

116TH CONGRESS
1ST SESSION

H. R. 3148

To improve protections for victims of sexual assault in the Armed Forces,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2019

Mr. TURNER (for himself and Mrs. DAVIS of California) introduced the
following bill; which was referred to the Committee on Armed Services

A BILL

To improve protections for victims of sexual assault in the
Armed Forces, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sexual Trauma Ongo-
5 ing Protections Act of 2019” or the “STOP Act of 2019”.

6 **SEC. 2. COMMAND INFLUENCE UNDER THE UNIFORM CODE**
7 **OF MILITARY JUSTICE.**

8 (a) ARTICLE 37.—Section 837 of title 10, United
9 States Code (article 37 of the Uniform Code of Military
10 Justice), is amended—

1 (1) in the heading, by striking “**Unlawfully**
2 **influencing action of court**” and inserting
3 “**Command influence**”;

4 (2) in subsection (a)—

5 (A) by striking “(a) No authority con-
6 vening a general, special, or summary court-
7 martial” and inserting “(a)(1) No court-martial
8 convening authority”;

9 (B) in paragraph (1) (as designated by
10 subparagraph (A) of this paragraph), by strik-
11 ing “proceeding. No person” and inserting the
12 following: “proceeding.

13 “(3) No person”;

14 (C) by inserting before paragraph (3) (as
15 designated by subparagraph (B) of this para-
16 graph) the following new paragraph:

17 “(2) No court-martial convening authority, nor
18 any other commanding officer, may deter or attempt
19 to deter a potential witness from participating in the
20 investigatory process or testifying at a court-martial.
21 The denial of a request to travel at Government ex-
22 pense or refusal to make a witness available shall
23 not by itself constitute unlawful command influ-
24 ence.”;

25 (D) in paragraph (3) (as so designated)—

1 (i) by inserting “attempt to” before
2 “influence”;

3 (ii) by striking “with respect to his ju-
4 dicial acts” and inserting “or preliminary
5 hearing officer with respect to such acts
6 taken pursuant to this chapter as pre-
7 scribed by the President”; and

8 (iii) by striking the second sentence;
9 and

10 (E) by adding at the end the following new
11 paragraphs:

12 “(4) Paragraphs (1) through (3) shall not apply
13 with respect to—

14 “(A) general instructional or informational
15 courses in military justice if such courses are
16 designed solely for the purpose of instructing
17 members of a command in the substantive and
18 procedural aspects of courts-martial;

19 “(B) statements regarding criminal activ-
20 ity or a particular criminal offense that do not
21 advocate a particular disposition, or a par-
22 ticular court-martial finding, or sentence; or

23 “(C) statements and instructions given in
24 open court by the military judge or counsel.

1 “(5)(A) Notwithstanding paragraphs (1)
2 through (3), but subject to subparagraph (B)—

3 “(i) a superior convening authority or offi-
4 cer may generally discuss matters to consider
5 regarding the disposition of alleged violations of
6 this chapter with a subordinate convening au-
7 thority or officer; and

8 “(ii) a subordinate convening authority or
9 officer may seek advice from a superior con-
10 vening authority or officer regarding the dis-
11 position of an alleged offense under this chap-
12 ter.

13 “(B) No superior convening authority or officer
14 may direct a subordinate convening authority or offi-
15 cer to make a particular disposition in a specific
16 case or otherwise substitute the discretion of such
17 authority or such officer for that of the subordinate
18 convening authority or officer.”;

19 (3) in subsection (b)—

20 (A) by striking “to be advanced, in grade”
21 and inserting “to be advanced in grade”; and

22 (B) by striking “accused before a court-
23 martial” and inserting “person in a court-mar-
24 tial proceeding”; and

1 (4) by adding at the end the following new sub-
2 sections:

3 “(c) No finding or sentence of a court-martial may
4 be held incorrect on the ground of a violation of this sec-
5 tion, or the doctrine of apparent unlawful command influ-
6 ence, unless the violation materially prejudices the sub-
7 stantial rights of the accused.

