AMENDMENT TO RULES COMMITTEE PRINT 117-54

OFFERED BY MS. KUSTER OF NEW HAMPSHIRE

At the end of subtitle D of title V, add the following new section:

SEC. 5. REVIEW AND REPORT ON THE DEFINITION OF CONSENT FOR PURPOSES OF THE OFFENSES OF RAPE AND SEXUAL ASSAULT UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

(a) EVALUATION AND REVIEW.—Not later than 30 days after the date of the enactment of this Act, the Joint Service Committee on Military Justice shall commission a comprehensive evaluation and review of the definition of consent, as set forth in section 920(g)(7) of title 10, United States Code (article 120(g)(7) of the Uniform Code of Military Justice).

(b) ELEMENTS.—The review and evaluation conducted under subsection (a) shall assess how the definition of consent set forth in section 920(g)(7) of title 10, United States Code (article 120(g)(7) of the Uniform Code of Military Justice) can be—

(1) expanded to require knowledgeable and informed agreement, freely entered into, without any
malicious factors or influences such as force, coercion, fear, fraud or false identity, or exploitation of a person’s incapacity;

(2) enhanced through consultation with other recognized standards for the definition of such term; and

(3) clarified to state clearly that—

(A) the circumstances surrounding an incident of sexual contact are irrelevant when malicious factors induced compliance;

(B) consent for a sexual act does not constitute consent for all sexual acts; and

(C) consent is revocable by either party during sexual conduct.

(c) REPORT.—Not later than 180 days after the commencement of the evaluation and review under subsection (a), the Joint Service Committee on Military Justice shall submit to the congressional defense committees a report on the results of the evaluation and review.