

FOIA MARKER

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Folder Title:
Gays in the Military - Executive Response and Background: Signing Statements - Drafts

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DRAFT SIGNING
STATEMENT

STATEMENT BY THE PRESIDENT

Today I have signed into law S. 1124, the "National Defense Authorization Act for Fiscal Year 1996." This Act authorizes appropriations for Department of Defense military activities, including military construction, and defense activities of the Department of Energy. It also provides, extends, or amends various authorities relating to national defense programs and activities.

I vetoed the original version of this legislation, H.R. 1530, on December 28, 1995. Since that time, the Congress has addressed my three central national security concerns about the earlier bill. First, the Congress deleted the provisions requiring deployment by 2003 of a costly missile defense system designed to defend against a long-range missile threat, which our Intelligence Community does not foresee in the next decade. Such a course of action would have prevented us from deploying the best possible technology if a real threat were to emerge at a later time. Moreover, implementation of the system called for in H.R. 1530 would probably have been consistent with the Anti-Ballistic Missile Treaty.

Second, the Congress deleted the requirement that the President submit a supplemental appropriations request within a defined time period after commencement of certain contingency and other operations, such as the ongoing military operations in Bosnia. The Act does, however, continue to contain unwarranted restrictions on the manner in which such operations may be funded.

Third, the Congress deleted the restriction on the President's authority to make and implement decisions relating to the operational or tactical control of elements of the U.S. armed forces, a restriction which clearly infringed on the President's constitutional authority as Commander in Chief.

The Act also includes a number of provisions of great importance to our national defense and to the men and women in our armed forces, authorizing critical defense programs to be continued and new ones to be initiated. The Act authorizes the full 2.4% increase in pay and allowances for our military personnel. It authorizes the Military Housing Privatization Initiative, which provides new authority to acquire and improve military housing and supporting facilities through the use of private expertise and capital. It authorizes necessary military construction and NATO infrastructure programs. It continues the Department of Energy's science-based Stockpile Stewardship program. It provides for the sale of the Elk Hills Naval Petroleum Reserve.

The Act also contains the Administration's proposal to allow the United States to extradite indicted war criminals and provide evidence directly to the International War Crimes Tribunals for the Former Yugoslavia and Rwanda -- a provision that should encourage others to cooperate fully with the War Crimes Tribunal.

And, this legislation makes important strides in the area of procurement reform, which will help produce a better-equipped military for less money. The legislation gives agencies enhanced authority and flexibility in their use of computers and telecommunications, while insisting on accountability.

Consistent with the Administration's efforts under the National Performance Review to create a government that works better and costs less, the Act encourages agencies to adopt the best practices of successful companies in the private sector. And the Act includes measures to facilitate the purchase of commercially-available goods and services, to streamline and clarify procurement integrity laws, and to substantially improve the process for resolving bid protests for information technology.

All of these measures are important to the effective and efficient operation of our Armed Forces. I regret, however, that this legislation continues to contain a number of provisions, identified in my earlier veto message, that will adversely affect the Defense Department's ability to carry out its national defense mission.

First, I am strongly opposed, as is the Department of Defense, to the provision requiring the discharge of military personnel living with the Human Immunodeficiency Virus (HIV), where, as here, such discharge is not required by any medical, public health, or military purpose. This provision is blatantly discriminatory and highly punitive to service members and their families. People living with HIV can and do lead full and productive lives, provide for their families, and contribute to the well being of our nation. The men and women affected by this provision are ready, willing and able to serve their country with honor and should be allowed to continue to do so.

Therefore, I strongly support the current efforts in Congress to repeal this provision before a single service member is discharged from the armed forces.

Moreover, I have concluded that this provision is unconstitutional. The Secretary of Defense and the Chairman of the Joint Chiefs of Staff have advised me that the arbitrary discharge of these men and women would be both unwarranted and unwise; that such discharge is unnecessary as a matter of sound military policy; that discharging service members deemed fit for duty would waste the government's investment in the training of these people and would be disruptive to the military programs in which they play an integral role.

I agree.

This discriminatory provision therefore violates the Equal Protection Clause of the Constitution by requiring the discharge of qualified service members living with HIV who are medically able to serve, without furthering any legitimate governmental purpose. As President Franklin D. Roosevelt said in 1943, explaining his decision to sign an important appropriations bill notwithstanding the fact that it contained a provision that trenched upon individual rights, "I cannot . . . yield without placing on record my view that this provision is not only unwise and discriminatory, but unconstitutional."

In accordance with my constitutional determination, the Attorney General will decline to defend this provision. Instead, the Attorney General will inform the House and Senate of this determination so that they may, if they wish, present to the courts their argument that the provision should be sustained.

Further, to mitigate any unfair burden that this legislation could place on these service members and their families pending any repeal or judicial invalidation, I have directed the Secretaries of Defense, Veterans Affairs, and Transportation, in carrying out the provisions of this Act, to take all steps necessary to ensure that these service members receive the full benefits to which they are entitled -- including, among other things, disability retirement pay, health care coverage for their families and transition benefits such as vocational education.

I am troubled by another provision in this Act, which restricts the ability of service women and military dependents to obtain privately-funded abortions in military facilities overseas. I remain firmly opposed to this provision. In many countries, these U.S. facilities provide the only accessible safe source for these medical services. I will support congressional efforts to repeal this and a similar provision that became law in the "Department of Defense Appropriations Act, 1996."

Finally, I note that Section 1404 of the Act expresses the sense of Congress that the Secretary of Defense should not take any steps toward dismantling or retiring specific strategic nuclear delivery systems until the START II Treaty enters into force, and it prohibits obligating or expending funds in fiscal year 1996 for such steps. Reading the provisions of section 1404 together, I interpret the section to prohibit obligations or expenditures only before the START II Treaty enters into force. The explanation of Section 1404 in the Conference Report supports this interpretation.

DRAFT--CLOSE HOLD
2/6/96

As I have mentioned before, I am strongly opposed, as is the Department of Defense to the provision requiring the involuntary separation of military personnel who are living with the Human Immunodeficiency Virus (HIV), when, as here, >such a departure is not required by any medical, public health, or military purpose.> This provision is blatantly discriminatory and highly punitive to service members and their dependents who despite their HIV status can and do lead full and productive lives, provide for their families, and contribute to the well being of our nation. The men and women affected by this provision are ready, willing and able to serve their country with honor and should be allowed to continue to do so. I strongly support the current efforts in Congress to repeal this provision before a single service member is discharged from the Armed Forces. >I also believe that service members should have an ^{full} adequate opportunity to challenge this provision in court before being separated from the military. [In any litigation concerning this provision, ^{over} ~~it is also my~~ ^{I will direct} conviction ~~[alt: I am asking]~~ ^{full} that the Department of Justice ^{heavy} ~~to~~ should give appropriate consideration to the ^{burden} ~~burden~~ of discharge on these service members and their families.] < However, in the meantime, I have directed the Secretary of Defense and the Secretary of Veterans Affairs to take all steps necessary to provide these service members and their families with the benefits they would have received had they been medically retired. I am therefore directing that the Secretaries to take

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is convinced
that it is
unconstitutional

all possible actions to ameliorate the burden this legislation will place on these service members and their families and to see to it that they are treated with fairness and compassion.

DRAFT

the fact that it contained a provision that trenched upon individual rights, "I cannot . . . yield without placing on record my view that this provision is not only unwise and discriminatory, but unconstitutional."

In accordance with my constitutional determination, the Attorney General will decline to defend this provision. Instead, the Attorney General will inform the House and Senate of this determination so that they may, if they wish, present to the courts their argument that the provision should be sustained.

In the meantime, I have directed the Secretaries of Defense, Transportation, and the Veterans Affairs, in carrying out the provisions of this Act pending any repeal or judicial invalidation, to take all steps necessary to provide these service members and their families with the benefits they would have received had they been medically retired. I therefore am directing that the Secretaries of Defense, Transportation and Veterans Affairs take all possible actions, consistent with applicable law, to ameliorate the burden this legislation will place on these service members and their families and to see to it that they are treated with fairness and compassion.