8 “(d)(1) A superior convening authority or com-
9 manding officer may withhold the authority of a subordi-
10 nate convening authority or officer to dispose of offenses
11 in individual cases, types of cases, or generally.

12 “(2) Except as otherwise authorized by this chapter,
13 a superior convening authority or commanding officer may
14 not limit the discretion of a subordinate convening author-
15 ity or officer to act with respect to a case for which the
16 subordinate convening authority or officer has authority
17 to dispose of the offenses.”.

18 (b) ARTICLE 53a.—Section 853a(b)(5) of title 10,
19 United States Code (article 53a of the Uniform Code of
20 Military Justice), is amended by striking “the President”
21 and inserting “the President, the Secretary of Defense,
22 or the Secretary concerned.”.

23 (c) TABLE OF SECTIONS AMENDMENT.—The table of
24 sections at the beginning of subchapter VII of chapter 47
25 of title 10, United States Code, is amended by striking

1 the item relating to section 837 (article 37 of the Uniform
2 Code of Military Justice) and inserting the following new
3 item:

“837. Art. 37. Command influence.”.

4 **SEC. 3. ANNUAL REPORT ON MILITARY PROTECTIVE OR-**
5 **DERS.**

6 (a) REPORT REQUIRED.—Chapter 80 of title 10,
7 United States Code, is amended by adding at the end the
8 following new section:

9 **“§ 1567b. Annual report on military protective orders**

10 “Not later than March 1, 2020, and each year there-
11 after through 2024, the Secretary of Defense shall submit
12 to the congressional defense committees a report that
13 identifies—

14 “(1) the number of military protective orders
15 issued in the calendar year preceding the year in
16 which the report is submitted; and

17 “(2) the number of such orders that were re-
18 ported to appropriate civilian authorities in accord-
19 ance with section 1567a(a).”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of such chapter is amended by adding
22 after the item relating to section 1567a the following new
23 item:

“1567b. Annual report on military protective orders.”.

1 **SEC. 4. CONSIDERATION OF APPLICATION FOR TRANSFER**
2 **FOR A STUDENT OF A MILITARY SERVICE**
3 **ACADEMY WHO IS THE VICTIM OF A SEXUAL**
4 **ASSAULT OR RELATED OFFENSE.**

5 (a) **MILITARY ACADEMY.**—Section 7461 of title 10,
6 United States Code, is amended by adding at the end the
7 following new subsection (e):

8 “(e) **CONSIDERATION OF APPLICATION FOR TRANS-**
9 **FER FOR A CADET WHO IS THE VICTIM OF A SEXUAL**
10 **ASSAULT OR RELATED OFFENSE.**—(1) The Secretary of
11 the Army shall provide for timely determination and action
12 on an application for consideration of a transfer to an-
13 other military service academy submitted by a cadet who
14 was a victim of a sexual assault or other offense covered
15 by section 920, 920a, or 920c of this title (article 120,
16 120a, or 120c of the Uniform Code of Military Justice)
17 so as to reduce the possibility of retaliation against the
18 cadet for reporting the sexual assault or other offense.

19 “(2) The Secretary of the Army shall prescribe regu-
20 lations to carry out this subsection, within guidelines pro-
21 vided by the Secretary of Defense that direct the Super-
22 intendent of the Military Academy, in coordination with
23 the Superintendent of the military service academy to
24 which the cadet wishes to transfer, to approve or deny an
25 application under this subsection not later than 72 hours
26 after the submission of the application. If the Super-

1 intendent denies such an application, the cadet may re-
2 quest review of the denial by the Secretary of the Army,
3 who shall grant or deny review not later than 72 hours
4 after submission of the request for review. The Secretary
5 of the Army shall ensure that all records of any request,
6 determination, or action under this subsection remain con-
7 fidential.”.

