AMENDMENT TO Rules Committee PRINT 116–57

Offered by Ms. Escobar of Texas

At the end of subtitle E of title X, insert the following:

SEC. 10. CURTAILING INSURRECTION ACT VIOLATIONS OF INDIVIDUALS’ LIBERTIES.

(a) Federal Aid for State Governments.—Section 251 of title 10, United States Code, is amended—

(1) by striking “Whenever” and inserting “(a) IN GENERAL.—Whenever”; and

(2) by adding at the end the following new subsection:

“(b) Certification to Congress.—(1) The President may not invoke the authority under this section unless the President and the Secretary of Defense certify to Congress that the State concerned is unable or unwilling to suppress an insurrection described in subsection (a).

“(2) A certification under paragraph (1) shall include the following:

“(A) A description of the circumstances necessitating the invocation of the authority under this section.
“(B) Demonstrable evidence that the State concerned is unable or unwilling to suppress such insurrection, and a legal justification for resorting to the authority under this section to so suppress.

“(C) A description of the mission, scope, and duration of use of members of the armed forces under this section.”.

(b) USE OF MILITIA AND ARMED FORCES TO ENFORCE FEDERAL AUTHORITY.—Section 252 of title 10, United States Code, is amended to read as follows:

“§ 252. Use of militia and armed forces to enforce Federal authority

“(a) AUTHORITY.—Whenever unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State by the ordinary course of judicial proceedings, the President may call into Federal service such of the militia of any State, and use such of the armed forces, as the President considers necessary to enforce those laws or to suppress the rebellion.

“(b) CERTIFICATION TO CONGRESS.—(1) The President may not invoke the authority under this section unless the President and the Secretary of Defense certify to Congress that the State concerned is unable or unwilling
to suppress an unlawful obstruction, combination, or assemblage, or rebellion against the authority of the United States described in subsection (a).

“(2) A certification under paragraph (1) shall include the following:

“(A) A description of the circumstances necessitating the invocation of the authority under this section.

“(B) Demonstrable evidence that the State concerned is unable or unwilling to suppress such unlawful obstruction, combination, or assemblage, or rebellion against the authority of the United States, and a legal justification for resorting to the authority under this section to so suppress.

“(C) A description of the mission, scope, and duration of use of members of the armed forces under this section.”.

(c) INTERFERENCE WITH STATE AND FEDERAL LAW.—Section 253 of title 10, United States Code, is amended—

(1) by striking “The President” and inserting “(a) AUTHORITY.—(1) The President”;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;
(3) by striking “In any situation covered by clause (1),” and inserting “(2) In any situation covered by paragraph (1)(A),”; and

(4) by adding at the end the following new subsection:

“(b) CERTIFICATION TO CONGRESS.—(1) The President may not invoke the authority under this section unless the President and the Secretary of Defense certify to Congress that the State concerned is unable or unwilling to suppress an insurrection, domestic violence, unlawful combination, or conspiracy, as described in subsection (a).

“(2) A certification under paragraph (1) shall include the following:

“(A) A description of the circumstances necessitating the invocation of the authority under this section.

“(B) Demonstrable evidence that the State concerned is unable or unwilling to suppress such insurrection, domestic violence, unlawful combination, or conspiracy, and a legal justification for resorting to the authority under this section to so suppress.

“(C) A description of the mission, scope, and duration of use of members of the armed forces under this section.”.

(d) CONSULTATION WITH CONGRESS.—
(1) IN GENERAL.—Chapter 13 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 256. Consultation

“The President, in every possible instance, shall consult with Congress before invoking the authority under section 251, 252, or 253 of this title.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 10, United States Code, is amended by adding at the end the following new item:

“256. Consultation.”.

(e) RESTRICTION ON DIRECT PARTICIPATION BY MILITARY PERSONNEL.—

(1) IN GENERAL.—Such chapter is further amended by adding at the end the following new section:

“§ 257. Restriction on direct participation by military personnel

“(a) IN GENERAL.—No activity under this chapter shall permit direct participation by a member of the Army, Navy, Air Force, Marine Corps, or Space Force in a search, seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise expressly authorized by law.
“(b) REGULATIONS.—The Secretary of Defense shall prescribe such regulations as may be necessary to ensure compliance with subsection (a).

“(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit authority of law enforcement personnel of the armed forces on Federal military installations”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is further amended by adding at the end the following new item:

“257. Restriction on direct participation by military personnel.”.