

S.12

To repeal provisions that make the President commander-in-chief of the District of Columbia National Guard, and for other purposes.

IN THE SENATE

MAY 12, 2021

Mr. MILLER (for himself, Ms. KELLY) introduced the following bill:

A BILL

To repeal provisions that make the President commander-in-chief of the District of Columbia National Guard, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “District of Columbia National Guard Mayoral Autonomy Act of 2021”.

SEC. 2. AMENDMENTS TO THE CODE OF THE DISTRICT OF COLUMBIA.

- (a) MAYOR AS COMMANDER-IN-CHIEF.—Section 6 of the Act entitled “An Act to provide for the organization of the militia of the District of Columbia, and for other purposes” ([sec. 49–409, D.C. Official Code](#)), is amended by striking “President of the United States” and inserting “Mayor of the District of Columbia”.
- (b) RESERVE CORPS.—Section 72 of such Act ([sec. 49–407, D.C. Official Code](#)) is amended by striking “President of the United States” each place it appears and inserting “Mayor of the District of Columbia”.
- (c) APPOINTMENT OF COMMISSIONED OFFICERS.—
 - (1) Section 7(a) of such Act ([sec. 49–301\(a\), D.C. Official Code](#)) is amended—
 - (A) by striking “President of the United States” and inserting “Mayor of the District of Columbia”; and
 - (B) by striking “President.” and inserting “Mayor.”.

- (2) Section 9 of such Act ([sec. 49–304, D.C. Official Code](#)) is amended by striking “President” and inserting “Mayor of the District of Columbia”.
- (3) Section 13 of such Act ([sec. 49–305, D.C. Official Code](#)) is amended by striking “President of the United States” and inserting “Mayor of the District of Columbia”.
- (4) Section 19 of such Act ([sec. 49–311, D.C. Official Code](#)) is amended—
 - (A) in subsection (a), by striking “to the Secretary of the Army” and all that follows through “which board” and inserting “to a board of examination appointed by the Commanding General, which”; and
 - (B) in subsection (b), by striking “the Secretary of the Army” and all that follows through the period and inserting “the Mayor of the District of Columbia, together with any recommendations of the Commanding General.”.
- (5) Section 20 of such Act ([sec. 49–312, D.C. Official Code](#)) is amended—
 - (A) by striking “President of the United States” each place it appears and inserting “Mayor of the District of Columbia”; and
 - (B) by striking “the President may retire” and inserting “the Mayor may retire”.
- (d) CALL FOR DUTY.—
 - (1) Section 45 of such Act ([sec. 49–103, D.C. Official Code](#)) is amended by striking “, or for the United States Marshal” and all that follows through “shall thereupon order” and inserting “to order”.
 - (2) Section 46 of such Act ([sec. 49–104, D.C. Official Code](#)) is amended by striking “the President” and inserting “the Mayor of the District of Columbia”.
- (e) GENERAL COURTS MARTIAL.—Section 51 of such Act ([sec. 49–503, D.C. Official Code](#)) is amended by striking “the President of the United States” and inserting “the Mayor of the District of Columbia”.

SEC. 3. AMENDMENTS TO TITLE 10, UNITED STATES CODE.

- (a) FAILURE TO SATISFACTORILY PERFORM PRESCRIBED TRAINING.—[Section 10148\(b\)](#) of title 10, United States Code, is amended by striking “the commanding general of the District of Columbia National Guard” and inserting “the Mayor of the District of Columbia”.
- (b) APPOINTMENT OF CHIEF OF NATIONAL GUARD BUREAU.—[Section 10502\(a\)\(1\)](#) of such title is amended by striking “the commanding general of the District of Columbia National Guard” and inserting “the Mayor of the District of Columbia”.
- (c) VICE CHIEF OF THE NATIONAL GUARD BUREAU.—[Section 10505\(a\)\(1\)\(A\)](#) of such title is amended by striking “the commanding general of the District of Columbia National Guard” and inserting “the Mayor of the District of Columbia”.

- (d) OTHER SENIOR NATIONAL GUARD BUREAU OFFICERS.—[Section 10506\(a\)\(1\)](#) of such title is amended by striking “the commanding general of the District of Columbia National Guard” both places it appears and inserting “the Mayor of the District of Columbia”.
- (e) CONSENT FOR ACTIVE DUTY OR RELOCATION.—
- (1) [Section 12301](#) of such title is amended—
- (A) in subsection (b), by striking “commanding general of the District of Columbia National Guard” in the second sentence and inserting “Mayor of the District of Columbia”; and
- (B) in subsection (d), by striking the period at the end and inserting the following: “, or, in the case of the District of Columbia National Guard, the Mayor of the District of Columbia.”.
- (2) [Section 12406](#) of such title is amended by striking “the commanding general of the National Guard of the District of Columbia” and inserting “the Mayor of the District of Columbia”.
- (f) CONSENT FOR RELOCATION OF UNITS.—[Section 18238](#) of such title is amended by striking “the commanding general of the National Guard of the District of Columbia” and inserting “the Mayor of the District of Columbia”.