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DRAFT

To: Judy Miller/
Whit Peters

New v. 2

Frank M. Krivak

DRAFT

PRIVILEGED AND ~~CONFIDENTIAL~~
PRELIMINARY DRAFT--CLOSE HOLD
NOT CLEARED WITH DOJ AND DOD

2/7/96

As I have mentioned before, I am strongly opposed, as is the Department of Defense to the provision requiring the involuntary separation of military personnel who are living with the Human Immunodeficiency Virus (HIV), when, as here, such a departure is not required by any medical, public health, or military purpose. This provision is blatantly discriminatory and highly punitive to service members and their dependents who despite their HIV status can and do lead full and productive lives, provide for their families, and contribute to the well being of our nation. The men and women affected by this provision are ready, willing and able to serve their country with honor and should be allowed to continue to do so. I strongly support the current efforts in Congress to repeal this provision before a single service member is discharged from the Armed Forces.

After consulting with the Attorney General and the Secretary of Defense, I have determined that this provision is unconstitutional. This discriminatory provision violates the Equal Protection Clause by requiring the discharge of those qualified service members living with the HIV disease who are medically able to serve, without furthering any legitimate governmental purpose. After consulting with the Secretary of Defense and the Joint Chiefs of Staffs, I have concluded [alt: The Secretary of Defense and the Joint Chiefs of Staff have determined that] that implementation of this discriminatory

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INITIALS: AGB DATE: 8/3/16
2015-0017-F

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provision would not further the Defense Department's mission of national defense and would in fact be detrimental to morale and efficiency in the armed forces. Because I have made the judgment that this provision is not constitutional, [I am hereby directing that] the Attorney General and the Department of Justice [will] not defend the provision in any legal challenge to its constitutionality.

In the meantime, I have directed the Secretary of Defense and the Secretary of Veterans Affairs to take all steps necessary to provide these service members and their families with the benefits they would have received had they been medically retired. I therefore am directing that the Secretaries of Defense and Veterans Affairs take all possible actions, consistent with applicable law, to ameliorate the burden this legislation will place on these service members and their families and to see to it that they are treated with fairness and compassion.

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PRIVILEGED AND ~~CONFIDENTIAL~~
PRELIMINARY DRAFT--CLOSE HOLD

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: ADS DATE: 8/2/16
2015-0017-F

2/9/96, 1:00 p.m.

As I have mentioned before, I am strongly opposed, as is the Department of Defense to the provision requiring the involuntary separation of military personnel who are living with the Human Immunodeficiency Virus (HIV), when, as here, such a departure is not required by any medical, public health, or military purpose. This provision is blatantly discriminatory and highly punitive to service members and their dependents who despite their HIV status can and do lead full and productive lives, provide for their families, and contribute to the well being of our nation. The men and women affected by this provision are ready, willing and able to serve their country with honor and should be allowed to continue to do so. I strongly support the current efforts in Congress to repeal this provision before a single service member is discharged from the Armed Forces.

I have concluded that this provision is unconstitutional. The Secretary of Defense and the Chairman of the Joint Chiefs of Staff have advised me that:

To discharge all of these service members arbitrarily as this provision mandates would be both unwarranted and unwise.

This provision is unnecessary as a matter of sound military policy because there is already in place a physical evaluation system to determine the fitness for duty of HIV-positive personnel.

Discharging service members deemed fit for duty would waste the government's investment in the training of these individuals and be disruptive to the military programs in which they play an integral role . . .

This violates a standard traditionally used by the services for retention and thus undermines a fair policy of evaluating retention on medical and service issues on an individual basis.

I agree.

This discriminatory provision therefore denies equal protection by requiring the discharge of those qualified service members living with the HIV disease who are medically able to serve, without furthering any legitimate governmental purpose. As President Franklin D. Roosevelt said, in explaining his decision to sign an important appropriations bill notwithstanding the fact that it contained a provision that trenched upon individual rights, "I cannot . . . yield without placing on record my view that this provision is not only unwise and discriminatory, but unconstitutional."

In accordance with my constitutional determination, the Attorney General will decline to defend this provision. Instead, the Attorney General will inform the House and Senate of this determination so that they may, if they wish, present to the courts their argument that the provision should be sustained.

In the meantime, I have directed the Secretaries of Defense and Veterans Affairs, in carrying out the provisions of this Act pending any repeal or judicial invalidation, to take all steps necessary to provide these service members and their families with the benefits they would have received had they been medically retired. I therefore am directing that the Secretaries of Defense and Veterans Affairs take all possible actions, consistent with applicable law, to ameliorate the burden this legislation will place on these service members and their

families and to see to it that they are treated with fairness and compassion.

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DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: ADB DATE: 8/2/16
2005-0017-F

PRIVILEGED AND ~~CONFIDENTIAL~~
PRELIMINARY DRAFT--CLOSE HOLD

2/9/96, 1:00 p.m.

As I have mentioned before, I am strongly opposed, as is the Department of Defense to the provision requiring the involuntary separation of military personnel who are living with the Human Immunodeficiency Virus (HIV), when, as here, such a departure is not required by any medical, public health, or military purpose. This provision is blatantly discriminatory and highly punitive to service members and their dependents who despite their HIV status can and do lead full and productive lives, provide for their families, and contribute to the well being of our nation. The men and women affected by this provision are ready, willing and able to serve their country with honor and should be allowed to continue to do so. I strongly support the current efforts in Congress to repeal this provision before a single service member is discharged from the Armed Forces.

I have concluded that this provision is unconstitutional. The Secretary of Defense and the Chairman of the Joint Chiefs of Staff have advised me that:

To discharge all of these service members arbitrarily as this provision mandates would be both unwarranted and unwise.

This provision is unnecessary as a matter of sound military policy because there is already in place a physical evaluation system to determine the fitness for duty of HIV-positive personnel.

Discharging service members deemed fit for duty would waste the government's investment in the training of these individuals and be disruptive to the military programs in which they play an integral role . . .

This violates a standard traditionally used by the services for retention and thus undermines a fair policy of evaluating retention on medical and service issues on an individual basis.

I agree.

This discriminatory provision therefore denies equal protection by requiring the discharge of those qualified service members living with the HIV disease who are medically able to serve, without furthering any legitimate governmental purpose. As President Franklin D. Roosevelt said, in explaining his decision to sign an important appropriations bill notwithstanding the fact that it contained a provision that trenched upon individual rights, "I cannot . . . yield without placing on record my view that this provision is not only unwise and discriminatory, but unconstitutional."

In accordance with my constitutional determination, the Attorney General will decline to defend this provision. Instead, the Attorney General will inform the House and Senate of this determination so that they may, if they wish, present to the courts their argument that the provision should be sustained.

In the meantime, I have directed the Secretaries of Defense and Veterans Affairs, in carrying out the provisions of this Act pending any repeal or judicial invalidation, to take all steps necessary to provide these service members and their families with the benefits they would have received had they been medically retired. I therefore am directing that the Secretaries of Defense and Veterans Affairs take all possible actions, consistent with applicable law, to ameliorate the burden this legislation will place on these service members and their

families and to see to it that they are treated with fairness and compassion.

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PRIVILEGED AND ~~CONFIDENTIAL~~
PRELIMINARY DRAFT--CLOSE HOLD

2/9/96, 1:00 p.m.

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I have concluded that this provision is unconstitutional. The Secretary of Defense and the Chairman of the Joint Chiefs of Staff have advised me that:

To discharge all of these service members arbitrarily as this provision mandates would be both unwarranted and unwise.

This provision is unnecessary as a matter of sound military policy because there is already in place a physical evaluation system to determine the fitness for duty of HIV-positive personnel.

Discharging service members deemed fit for duty would waste the government's investment in the training of these individuals and be disruptive to the military programs in which they play an integral role . . .

This violates a standard traditionally used by the services for retention and thus undermines a fair policy of evaluating retention on medical and service issues on an individual basis.

I agree.

This discriminatory provision therefore denies equal protection by requiring the discharge of those qualified service members living with the HIV disease who are medically able to serve, without furthering any legitimate governmental purpose. As President Franklin D. Roosevelt said, in explaining his decision to sign an important appropriations bill notwithstanding the fact that it contained a provision that trenched upon individual rights, "I cannot . . . yield without placing on record my view that this provision is not only unwise and discriminatory, but unconstitutional."

