

September 10, 2025

Dear Representative:

ACLU Vote Recommendations on Amendments to H.R. 3838, National Defense Authorization Act for Fiscal Year 2026

The ACLU shares the following vote recommendations for amendments to H.R. 3838, the National Defense Authorization Act for Fiscal year 2026, including opposition to numerous anti-civil liberties amendments that will be considered on the floor.



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Amendment Repealing 1991 and 2002 AUMFs

The ACLU urges a “YES” vote on Amendment #34 from Representatives Meeks (NY), Roy (TX), Jacobs (CA), Massie (KY), Brecheen (OK), Crane (AZ), and Burlison (MO). This bipartisan amendment repeals the outdated 1991 and 2002 Authorizations for Use of Military Force (AUMFs). These authorizations are unnecessary and have been used by multiple administrations to inappropriately justify lethal force and detention far beyond Congress’s original purpose. Repeal would be a recognition that the purpose of these two AUMFs lapsed long ago and are not valid authorities for any ongoing military actions.

Amendments Targeting LGBTQ People for Discrimination

The ACLU urges “NO” votes on the following anti-LGBTQ amendments, which attack the civil rights and liberties of service members, military families, and civilian employees of the Defense Department and must be rejected. **Adoption of some of these amendments could result in the ACLU urging a “NO” vote on the overall bill.**

- Amendment #13 from Representatives Norman (SC), Tenney (NY), and Brecheen (OK)
- Amendment #14 from Representatives Mace (SC), Tenney (NY), and Brecheen (OK)
- Amendment #15 from Representatives Mace (SC) and Tenney (NY)
- Amendment #16 from Representatives Mace (SC) and Tenney (NY)
- Amendment #17 from Representatives Mace (SC) and Tenney (NY)
- Amendment #18 from Representative Mills (FL)

Amendments #13 and #14, which would eliminate gender-affirming medical care under the Exceptional Family Medical Program and TRICARE. Transgender people have a fundamental right to access gender-affirming medical care. Every leading medical and mental health organization in the country, including the American Medical Association and



the American Psychological Association, agree that this healthcare is necessary, life-saving, safe, and effective. Medical and mental health treatment for transgender people is based on the individual needs of each patient. Members of Congress should never insert themselves into private medical decisions between patients, families, and doctors, and yet that is precisely what these two healthcare bans would do.

Amendment #17 would prohibit individuals from accessing or using single-sex spaces on military installations that do not correspond to their sex assigned at birth. This amendment is part of a sweeping effort, led by the administration, to push transgender people entirely out of public life. When you tell someone, as this amendment does, that they cannot use the bathroom at work, then that individual cannot work. This amendment is a clear and direct violation of Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination in employment. In a 2020 Supreme Court decision authored by Justice Gorsuch, the Court held in *Bostock v. Clayton County* that Title VII prohibits discrimination against transgender workers on the basis of their sex.

While these amendments are largely targeted at people who are transgender and nonbinary, we know that the discrimination and harm that will result from them is much broader. For example, Amendment #15, which is intended to prevent transgender women cadets and midshipmen from participating in athletic programs or activities designated exclusively for women, invites invasive questioning of women at the service academies who don't look stereotypically feminine about such personal things as their menstrual cycle or even being forced to undergo physical or medical inspections if they want to play sports.

The ACLU also opposes Amendment #16, which prohibits the Secretary of Defense from soliciting information through a form or survey regarding the gender identity of an individual and seeks to erase the experiences of those who are nonbinary by requiring the Secretary to reject a response other than male or female to a required question on a form or survey regarding sex or gender. Additionally, the ACLU opposes Amendment #18, which restricts base commanders' ability to fly unauthorized flags at their discretion, and is clearly aimed at prohibiting displays of Pride and rainbow flags that affirm and celebrate the LGBTQ community.

The ACLU urges representatives to oppose all of these efforts to deny the dignity of transgender people and push them out of public life. All people, including service members, military families, and civilian employees of the Defense Department, deserve the freedom to live their lives safely and with dignity. These amendments are cruel and unfair, and bringing culture wars into the military undermines cohesion, morale, and readiness.

The ACLU strongly urges you to reject all anti-civil liberties amendments to H.R. 3838. Please contact Senior Legislative Advocate Ian Thompson at ithompson@aclu.org with any questions.

Sincerely,

Mike Zamore
National Policy & Government Affairs Director
American Civil Liberties Union



