

Congress Should Overrule House Committee Vote for “Draft America’s Daughters” Amendment

During the April 27 **House Armed Services Committee** markup on the **National Defense Authorization Act for 2017 (NDAA - HR 4909)**, Marine veteran **Duncan Hunter** (R-CA) proposed and requested a roll-call vote on his [“Draft America’s Daughters”](#) amendment.

Hunter’s intent was to draw attention to the underlying issue: problems with women in direct ground combat units such as the infantry. He voted “No” on his own amendment but six Republicans joined with all-but one Democrat in voting “Yes.” The measure passed, [32-30](#).

If the Senate also votes to Draft America’s Daughters and lame-duck **President Obama** signs the legislation into law, **Military Selective Service Act (MSSA)** obligations would be imposed on unsuspecting women, ages **18-26**. Every member of Congress who votes to Draft America’s Daughters will be responsible for irreversible harm done to both women and military readiness.

The Issue is National Security, Not “Women’s Rights”

The Selective Service system is a relatively low-cost contingency plan – an insurance policy that backs up the **All-Volunteer Force (AVF)**. **America’s Army is smaller than it was before World War II**. In a future national emergency beyond the capability of our All-Volunteer Force, full national mobilization might leave no choice but to re-activate the Selective Service system.

- In the Army and Marine Corps, the largest communities are infantry. The purpose of conscription is not to induct support troops; it is to provide an effective system for rapidly replacing **casualties fallen in battle** in order to fight and win a nation-threatening war.
- Under the Draft America’s Daughters law, any call-up of men for military service would have to include equal numbers of young women. Those few who meet minimum requirements would be trained and ordered into the combat arms, where the need is greatest.
- Due to physical differences that will not change, the Selective Service system would have to divert scarce time and resources trying to evaluate great numbers of women, just to find the small percentage who might be minimally qualified for the combat arms.

This would create a political crisis and a paralyzing administrative overload that would weaken our armed forces at the worst possible time.

- There is no need to do this, since women have always volunteered for military service and will do so again. **The fact remains that most women cannot meet infantry standards while most men can.** Debilitating injuries would not be “equal” in the combat arms.
- Clogging the induction system during a time of crisis, instead of finding men who can be rapidly trained to fight in physically-demanding direct ground combat units, would weaken military readiness, not strengthen it, in a time of national emergency.
- Even though *some* women may be able to meet minimal standards, this is not sufficient justification for ordering *all* women of draft age to register with Selective Service.

Would the Supreme Court Still Uphold Women’s Draft Exemption?

A CMR Policy Analysis titled [Women, War, and Selective Service](#) explains how Congress could preserve women’s exemption from Selective Service by putting military readiness first.

(Over . . . Please)

In a 1981 landmark decision titled *Rostker v. Goldberg*, the **Supreme Court** upheld the constitutionality of women's exemption from Selective Service.

- Extensive congressional hearings in 1979 concluded that no one should be drafted unless there is a need for “*combat replacements*” for troops lost in battle.
- The Supreme Court noted that women were serving in uniform, but not in the combat arms. Therefore, since they were not “*similarly situated*” in land combat units, exempting them from the draft did not violate equal protection principles. It was an easy call to make.
- **The Supreme Court also affirmed the constitutional right of Congress to decide**, citing a Senate report stating that registering or calling up equal numbers of women in a time of national emergency would be “*administratively unworkable and militarily disastrous.*”

Women's *status quo* exemption would continue even if a federal court exceeds its authority in striking the entire Selective Service law. Congress would still have the constitutional power and duty to raise and support armies and to prudently prepare for future existential threats.

- The *Rostker* decision did not consider other rationales for continuing women's exemption from direct ground combat and Selective Service. A case could be made for limiting Selective Service to men, if Congress supported that policy with facts that already exist.
- The administration ignored a substantial body of highly-credible empirical findings that justified the U.S. Marine Corps' [request for exceptions](#) from direct ground combat mandates. Given these facts, Congress could reasonably, rationally, and appropriately determine that it would not make sense for Selective Service to waste time and resources culling thousands of female draftees just to find the few who might meet combat qualifications.
- The full body of recently-produced information, which is comparable to extensive hearings on the subject that the Supreme Court cited in its *Rostker* decision, could be cited in legal defense of a prudent, rational decision in the present day. Even if current women-in-combat mandates continue, military readiness would be harmed by wasting time and resources seeking and training a small percentage of females who might meet minimal qualifications.
- In order to defend rational policies against likely court challenges, Congress needs to put on the public record compelling facts that have yet to be examined in public hearings.

No one can guarantee the outcome of a future Supreme Court decision, but at a minimum, members of the House and Senate should resolve to “First, do no harm.”

Congressional approval of the “Draft America's Daughters” legislation would be precisely the wrong thing to do. If signed into law, the mandate would inflict immediate harm on women, while inviting future legal consequences for military readiness that likely would be irreversible.

Truth remains true even if the administration ignored it. Congress should strike the “Draft America's Daughters” legislation, and resolve to conduct oversight that is long overdue. ■

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The Center for Military Readiness, founded in 1993, is an independent public policy organization that reports on and analyzes military/social issues. [More information](#) is available on the CMR website, www.cmrlink.org