In accordance with my constitutional determination, the Attorney General will decline to defend this provision. Instead, the Attorney General will inform the House and Senate of this determination so that they may, if they wish, present to the courts their argument that the provision should be sustained.

In the meantime, I have directed the Secretaries of Defense and Veterans Affairs, in carrying out the provisions of this Act pending any repeal or judicial invalidation, to take all steps necessary to provide these service members and their families with the benefits they would have received had they been medically retired. I therefore am directing that the Secretaries of Defense and Veterans Affairs take all possible actions, consistent with applicable law, to ameliorate the burden this legislation will place on these service members and their

families and to see to it that they are treated with fairness and compassion.

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Hagan
DRAFT

"HIV" -- pp. 2-3

STATEMENT BY THE PRESIDENT

Today I have signed into law S. 1124, the "National Defense Authorization Act for Fiscal Year 1996." This Act authorizes appropriations for Department of Defense military activities, including military construction, and defense activities of the Department of Energy. It also provides, extends, or amends various authorities relating to national defense programs and activities.

I vetoed the original version of this legislation on December 28, 1995. Since that time, Congress has addressed a number of my serious national security concerns. Specifically, the Congress deleted the provisions requiring deployment by 2003 of a costly missile defense system designed to defend against a long-range missile threat, which our Intelligence Community does not foresee existing in the next decade. Also, such a system probably could not have been implemented in consonance with the existing Anti-Ballistic Missile Treaty. Such a course of action would have prevented us from deploying the best possible technology if such a threat were to emerge.

The Congress also deleted the requirement that the President submit a supplemental appropriations request within a defined time period after commencement of certain contingency and other

operations, such as the ongoing military operations in Bosnia. The Act does, however, continue to contain unwarranted restrictions on the manner in which such operations may be funded. Also deleted is the restriction on the President's authority to make and implement decisions relating to the operational or tactical control of elements of the U.S. armed forces, a restriction which clearly infringed on the President's constitutional authority as Commander in Chief.

S. 1124 continues to contain, however, a number of provisions, identified in my earlier veto message, that will adversely affect the ability of the Department of Defense to carry out its national defense mission in the most effective and efficient manner.

The Act specifically includes two provisions affecting members of the Armed Forces and their families to which I remain strongly opposed. As I have mentioned before, I am very concerned by the provision requiring the involuntary separation of military personnel who are living with the Human Immunodeficiency Virus (HIV), when such a departure is not medically required. This provision is blatantly discriminatory, and highly punitive to service members and their dependents. Individuals living with HIV can and do lead full and productive

(serves no
valid military
purpose,)

lives, provide for their families, and contribute to the well being of our nation. The men and women affected by this provision serve their country with honor and should be allowed to continue to do so. Therefore I am, today, asking the Congress to ^{support bipartisanship} repeal this provision before a single service member is discharged from the Armed Forces. (I have also directed the Secretary of Defense and the Secretary of Veterans Affairs to utilize all possible means to provide these service members and their families with additional benefits to ameliorate the burden this legislation will place on them.)?

The other objectionable provision restricts the ability of service women and military dependents to obtain privately-funded abortions in military facilities overseas. I remain concerned that in many countries, these U.S. facilities provide the only accessible safe source for these medical services. I will also support efforts to repeal this and a similar provision that became law in the "Department of Defense Appropriations Act, 1996."

Section 1404 of the Act expresses the sense of Congress that the Secretary of Defense should not take any steps toward dismantling or retiring specific strategic nuclear delivery systems until the START II Treaty enters into force, and it

prohibits obligating or expending funds in fiscal year 1996 for such steps. Reading the provisions of section 1404 together, I interpret the section to prohibit obligations or expenditures only before the START II Treaty enters into force. The explanation of section 1404 in the Conference Report supports this interpretation.

Notwithstanding my continuing concerns about the bill's objectionable provisions, I have approved S. 1124 because the Department of Defense needs to have the full range of authorities provided by this legislation.

Included among the Act's positive features are its provisions authorizing the Department to continue critically important defense programs and activities and to initiate a number of new programs. Among them is the Military Housing Privatization Initiative, which provides new authority to acquire and improve military housing and supporting facilities by using private expertise and capital. It also includes authorization for the full increase in pay and allowances for our military personnel, and authorization for necessary military construction and NATO infrastructure programs. Additionally, the Act continues the Department of Energy's science-based Stockpile

Stewardship program, and provides for the sale of the Elk Hills Naval Petroleum Reserve.

I am also pleased that S. 1124 contains the Administration's proposal to allow the United States to extradite indicted war criminals and provide evidence directly to the International War Crimes Tribunals for the Former Yugoslavia and Rwanda. We hope that this will encourage others to fully cooperate with the War Crimes Tribunal.

In response to serious concerns about the outmoded approach to the acquisition and management of information technology in the Federal government, S. 1124 simplifies and strengthens the way agencies use and acquire computers and telecommunications, giving them authority and flexibility, but insisting on accountability for results. Consistent with the Administration's efforts under the National Performance Review to create a government that works better and costs less, the bill encourages agencies to adopt the best practices of successful companies in the private sector.

Moreover, the Act contains significant acquisition reform measures, sought by the Administration and undertaken with bipartisan support, that will further simplify and facilitate the purchase of commercially-available goods and services, streamline

and clarify procurement integrity laws, and substantially
improve how bid protests for information technology are resolved.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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DATE: 2/2/96 TIME: _____

OF PAGES TO FOLLOW 6 FROM: Rob Nassif
LEGISLATIVE REFERENCE DIV.

TO: Marvin Kristou

COMMENT: Here is our latest working draft of the
signing statement on S.1124 - Def. Auth. 96.

Please, DO NOT share this with anyone outside
of EOP. Thanks

MM Nassif

ACTION: FYI X RESPOND BY: _____

2/2/96 - 3:30pm

STATEMENT BY THE PRESIDENT

Today I have signed into law S. 1124, the "National Defense Authorization Act for Fiscal Year 1996." This Act authorizes appropriations for Department of Defense military activities, including military construction, and defense activities of the Department of Energy. It also provides, extends, or amends various authorities relating to national defense programs and activities.

I vetoed the original version of this legislation on December 28, 1995. Since that time, Congress has addressed a number of my serious national security concerns. Specifically, the Congress deleted the provisions requiring deployment by 2003 of a costly missile defense system designed to defend against a long-range missile threat, which our Intelligence Community does not foresee existing in the next decade. Also, such a system probably could not have been implemented in consonance with the existing Anti-Ballistic Missile Treaty. Such a course of action would have prevented us from deploying the best possible technology if such a threat were to emerge.

The Congress also deleted the requirement that the President submit a supplemental appropriations request within a defined time period after commencement of certain contingency and other operations, such as the ongoing military operations in Bosnia. The Act does, however, continue to contain unwarranted

2/2/96 - 3:30pm

restrictions on the manner in which such operations may be funded. Also deleted is the restriction on the President's authority to make and implement decisions relating to the operational or tactical control of elements of the U.S. armed forces, a restriction which clearly infringed on the President's constitutional authority as Commander in Chief.

S. 1124 continues to contain, however, a number of provisions, identified in my earlier veto message, that will adversely affect the ability of the Department of Defense to carry out its national defense mission in the most effective and efficient manner.

The Act specifically includes two provisions affecting members of the Armed Forces and their families about which I am very concerned. As I have mentioned before, I am strongly opposed, as is the Department of Defense to the provision requiring the involuntary separation of military personnel who are living with the Human Immunodeficiency Virus (HIV), when, as here, such a departure is not medically required and serves no valid military or public health purpose. This provision is blatantly discriminatory and highly punitive to service members and their dependents who despite their HIV status can and do lead full and productive lives, provide for their families, and contribute to the well being of our nation. The

2/2/96 - 3:30pm

men and women affected by this provision are ready, willing and able to serve their country with honor and should be allowed to continue to do so. I strongly support the current efforts in Congress to repeal this provision before a single service member is discharged from the Armed Forces. However, in the meantime, I have directed the Secretary of Defense and the Secretary of Veterans Affairs to utilize all possible means to provide these service members and their families with additional benefits to ameliorate the burden this legislation will place on them and to see to it that they are treated with fairness and compassion.

