Signing the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025

December 23, 2024

Today, I have signed into law H.R. 5009, the "Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025" (the "Act"). This Act authorizes fiscal year appropriations principally for the Department of Defense, Department of Energy national security programs, Department of State, Department of Homeland Security, and the Intelligence Community. This bill provides vital benefits for military personnel and their families, and includes critical authorities to support our country's national defense, foreign affairs, and homeland security. While I am pleased to support the critical objectives of the Act, I note that certain provisions of the Act raise concerns.

A number of provisions of the Act may, in certain circumstances, interfere with the exercise of my constitutional authority to articulate the positions of the United States in international negotiations or fora (e.g., sections 735(a), 1214, 1221, 1333, 5121(b), 7204, and 7803(a)). I recognize that "[i]t is not for the President alone to determine the whole content of the Nation's foreign policy" (*Zivotofsky v. Kerry*) and will make every effort to take action consistent with these directives. Indeed, I do not necessarily oppose many of the objectives in these provisions. Nevertheless, I will not treat them as limiting my constitutional discretion to articulate the views of the United States before international organizations and with foreign governments.

Certain provisions of the Act, including sections 129, 809, 1067, 1069, 1078, 1225, 1229, 1707, 6308, 7302(b)(2)–(3), 7502, and 7505, would require the President and other officials to submit certifications, reports, notifications, or plans to the Congress that (1) may in the ordinary course, include highly sensitive classified information, including information that could reveal critical intelligence sources or military operational plans or (2) could implicate executive branch confidentiality interests. In addition, section 354(4) raises constitutional concerns to the extent that it purports to compel the provision of certain documents subject to executive branch confidentiality interests—including attorney-client privileged information. The Constitution vests the President with the authority to prevent the disclosure of such highly sensitive information in order to discharge his responsibility to protect the national security. At the same time, congressional committees have legitimate needs to perform vital oversight and other legislative functions with respect to national security and military matters. Accordingly, it has been the common practice of the executive branch to comply with statutory reporting requirements in a way that satisfies congressional needs pursuant to the traditional accommodation practice and consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, as well as to preserve the confidentiality of internal executive branch deliberations, particularly those with respect to decisions bearing on the Nation's national security. I believe the Congress shares this understanding, and my Administration will presume that it is incorporated into statutory reporting requirements of the kind at issue in the Act.

Division A, title X, subtitle D, section 1043 of the Act continues to bar the use of funds appropriated to the Department of Defense to transfer Guantánamo Bay detainees to the custody or effective control of certain foreign countries. Division A, title X, subtitle D, section 1041 likewise would continue to prohibit the use of such funds to transfer Guantánamo Bay detainees into the United States. It is the longstanding position of the executive branch that these provisions unduly impair the ability of the executive branch to determine when and where to prosecute Guantánamo Bay detainees and where to send them upon release. In some circumstances, these

provisions could make it difficult to comply with the final judgment of a court that has directed the release of a detainee on writ of habeas corpus, including by constraining the flexibility of the executive branch with respect to its engagement in delicate negotiations with foreign countries over the potential transfer of detainees. I urge the Congress to eliminate these restrictions as soon as possible.

My Administration strongly opposes Division A, title VII, subtitle A, section 708 of the Act, which inhibits the Department of Defense's ability to treat all persons equally under the law, no matter their gender identity. By prohibiting the use of appropriated funds, the Department of Defense will be compelled to contravene clinical practice guidelines and clinical recommendations. The provision targets a group based on that group's gender identity and interferes with parents' roles to determine the best care for their children. This section undermines our all-volunteer military's ability to recruit and retain the finest fighting force the world has ever known by denying health care coverage to thousands of our service members' children. No service member should have to decide between their family's health care access and their call to serve our Nation.

JOSEPH R. BIDEN JR.

The White House,
December 23, 2024.

NOTE: H.R. 5009, approved December 23, was assigned Public Law No. 118–159. An original was not available for verification of the content of this statement.

Categories: Bill Signings and Vetoes : Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025, signing statement.

Subjects: Classified national security information; Constitutional roles and separation of powers; Federal Government appropriations; Guantanamo Bay, U.S. Naval Base in Cuba, detention of alleged terrorists; Intelligence gathering; Military families; Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025; U.S. diplomatic efforts, expansion.

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