SEC. 4. AMENDMENTS TO TITLE 32, UNITED STATES CODE.

- (a) MAINTENANCE OF OTHER TROOPS.—[Section 109\(c\)](#) of title 32, United States Code, is amended by striking “(or commanding general in the case of the District of Columbia)”.
- (b) DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.—[Section 112\(h\)\(2\)](#) of such title is amended by striking “the Commanding General of the National Guard of the District of Columbia” and inserting “the Mayor of the District of Columbia”.
- (c) ADDITIONAL ASSISTANCE.—[Section 113](#) of such title is amended by adding at the end the following new subsection:

“(e) INCLUSION OF DISTRICT OF COLUMBIA.—In this section, the term ‘State’ includes the District of Columbia.”.

- (d) APPOINTMENT OF ADJUTANT GENERAL.—[Section 314](#) of such title is amended—
- (1) by striking subsection (b);
- (2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and
- (3) in subsection (b) (as so redesignated), by striking “the commanding general of the District of Columbia National Guard” and inserting “the Mayor of the District of Columbia,”.

- (e) RELIEF FROM NATIONAL GUARD DUTY.—[Section 325\(a\)\(2\)\(B\)](#) of such title is amended by striking “commanding general of the District of Columbia National Guard” and inserting “the Mayor of the District of Columbia”.
- (f) AUTHORITY TO ORDER TO PERFORM ACTIVE GUARD AND RESERVE DUTY.—
 - (1) AUTHORITY.—Subsection (a) of [section 328](#) of such title is amended by striking “the commanding general” and inserting “the Mayor of the District of Columbia after consultation with the commanding general”.
 - (2) CLERICAL AMENDMENTS.—
 - (A) SECTION HEADING.—The heading of such section is amended to read as follows:

“§328. Active Guard and Reserve duty: authority of chief executive”.

- (B) TABLE OF SECTIONS.—The table of sections at the beginning of [chapter 3](#) of such title is amended by striking the item relating to section 328 and inserting the following new item:

“328. Active Guard and Reserve duty: authority of chief executive.”.

- (g) PERSONNEL MATTERS.—[Section 505](#) of such title is amended by striking “commanding general of the National Guard of the District of Columbia” in the first sentence and inserting “Mayor of the District of Columbia”.
- (h) NATIONAL GUARD CHALLENGE PROGRAM.—[Section 509](#) of such title is amended—
 - (1) in subsection (c)(1), by striking “the commanding general of the District of Columbia National Guard, under which the Governor or the commanding general” and inserting “the Mayor of the District of Columbia, under which the Governor or the Mayor”;
 - (2) in subsection (g)(2), by striking “the commanding general of the District of Columbia National Guard” and inserting “the Mayor of the District of Columbia”;
 - (3) in subsection (j), by striking “the commanding general of the District of Columbia National Guard” and inserting “the Mayor of the District of Columbia”; and
 - (4) in subsection (k), by striking “the commanding general of the District of Columbia National Guard” and inserting “the Mayor of the District of Columbia”.
- (i) ISSUANCE OF SUPPLIES.—[Section 702\(a\)](#) of such title is amended by striking “commanding general of the National Guard of the District of Columbia” and inserting “Mayor of the District of Columbia”.
- (j) APPOINTMENT OF FISCAL OFFICER.—[Section 708\(a\)](#) of such title is amended by striking “commanding general of the National Guard of the District of Columbia” and inserting “Mayor of the District of Columbia”.

SEC. 5. AMENDMENTS TO THE DISTRICT OF COLUMBIA HOME RULE ACT.

Section 602(b) of the District of Columbia Home Rule Act ([sec. 1–206.02\(b\), D.C. Official Code](#)) is amended by striking “the National Guard of the District of Columbia,”.

SEC. 6. REQUIRING THE COMMANDING GENERAL TO LIVE IN THE DISTRICT OF COLUMBIA.

[Sec. 49-301, D.C. Official Code](#), is amended by adding the following subsection at the end:

“(d) In order to qualify to become Commanding General of the militia of the District of Columbia, such individual must have resided in the District of Columbia for at least five years before becoming Commanding General of the militia of the District of Columbia, and must reside in the District of Columbia during their tenure as Commanding General of the militia of the District of Columbia.”

SEC. 7. ENACTMENT.

ENACTMENT.—

- (1) SEVERABILITY.—Should any provision of this Act be deemed invalid or unconstitutional for any reason in a court with relevant jurisdiction, the rest of the Act, and the application of the remaining provisions, shall not be affected.
 - (2) SUPREMACY.—This Act shall be mutual with any other laws currently enforced. In cases where this Act were to be in contradiction with other Acts, regulations or orders, this Act shall take precedence, and the conflicting Act, regulation or order shall be stricken null and void, entirely or partially limited to the part in contradiction with the present Act.
 - (3) EFFECTIVE DATE.—The provisions of this Act shall go into effect October 1, 2021.
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