The other objectionable provision restricts the ability of service women and military dependents to obtain privately-funded abortions in military facilities overseas. I remain concerned that, in many countries, these U.S. facilities provide the only accessible safe source for these medical services. I will also support congressional efforts to repeal this and a similar provision that became law in the "Department of Defense Appropriations Act, 1996."

Section 1404 of the Act expresses the sense of Congress that the Secretary of Defense should not take any steps toward

2/2/96 - 3:30pm

dismantling or retiring specific strategic nuclear delivery systems until the START II Treaty enters into force, and it prohibits obligating or expending funds in fiscal year 1996 for such steps. Reading the provisions of section 1404 together, I interpret the section to prohibit obligations or expenditures only before the START II Treaty enters into force. The explanation of section 1404 in the Conference Report supports this interpretation.

Notwithstanding my continuing concerns about the bill's objectionable provisions, I have approved S. 1124 because the Department of Defense needs to have the full range of authorities provided by this legislation.

Included among the Act's positive features are its provisions authorizing the Department to continue critically important defense programs and activities and to initiate a number of new programs. Among them is the Military Housing Privatization Initiative, which provides new authority to acquire and improve military housing and supporting facilities by using private expertise and capital. It also includes authorization for the full increase in pay and allowances for our military personnel, and authorization for necessary military construction and NATO infrastructure programs. Additionally, the Act continues the Department of Energy's science-based Stockpile

2/2/96 - 3:30pm

Stewardship program, and provides for the sale of the Elk Hills Naval Petroleum Reserve.

I am also pleased that S. 1124 contains the Administration's proposal to allow the United States to extradite indicted war criminals and provide evidence directly to the International War Crimes Tribunals for the Former Yugoslavia and Rwanda. We hope that this will encourage others to fully cooperate with the War Crimes Tribunal.

In response to serious concerns about the outmoded approach to the acquisition and management of information technology in the Federal government, S. 1124 simplifies and strengthens the way agencies employ computers and telecommunications equipment and services, giving them authority and flexibility, but insisting on accountability for results. Consistent with the Administration's efforts under the National Performance Review to create a government that works better and costs less, the bill encourages agencies to adopt the best practices of successful companies in the private sector.

Moreover, the Act contains significant acquisition reform measures, sought by the Administration and undertaken with bipartisan support, that will further simplify and facilitate the purchase of commercially-available goods and services, streamline

2/2/96 - 3:30pm

and clarify procurement integrity laws, and substantially
improve how bid protests for information technology are resolved.

DRAFT--CLOSE HOLD
NOT CLEARED WITH DOJ AND DOD

2/6/96

As I have mentioned before, I am strongly opposed, as is the Department of Defense to the provision requiring the involuntary separation of military personnel who are living with the Human Immunodeficiency Virus (HIV), when, as here, such a departure is not required by any medical, public health, or military purpose. This provision is blatantly discriminatory and highly punitive to service members and their dependents who despite their HIV status can and do lead full and productive lives, provide for their families, and contribute to the well being of our nation. The men and women affected by this provision are ready, willing and able to serve their country with honor and should be allowed to continue to do so. I strongly support the current efforts in Congress to repeal this provision before a single service member is discharged from the Armed Forces. (I also feel very strongly that service members should have an adequate opportunity to challenge this provision in court before being separated from the military. In any litigation over this provision, I will direct the Department of Justice to give full consideration to the heavy burden and unfairness of discharge on these service members and their families.)

However, in the meantime, I have directed the Secretary of Defense and the Secretary of Veterans Affairs to take all steps necessary to provide these service members and their families with the benefits they would have received had they been

medically retired. I therefore am directing that the Secretaries take all possible actions, consistent with applicable law, to ameliorate the burden this legislation will place on these service members and their families and to see to it that they are treated with fairness and compassion. ###

DRAFT--CLOSE HOLD
NOT CLEARED WITH DOJ AND DOD

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As I have mentioned before, I am strongly opposed, as is the Department of Defense to the provision requiring the involuntary separation of military personnel who are living with the Human Immunodeficiency Virus (HIV), when, as here, such a departure is not required by any medical, public health, or military purpose. This provision is blatantly discriminatory and highly punitive to service members and their dependents who despite their HIV status can and do lead full and productive lives, provide for their families, and contribute to the well being of our nation. The men and women affected by this provision are ready, willing and able to serve their country with honor and should be allowed to continue to do so. I strongly support the current efforts in Congress to repeal this provision before a single service member is discharged from the Armed Forces. I also feel very strongly that service members should have an adequate opportunity to challenge this provision in court before being separated from the military. In any litigation over this provision, I will direct the Department of Justice to give full consideration to the heavy burden and unfairness of discharge on these service members and their families.

However, in the meantime, I have directed the Secretary of Defense and the Secretary of Veterans Affairs to take all steps necessary to provide these service members and their families with the benefits they would have received had they been

medically retired. I therefore am directing that the Secretaries take all possible actions, consistent with applicable law, to ameliorate the burden this legislation will place on these service members and their families and to see to it that they are treated with fairness and compassion. ###

DRAFT--CLOSE HOLD
NOT CLEARED WITH DOJ AND DOD

2/6/96

As I have mentioned before, I am strongly opposed, as is the Department of Defense to the provision requiring the involuntary separation of military personnel who are living with the Human Immunodeficiency Virus (HIV), when, as here, such a departure is not required by any medical, public health, or military purpose. This provision is blatantly discriminatory and highly punitive to service members and their dependents who despite their HIV status can and do lead full and productive lives, provide for their families, and contribute to the well being of our nation. The men and women affected by this provision are ready, willing and able to serve their country with honor and should be allowed to continue to do so. I strongly support the current efforts in Congress to repeal this provision before a single service member is discharged from the Armed Forces. I also feel very strongly that service members should have an adequate opportunity to challenge this provision in court before being separated from the military. In any litigation over this provision, I will direct the Department of Justice to give full consideration to the heavy burden and unfairness of discharge on these service members and their families.

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NOT CLEARED WITH DOJ AND DOD

2/6/96

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However, in the meantime, I have directed the Secretary of Defense and the Secretary of Veterans Affairs to take all steps necessary to provide these service members and their families with the benefits they would have received had they been

medically retired. I therefore am directing that the Secretaries take all possible actions, consistent with applicable law, to ameliorate the burden this legislation will place on these service members and their families and to see to it that they are treated with fairness and compassion. ###



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON D.C. 20503

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FACSIMILE NUMBER: (202) 395-5691 ROOM 7230/NEOB

VERIFICATION NUMBER: (202) 395-6194

DATE: 2/1/96 TIME: 4:15 PM

OF PAGES TO FOLLOW 2 FROM: Rob Nassif 395-7896
LEGISLATIVE REFERENCE DIV.

TO: Marvin Krislov - WH Counsel
DOJ - Adviser

COMMENT: The following changes have been suggested
for the Presidential signing statement on S. 1124.
Defense Authorization FY96.

I have not incorporated them into the master
copy of the S.S. pending the outcome of tomorrow's
meeting on the HIV provision. Since the new language
raises constitutional questions, I thought you might
want a copy as advanced warning.

ACTION: FYI X RESPOND BY: _____

02/01/96

11:24

13202 219 7965

55961

The Act specifically includes two provisions affecting members of the Armed Forces and their families [^]about which I [^]am very concerned. As I have mentioned before, I am [^]strongly opposed, as ^{are} the Department of Defense and our military leaders, to the provision requiring the involuntary separation of military personnel who are living with the Human Immunodeficiency Virus (HIV), when, as here, such a departure is not medically required and serves no valid military or public health purpose. It is wrong. This provision is irrational, irresponsible, blatantly discriminatory and highly punitive to service members and their dependents [^]who despite their HIV status can and do lead full and productive lives, provide for their families, and contribute to the well being of our nation. The men and women affected by this provision are ready, willing and able to serve their country with honor and should be allowed to continue to do so. I strongly support the current efforts in Congress to repeal this misguided and un-American provision before a single service member is discharged from the Armed Forces based on senseless bigotry and prejudice. The validity and enforceability of this provision as a matter of constitutional law ~~will have to be~~ ^{may} ultimately decided by our courts. However, in the meantime, I have directed the Secretary of Defense and the Secretary of Veterans Affairs to utilize all possible means to provide these service members and their families with additional benefits to ameliorate the burden this legislation will place on them and to see to it that they are treated with fairness and compassion.

02/01/96

11:24

202 219 7963

To Rob N -

As we discussed
I am
also
Sharing
/ Gordon
Adams.
Nye

U.S. DEPARTMENT OF LABOR

White House Liaison
200 Constitution Avenue, N.W.
Washington, D.C. 20210
Tel: 202-219-7464
Fax: 202-219-7971

Date: February 1, 1996

To: Jim Blount, OMB

Fax Number: 395-9119

From: Richard Socarides for Marsha Scott

Number of Pages: 2
(Including cover sheet)

☐ Action
☐ Approval
☐ Note and Return
☐ Comment
☐ Investigate
☐ For Clearance
☐ For Correction

☐ As Discussed
☐ As Requested
☐ Circulate
☐ Prepare Reply
☐ See Me
☐ Signature
☐ Information

COMMENTS:

Here are suggested revisions of the President's signing statement. This draft is "red lined" from the January 31, 12:00 noon draft. Underscored material is new, * indicates omitted material.

cc: George Stephanopoulos
Nancy Ann Min

DRAFT

The Act specifically includes two provisions affecting certain of our service members to which I remain strongly opposed. As I have mentioned before, I strongly oppose the provision requiring the retirement or discharge of military personnel who are living with the Human Immunodeficiency Virus (HIV), despite the fact that they are medically capable of performing their duties. I am very disappointed that this blatantly discriminatory provision was not removed from the final legislation. As long as these men and women are willing and able to serve their country, such action is unnecessary and unfair.

Current policy allows qualified military personnel with illness or disabilities including HIV to serve until their medical condition precludes their doing so. The Defense Department and military leaders have opposed changing the current policy because it wrongly singles out qualified military personnel for involuntary separation.

~~In addition,~~ this provision contradicts the intent and spirit of significant Congressional mandates ~~that~~ the Americans with Disabilities Act and the Rehabilitation Act — outlaw. I am today submitting legislation to repeal this provision as quickly as possible. In addition, I am directing the Secretaries of Defense and Veterans' Affairs to take all necessary measures to ensure that these veterans and their families receive all the benefits to which they are entitled and to which they deserve.

DRAFT

The Act specifically includes two provisions affecting certain of our service members to which I remain strongly opposed. As I have mentioned before, I strongly oppose the provision requiring the retirement or discharge of military personnel who are living with the Human Immunodeficiency Virus (HIV), despite the fact that they ^{are medically capable of} ~~can~~ perform the duties. ~~This~~ provision would require the involuntary separation of qualified military personnel living with HIV, even though their discharge is not medically required. I am very disappointed. text

As long, -----unnecessary and unfair.

~~As Secretary of Defense has said~~
In addition, this provision ~~is~~ contradicts the intent and spirit of significant Congressional mandates ^{-- the Americans with Disabilities Act and the Rehabil. Act} ~~that~~ ^{outlawing} discrimination against individuals living with HIV, ~~such as the Americans with Disabilities Act and the Rehabil. Act of 1993.~~ I am today submitting ^{legislation} ~~legislation~~ to repeal this provision as quickly as possible. In addition, I am directing the ^{Secretary} ~~Departments~~ of Defense and Veterans' Affairs to take all necessary measures to ensure that these veterans ~~and their families~~ receive all the benefits to which they are entitled and to which they deserve.

Current policy allows qualified military personnel ~~to serve~~ with illness or disabilities ~~to~~ including HIV to serve until their medical condition precludes their doing so. ~~The change is needed~~ The Defense Department and military leaders have opposed changing ~~the~~ the current policy because it wrongly ~~sent~~ sent out qualified military personnel ~~and~~ for

involuntary separation, ~~and deprive them of their~~

NA: Mt also want to add circled portion
MCE

The Act specifically includes two provisions affecting certain of our service members to which I remain strongly opposed. I deeply regret the inclusion of the amendment requiring that all service members living with HIV be discharged. This provision is irrational, irresponsible, blatantly discriminatory and I believe unconstitutional. As Senator Sam Nunn has said: "It is punitive action that does not make sense from any point of view." Currently, all military personnel found to have illnesses or disabilities including HIV continue to serve their country until their medical condition prevents them from doing so. This policy, developed during the Reagan Administration, is sound and has worked well for more than a decade. The change now contained in this Bill is strongly opposed by the Department of Defense and our military leaders because it wrongly singles out qualified military personnel for involuntary separation. These men and women with HIV are ready, willing, and able to serve their country, and senseless bigotry and ignorance should not now stop them. I strongly support legislation introduced by a bipartisan coalition in the Congress to repeal this un-American action and misguided policy. In the meantime, I am directing the Secretary of Defense and the Attorney General to see to it that these individuals and families are treated fairly and compassionately. To do otherwise will deny essential health and support benefits to service members, their spouses, and their children whose lives depend on them.

Nancy J. ...
Some modest
additions / suggestions
main
+ 6/9/03

As I have mentioned before, I strongly oppose
the provision requiring the retirement or discharge of
military personnel who are living with the Human
Immunodeficiency Virus (HIV), ~~and~~ ~~can~~ despite
the fact that they can perform the duties.

This provision would require the involuntary
separation of ~~the~~ ^{qualified} military personnel living with
HIV, even though ~~the~~ ^{their discharge} is not medically required.
I am very disappointed - - -

As long as, unnecessary [and unfair]

In addition, this provision flatly contradicts the
intent and spirit of ~~other~~ ^{significant} Congressional mandates,
outlawing discrimination against individuals living with HIV,
such as the Americans with Disabilities Act and the

Rehab. Act of 1973. I ~~am~~ ^{am today submitting legislation to} ~~with strong~~ support ~~to~~

~~we~~ repeal this provision as quickly as possible. In addition,
I am directing the Departments of Defense and Veterans'

Affairs to take all necessary measures to ensure

that these veterans (and their families) receive all

the benefits to which they are entitled ~~and to which~~

~~they~~ deserve.

DRAFT

The Act specifically includes two provisions affecting certain of our service members to which I remain strongly opposed. As I have mentioned before, I strongly oppose the provision requiring the retirement or discharge of military personnel who are living with the Human Immunodeficiency Virus (HIV), despite the fact that they are medically capable of performing their duties. I am very disappointed that this blatantly discriminatory provision was not removed from the final legislation.

Current policy allows qualified military personnel with illness or disabilities including HIV to serve until their medical condition precludes their doing so. The Defense Department and military leaders have opposed changing the current policy because it wrongly singles out qualified military personnel for involuntary separation. As long as these men and women are willing and able to serve their country, such action is unnecessary and unfair. This provision contradicts the intent and spirit of significant Congressional mandates--the Americans with Disabilities Act and the Rehabilitation Act--that outlaw unjustified discrimination against individuals living with HIV.

I am today submitting legislation to repeal this provision as quickly as possible. In addition, I am directing the Secretaries of Defense and Veterans' Affairs to take all necessary measures to ensure that these veterans and their families receive all the benefits to which they are entitled and to which they deserve.

The Act specifically includes two provisions affecting certain of our service members to which I remain strongly opposed. I deeply regret the inclusion of the amendment requiring that all service members living with HIV be discharged. ~~This provision is irrational, irresponsible, blatantly discriminatory and I believe unconstitutional.~~ As Senator Sam Nunn has said: "It is punitive action that does not make sense from any point of view." Currently, all military personnel found to have illnesses or disabilities including HIV continue to serve their country until their medical condition prevents them from doing so. This policy, developed during the Reagan Administration, is sound and has worked well for more than a decade. The change now contained in this Bill is strongly opposed by the Department of Defense and our military leaders because it wrongly singles out qualified military personnel for involuntary separation. These men and women with HIV are ready, willing, and able to serve their country, and senseless bigotry and ignorance should not now stop them. I ^{am hereby submitting} ~~strongly support~~ ~~legislation introduced by a bipartisan coalition in the Congress~~ to repeal this un-American action and misguided policy. In the meantime, I am directing the Secretary of Defense and the Attorney General to see to it that these individuals and ^{their} families are treated fairly and compassionately. To do otherwise will deny essential health and support benefits to service members, their spouses, and their children whose lives depend on them.

DRAFT

The Act specifically includes two provisions affecting certain of our service members to which I remain strongly opposed. As I have mentioned before, I strongly oppose the provision requiring the retirement or discharge of military personnel who are living with the Human Immunodeficiency Virus (HIV), despite the fact that they are medically capable of performing their duties. I am very disappointed that this blatantly discriminatory provision was not removed from the final legislation.

Current policy allows qualified military personnel with illness or disabilities including HIV to serve until their medical condition precludes their doing so. The Defense Department and military leaders have opposed changing the current policy because it wrongly singles out qualified military personnel for involuntary separation. As long as these men and women are willing and able to serve their country, such action is unnecessary and unfair.

~~In addition,~~ This provision contradicts the intent and spirit of significant Congressional mandates the Americans with Disabilities Act and the Rehabilitation Act, that outlaw unjustified discrimination against individuals living with HIV. ~~outlaw.~~

I am today submitting legislation to repeal this provision as quickly as possible. In addition, I am directing

the Secretaries of Defense and Veterans' Affairs to take all necessary measures to ensure that these veterans and their families receive all the benefits to which they are entitled and to which they deserve.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

TELECOPIER FOR RESOURCES-DEFENSE-INTERNATIONAL BRANCH ONLY

FACSIMILE NUMBER: (202) 395-5691 ROOM 7230/NEOB

VERIFICATION NUMBER: (202) 395-6194

DATE: 1/29/96 TIME: _____

OF PAGES TO FOLLOW 5 FROM: Rob Nassif 395-7896
LEGISLATIVE REFERENCE DIV.

TO: Bob Darnus Gordon Adams
Marvin Kristov Phil Hitch
Sam Brick Carol Rasco
Joe Sestak Nancy Ann Min
Jim Murr

COMMENT: The following is the latest draft of the Presidential
Signing Statement on S.1124 - Defense Authorization Act FY96

ACTION: FYI

RESPOND BY: ASAP

STATEMENT BY THE PRESIDENT

Today I have signed into law S. 1124, the "National Defense Authorization Act for Fiscal Year 1996." This Act authorizes appropriations for Department of Defense military activities, including military construction, and defense activities of the Department of Energy. It also provides, extends, or amends various authorities relating to national defense programs and activities.

I vetoed the original version of this legislation on December 28, 1995. Since that time, Congress has addressed a number of my serious national security concerns. Specifically, the Congress deleted the provisions requiring deployment by 2003 of a costly missile defense system designed to defend against a long-range missile threat, which our Intelligence Community does not foresee existing in the next decade. Also, such a system probably could not have been implemented in consonance with the existing Anti-Ballistic Missile Treaty. Such a course of action would have prevented us from deploying the best possible technology if such a threat were to emerge.

The Congress also deleted the requirement that the President submit a supplemental appropriations request within a defined time period after commencement of certain contingency and other operations, such as the ongoing military operations in Bosnia. The Act does, however, continue to contain unwarranted restrictions on the manner in which such operations may be

funded. Also deleted is the restriction on the President's authority to make and implement decisions relating to the operational or tactical control of elements of the U.S. armed forces, a restriction which clearly infringed on the President's constitutional authority as Commander in Chief.

S. 1124 continues to contain, however, a number of provisions, identified in my earlier veto message, that will adversely affect the ability of the Department of Defense to carry out its national defense mission in the most effective and efficient manner.

*despite
can
perform
duties
Families*

The Act specifically includes two provisions affecting certain of our service members to which I remain strongly opposed. ~~As~~ As I have mentioned before, I am very concerned by the provision requiring the retirement or discharge of military personnel who are living with the Human Immunodeficiency Virus (HIV), when it is not medically required. *related to
(under existing provisions) medical
capability* I am disappointed that this blatantly discriminatory provision was not removed from the final legislation. As long as these men and women are willing and able to serve their country, such action is unnecessary. I will strongly support efforts to repeal this provision as quickly as possible. In the meantime, my Administration will take all necessary measures to assure that such personnel receive all the benefits to which they are entitled.

The other objectionable provision restricts the ability of service women and military dependents to obtain privately-funded abortions in military facilities overseas. I remain concerned

that in many countries, these U.S. facilities provide the only accessible safe source for these medical services. I will also support efforts to repeal this and a similar provision that became law in the "Department of Defense Appropriations Act, 1996."

I have approved S. 1124 despite these objectionable provisions because the Department of Defense needs to have the full range of authorities provided by this legislation.

Section 1404 of the Act expresses the sense of Congress that the Secretary of Defense should not take any steps toward dismantling or retiring specific strategic nuclear delivery systems until the START II Treaty enters into force. This provision prohibits obligating or expending funds in fiscal year 1996 for such steps. Reading the provisions of section 1404 together, I interpret the section to prohibit obligations or expenditures only before the START II Treaty enters into force. The explanation of section 1404 in the Conference Report supports this interpretation.

Included among the Act's positive features are its provisions authorizing the Department of Defense to continue critically important defense programs and activities and to initiate a number of new programs. Among them is the Military Housing Privatization Initiative, which provides Defense with new authority to acquire and improve military housing and supporting facilities by using private expertise and capital. It also includes authorization for the full increase in pay and

allowances for our military personnel, and authorization for necessary military construction and NATO infrastructure programs. Additionally, the act continues the Department of Energy's science based Stockpile Stewardship program, and provides for the sale of the Elk Hills Naval Petroleum Reserve.

I am pleased that the Authorization Conferees have enacted my legislative proposal that allows the United States to extradite indicted war criminals directly to the International War Crimes Tribunals for the Former Yugoslavia and Rwanda. We hope that this will encourage others to fully cooperate with the War Crimes Tribunal.

In addition, in response to serious concerns about the outmoded approach to the acquisition and management of information technology in the Federal government, the bill simplifies and strengthens the way agencies use computers and telecommunications, giving them authority and flexibility, but insisting on accountability for results. Consistent with the Administration's efforts under the National Performance Review to create a government that works better and costs less, the bill encourages agencies to adopt the best practices of successful companies in the private sector.

Moreover, the Act contains significant acquisition reform measures, sought by the Administration and undertaken with bipartisan support, that will further simplify and facilitate the purchase of commercially-available goods and services, streamline

and clarify procurement integrity laws, and substantially improve how bid protests for information technology are resolved.

STATEMENT BY THE PRESIDENT

DRAFT 2/7/96 4:25 pm

Today I have signed into law S. 652, the "Telecommunications Act of 1996." This Act fulfills my Administration's promise to reform our telecommunications laws in a manner that leads to competition and private investment, that promotes universal service and open access to information networks, and that provides for flexible government regulation. The Act provides for special rates for providing advanced telecommunications services to schools, libraries and hospitals, and establishes V-chips to enable families to exercise greater control over what television programming comes into their homes.

For nearly two decades, Vice President Gore has worked to spur the creation of a national information superhighway. This Act lays the foundation for the robust investment and development that will create such a superhighway to serve both the private sector and the public interest.

Over the past three years my Administration has fought to produce legislation that would provide consumers greater choices and better quality in their telephone, cable, and information services. By allowing direct competition between phone and cable companies this Act will stimulate lower prices and greater quality through competition in both fields.

At the same time, the Administration has opposed measures that would allow undue concentration in the mass media. I am very pleased that this Act retains reasonable limits on the ability of one company or individual to own television, radio and newspaper properties in local markets and retains national ownership limits on television stations. The Administration will continue its efforts to ensure that the American public has access to many different sources of news and information in their communities.

S. 652 lifts the cap on national audience reach for television stations owned by one person or entity from 25 percent of the national audience to 35 percent. This cap is important in order to prevent a single broadcast group owner from dominating the national media market. By choosing to raise the limit to a specific percentage, Congress placed a ceiling on the level of relaxation in ownership, clearly indicating that it should not be higher.

While this Act removes the statutory ban on ownership of a cable system and a broadcast station in the same local market, it does not eliminate the Federal Communications Commission's (FCC's) regulatory ban on such cross-ownership. This ownership restriction continues to be very important in maintaining competition in local markets and should be maintained by the FCC. In addition, while certain regulatory cross-ownership bans are no longer necessary and have been eliminated, others that are critical to maintaining the diversity of local news and information sources have been retained by S. 652. For example, the regulatory ban on common ownership of a newspaper and a broadcast television or radio station is maintained.

Another regulation that is critical to maintaining the diversity of local news and

information sources is the prohibition on ownership of more than one television station in a local market. While the FCC allows ownership of more than one television station in certain circumstances, such as when a station would otherwise go dark, they only do so under narrow and compelling circumstances and where local diversity would not be reduced. S. 652 directs the FCC to conduct a rulemaking to review this regulation and its waiver policy. Any changes in this policy should only allow ownership of two stations when doing so would clearly not reduce the diversity of independent outlets of news and information in a community. The Administration will continue to support a fair balance between economic viability and diversity.

Rates for cable programming services will be deregulated in approximately three years. Such deregulation will include cable programming services and equipment used exclusively for the receipt of such services.

Cable rates will be deregulated when a phone company offers programming to subscribers in a community, providing effective competition to the cable operator. This is based on the assumption that consumers will be protected from price hikes because the cable system faces real competition. That is why it is imperative that the rules not deregulate cable rates when a phone company merely turns on its service or signs up its first one or two customers, but when a meaningful number of subscribers have actually subscribed to the phone company's video services.

This legislation places a strong emphasis on competition in both local and long distance telephone markets. It provides detailed requirements to open local telephone networks to competition. Moreover, it requires that the FCC, in making its decision regarding an application by a Bell company to offer long-distance service, must accord "substantial weight" to the Attorney General's evaluation of the application concerning any of the requirements a Bell company must satisfy. This special legal standard, which I consider essential, ensures that the FCC and any appellate court will respect and accord full weight to the Department of Justice Antitrust Division's special competition expertise -- especially its expertise in making predictive judgments concerning the competitive effects on local and long distance telecommunications markets of Bell company entry into long distance. In so doing, the statute allows the Attorney General to use any available evidence, including evidence acquired under the Modified Final Judgment, and make a recommendation under any legal standard the Attorney General considers appropriate.

To protect the public, the legislation authorizes the FCC, through its application of the public interest test, giving substantial weight to the evaluation of the Attorney General, to exercise wide discretion regarding long distance entry. The FCC can consider a broad range of issues under the public interest test -- including the adequacy of interconnection arrangements to permit vigorous competition and the nature and extent of any facilities-based competition -- notwithstanding that there are separate provisions that also deal with these matters.

S. 652 contains specific additional prohibitions of discrimination against competing telecommunications service providers when either the Bell company or its affiliate provides services to the other. While the Bell company is permitted to jointly market its local telephone service with the services provided by the separate affiliate, the nondiscrimination prohibitions must be fully complied with.

The Act's emphasis on competition is also reflected in its antitrust savings clause. This clause ensures that even for activities allowed under the legislation -- including Bell entry -- activities resulting from FCC rulemakings or orders, and for activities that comply with specific requirements imposed under the legislation, the antitrust laws continue to apply fully.

I am especially pleased that the Act contains the V-chip requirement that will empower families to choose the type of programming that is suitable for their children. The V-chip provision relies on the broadcast networks to produce a rating system and to implement the system in a way compatible with V-chip technology. By relying on the television industry to establish and implement the ratings, the Act serves the interest of families without infringing on the First Amendment rights of the television programmers and producers.

S. 652 would extend a prohibition in current law, 18 U.S.C 1462, concerning the transmittal of abortion-related speech and information, to cover transmittal by interactive computer services. The Department of Justice has advised me that its longstanding policy is that this and related abortion provisions in current law are unconstitutional and will not be enforced because they violate the First Amendment. The Department has reviewed the amendment in S. 652 and advises me that it provides no basis for altering that policy. Therefore, the Department will continue to decline to enforce that provision of current law as amended by S. 652, as applied to abortion-related speech..

The Telecommunications Act of 1996 will strengthen our economy, our society, our families and our democracy. It will help connect every classroom in America to the Information Superhighway by the end of the decade. It will protect consumers directly by regulating the remaining monopolies for a time and by providing a roadmap for deregulation that promotes competition as the key to opening new markets and new opportunities. I am pleased to sign this historic legislation, which my Administration has so vigorously supported.

Wed

Letter to
Army

JA

~~Barber~~
~~new class. f - new class.~~
29
1230
to



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

COPY

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FACSIMILE NUMBER: (202)395-5691 ROOM 7230/NEOB

VERIFICATION NUMBER: (202)395-6194

DATE: 1/29/96 TIME _____

OF PAGES TO FOLLOW 5 FROM: Rob Nassif 395-7896
LEGISLATIVE REFERENCE DIV.

TO: Marvin Krislov

COMMENT: Marvin,

Here is a copy of the signing statement as
well as the HIV provision in S. 1124 - Def. Authorization FY96
Thanks.

ACTION: FYI _____ RESPOND BY: ASAP _____

DRAFT**STATEMENT BY THE PRESIDENT**

Today I have signed into law S. 1124, the "National Defense Authorization Act for Fiscal Year 1996." This Act authorizes appropriations for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy. It also provides, extends, or amends various authorities relating to national defense programs and activities.

The Act which I sign today does not contain the most objectionable of the provisions which led to my earlier veto of this legislation on December 28, 1995. Specifically, the Congress deleted the provisions requiring deployment by 2003 of a costly missile defense system designed to defend against a long-range missile threat which our Intelligence Community does not foresee existing in the next decade and which probably could not have been implemented in consonance with the existing ABM treaty. Further, such a course of action would have prevented us from deploying the best possible technology if and when such a threat does emerge.

The Congress also deleted the requirement that the President submit a supplemental appropriations request within a defined time period after commencement of certain contingency and other operations, such as the ongoing military operations in Bosnia. The Act does, however, continue to contain unwarranted restrictions on the manner in which such operations may be

—
1) constitutional

2) stayer

unfair

|

funded. Also deleted is the restriction on the President's authority to make and implement decisions relating to the operational or tactical control of elements of the U.S. armed forces, a restriction which clearly infringed on the President's constitutional authority as Commander in Chief.

Unfortunately, the Act continues to contain a number of provisions, identified in my earlier veto message, that will adversely affect the ability of the Department of Defense to carry out most effectively and efficiently its national defense mission.

The Act also continues to include two provisions affecting certain of our service members to which I remain strongly opposed. One requires the discharge of HIV-positive members when it is not medically required. I am **very** disappointed that members of Congress did not see fit to remove this discriminatory provision from the final legislation. As long as these men and women are willing and able to serve their country, such action is unnecessary. I will strongly support efforts to repeal this provision as quickly as possible. In the meantime, my Administration will do everything in its power to assure that such personnel receive all benefits to which they are entitled.

The other provision restricts the ability of service women and military dependents to obtain privately-funded abortions in military facilities overseas. I will also seek the repeal of this and a similar provision that became law in the "Department of Defense Appropriations Act, 1996." Only the overriding need

of the Department of Defense to have the full range of authorities provided by this legislation causes me to sign this Act notwithstanding the inclusion of these two provisions. Section 1404 of the Act expresses the sense of Congress that the Secretary of Defense should not take any steps toward dismantling or retiring specific strategic nuclear delivery systems until the START II Treaty enters into force, and it prohibits obligating or expending funds in fiscal year 1996 for such steps. Reading the provisions of section 1404 together, I interpret the section to prohibit obligations or expenditures only before the START II Treaty enters into force. The explanation of section 1404 in the Conference Report supports this interpretation.

Included among the Act's positive features are its provisions authorizing the Department of Defense to continue critically important defense programs and activities and to initiate a number of new programs. Chief among them is the Military Housing Privatization Initiative, which provides DOD with new authority to acquire and improve military housing and supporting facilities for the armed forces using private capital and expertise. It includes authorization for the full increase in pay and allowances for our military personnel, and authorization for necessary military construction and NATO infrastructure programs. The Act contains significant Federal acquisition reform measures, including much needed revisions to existing Federal procurement integrity laws, and a streamlining of the process by which the Government acquires and uses

information technology and telecommunications equipment and services. Finally, I am pleased that the Authorization Conference have enacted my legislative proposal that allows the United States to extradite indicted war criminals directly to the International War Crimes Tribunals for the Former Yugoslavia and Rwanda.

family

H 394

CONGRESSIONAL RECORD—HOUSE

Janu

(d) **EFFECTIVE DATE.**—This section shall apply only to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration who are separated after September 30, 1995.

SEC. 567. DISCHARGE OF MEMBERS OF THE ARMED FORCES WHO HAVE THE HIV-1 VIRUS.

(a) **IN GENERAL.**—(1) Section 1177 of title 10, United States Code, is amended to read as follows:

"§ 1177. Members infected with HIV-1 virus: mandatory discharge or retirement

"(a) **MANDATORY SEPARATION.**—A member of the armed forces who is HIV-positive shall be separated. Such separation shall be made on a date determined by the Secretary concerned, which shall be as soon as practicable after the date on which the determination is made that the member is HIV-positive and not later than the last day of the sixth month beginning after such date.

"(b) **FORM OF SEPARATION.**—If a member to be separated under this section is eligible to retire under any provision of law or to be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, the member shall be so retired or so transferred. Otherwise, the member shall be discharged. The characterization of the service of the member shall be determined without regard to the determination that the member is HIV-positive.

"(c) **DEFERRAL OF SEPARATION FOR MEMBERS IN 18-YEAR RETIREMENT SANCTUARY.**—In the case of a member to be discharged under this section who on the date on which the member is to be discharged is within two years of qualifying for retirement under any provision of law, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member may, as determined by the Secretary concerned, be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, and then be so retired or transferred, unless the member is sooner retired or discharged under any other provision of law.

"(d) **SEPARATION TO BE CONSIDERED INVOLUNTARY.**—A separation under this section shall be considered to be an involuntary separation for purposes of any other provision of law.

"(e) **ENTITLEMENT TO HEALTH CARE.**—A member separated under this section shall be entitled to medical and dental care under chapter 55 of this title to the same extent and under the same conditions as a person who is entitled to such care under section 1074(b) of this title.

"(f) **COUNSELING ABOUT AVAILABLE MEDICAL CARE.**—A member to be separated under this section shall be provided information, in writing, before such separation of the available medical care (through the Department of Veterans Affairs and otherwise) to treat the member's condition. Such information shall include identification of specific medical locations near the member's home of record or point of discharge at which the member may seek necessary medical care.

"(g) **HIV-POSITIVE MEMBERS.**—A member shall be considered to be HIV-positive for purposes of this section if there is serologic evidence that the member is infected with the virus known as Human Immunodeficiency Virus-1 (HIV-1), the virus most commonly associated with the acquired immune deficiency syndrome (AIDS) in the United States. Such serologic evidence shall be considered to exist if there is a reactive result given by an enzyme-linked immunosorbent assay (ELISA) serologic test that is confirmed by a reactive and diagnostic immunoelectrophoresis test (Western blot) on two separate samples. Any such se-

rologic test must be one that is approved by the Food and Drug Administration."

(2) The item relating to such section in the table of sections at the beginning of chapter 59 of such title is amended to read as follows:

"1177. Members infected with HIV-1 virus: mandatory discharge or retirement."

(b) **EFFECTIVE DATE.**—Section 1177 of title 10, United States Code, as amended by subsection (a), applies with respect to members of the Armed Forces determined to be HIV-positive before, on, or after the date of the enactment of this Act. In the case of a member of the Armed Forces determined to be HIV-positive before such date, the deadline for separation of the member under subsection (a) of such section, as so amended, shall be determined from the date of the enactment of this Act (rather than from the date of such determination).

SEC. 568. REVISION AND CODIFICATION OF MILITARY FAMILY ACT AND MILITARY CHILD CARE ACT.

(a) **IN GENERAL.**—(1) Subtitle A of title 10, United States Code, is amended by inserting after chapter 87 the following new chapter:

"CHAPTER 88—MILITARY FAMILY PROGRAMS AND MILITARY CHILD CARE

"Subchapter
"I. Military Family Programs 1781
"II. Military Child Care 1791

"SUBCHAPTER I—MILITARY FAMILY PROGRAMS

"Sec.
"1781. Office of Family Policy.
"1782. Surveys of military families.
"1783. Family members serving on advisory committees.
"1784. Employment opportunities for military spouses.
"1785. Youth sponsorship program.
"1786. Dependent student travel within the United States.
"1787. Reporting of child abuse.

"§ 1781. Office of Family Policy

"(a) **ESTABLISHMENT.**—There is in the Office of the Secretary of Defense an Office of Family Policy (hereinafter in this section referred to as the "Office"). The Office shall be under the Assistant Secretary of Defense for Force Management and Personnel.

"(b) **DUTIES.**—The Office—
"(1) shall coordinate programs and activities of the military departments to the extent that they relate to military families; and

"(2) shall make recommendations to the Secretaries of the military departments with respect to programs and policies regarding military families.

"(c) **STAFF.**—The Office shall have not less than five professional staff members.

"§ 1782. Surveys of military families

"(a) **AUTHORITY.**—The Secretary of Defense may conduct surveys of members of the armed forces on active duty or in an active status, members of the families of such members, and retired members of the armed forces to determine the effectiveness of Federal programs relating to military families and the need for new programs.

"(b) **RESPONSES TO BE VOLUNTARY.**—Responses to surveys conducted under this section shall be voluntary.

"(c) **FEDERAL RECORDKEEPING REQUIREMENTS.**—With respect to such surveys, family members of members of the armed forces and reserve and retired members of the armed forces shall be considered to be employees of the United States for purposes of section 8502(3)(A)(i) of title 44.

"§ 1783. Family members serving on advisory committees

"A committee within the Department of Defense which advises or assists the Depart-

ment in the performance which affects members of and which includes member families in its membership considered an advisory committee (32) of the Federal Advisory (6 U.S.C. App.) solely because of membership.

"§ 1784. Employment opportunities for spouses

"(a) **AUTHORITY.**—The President shall take such measures as the President may deem necessary to increase employment opportunities for spouses of members of the armed forces. Such measures may include:

"(1) excepting, pursuant to title 5, from the competitive process in the Department of Defense, members of the United States employment opportunities for spouses of members of the armed forces stationed in a geographical area as the permanent duty station of the members; and

"(2) providing preference in hiring in nonappropriated fund positions in the same area as the nonappropriated fund positions in wage grade UA-8 or equivalent positions and for pay at the same hourly rates.

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations:

"(1) to implement such measures as the President orders under subsection (a); and

"(2) to provide preference in hiring for any civilian position in the Department of Defense if the person is determined to be best qualified for the position and if the position is located in the same geographical area as the permanent duty station of the member;

"(3) to ensure that notice of such positions is published in the Department of Defense in a manner reasonably calculated to reach spouses of members of the armed forces whose permanent duty station is in the same geographical area as the position is located; and

"(4) to ensure that the spouse of a member of the armed forces who applies for a position in the Department of Defense is given priority consideration in the hiring process if the position is located in the same geographical area as the permanent duty station of the member.

"(c) **STATUS OF PREFERENCE.**—Nothing in this section shall be construed to require the Secretary of Defense to provide a spouse of a member of the armed forces with preference in hiring over other qualified individuals who are preference eligible.

"§ 1785. Youth sponsorship program

"(a) **REQUIREMENT.**—The Secretary of Defense shall require that there be a youth sponsorship program at each military installation to facilitate the integration of dependent children of members of the armed forces into new surroundings when they are transferred to that military installation as a result of a permanent change of station.

"(b) **DESCRIPTION OF PROGRAM.**—The youth sponsorship program at each installation shall involve the involvement of dependent children of members of the armed forces presently stationed at the installation and shall be directed toward children in their preteen and teenage years.

"§ 1786. Dependent student travel within the United States

"Funds available to the Department of Defense for the travel and transportation of dependent students of members of the armed forces stationed overseas may be used for transportation allowances within or between the contiguous United States.