8 (b) NAVAL ACADEMY.—Section 8480 of title 10,
9 United States Code, is amended by adding at the end the
10 following new subsection (e):

11 “(e) CONSIDERATION OF APPLICATION FOR TRANS-
12 FER FOR A MIDSHIPMAN WHO IS THE VICTIM OF A SEX-
13 UAL ASSAULT OR RELATED OFFENSE.—(1) The Sec-
14 retary of the Navy shall provide for timely determination
15 and action on an application for consideration of a trans-
16 fer to another military service academy submitted by a
17 midshipman who was a victim of a sexual assault or other
18 offense covered by section 920, 920a, or 920c of this title
19 (article 120, 120a, or 120c of the Uniform Code of Mili-
20 tary Justice) so as to reduce the possibility of retaliation
21 against the midshipman for reporting the sexual assault
22 or other offense.

23 “(2) The Secretary of the Navy shall prescribe regu-
24 lations to carry out this subsection, within guidelines pro-
25 vided by the Secretary of Defense that direct the Super-

1 intendent of the Naval Academy, in coordination with the
2 Superintendent of the military service academy to which
3 the midshipman wishes to transfer, to approve or deny an
4 application under this subsection not later than 72 hours
5 after the submission of the application. If the Super-
6 intendent denies such an application, the midshipman may
7 request review of the denial by the Secretary of the Navy,
8 who shall grant or deny review not later than 72 hours
9 after submission of the request for review. The Secretary
10 of the Navy shall ensure that all records of any request,
11 determination, or action under this subsection remain con-
12 fidential.”.

13 (c) AIR FORCE ACADEMY.—Section 9461 of title 10,
14 United States Code, is amended by adding at the end the
15 following new subsection (e):

16 “(e) CONSIDERATION OF APPLICATION FOR TRANS-
17 FER FOR A CADET WHO IS THE VICTIM OF A SEXUAL
18 ASSAULT OR RELATED OFFENSE.—(1) The Secretary of
19 the Air Force shall provide for timely determination and
20 action on an application for consideration of a transfer
21 to another military service academy submitted by a cadet
22 who was a victim of a sexual assault or other offense cov-
23 ered by section 920, 920a, or 920c of this title (article
24 120, 120a, or 120c of the Uniform Code of Military Jus-

1 tice) so as to reduce the possibility of retaliation against
2 the cadet for reporting the sexual assault or other offense.

3 “(2) The Secretary of the Air Force shall prescribe
4 regulations to carry out this subsection, within guidelines
5 provided by the Secretary of Defense that direct the Su-
6 perintendent of the Air Force Academy, in coordination
7 with the Superintendent of the military service academy
8 to which the cadet wishes to transfer, to approve or deny
9 an application under this subsection not later than 72
10 hours after the submission of the application. If the Su-
11 perintendent denies such an application, the cadet may re-
12 quest review of the denial by the Secretary of the Air
13 Force, who shall grant or deny review not later than 72
14 hours after submission of the request for review. The Sec-
15 retary of the Air Force shall ensure that all records of
16 any request, determination, or action under this sub-
17 section remain confidential.”.

18 **SEC. 5. TIMELY DISPOSITION OF NONPROSECUTABLE SEX-**

19 **RELATED OFFENSES.**

20 (a) **POLICY REQUIRED.**—Not later than 180 days
21 after the date of the enactment of this Act, the Secretary
22 of Defense shall develop and implement a policy to ensure
23 the timely disposition of nonprosecutable sex-related of-
24 fenses in accordance with subsection (b).

1 (b) ELEMENTS.—The policy developed under sub-
2 section (a) shall require the following:

3 (1) Not later than seven days after the date on
4 which a court-martial convening authority declines
5 to refer a nonprosecutable sex-related offense for
6 trial by general or special court-martial under chap-
7 ter 47 of title 10, United States Code (the Uniform
8 Code of Military Justice), the convening authority
9 will forward the investigation to the commander of
10 the accused.

11 (2) Not later than 90 days after the date on
12 which the commander of the accused receives the in-
13 vestigation under paragraph (1)—

14 (A) the commander will determine whether
15 or not to take other judicial, nonjudicial, or ad-
16 ministrative action in connection with the con-
17 duct covered by the investigation, including any
18 lesser included offenses, as authorized under
19 section 815 of title 10, United States Code (ar-
20 ticle 15 of the Uniform Code of Military Jus-
21 tice); and

22 (B) in a case in which the commander of
23 the accused decides to take additional action
24 under subparagraph (A), the commander take
25 such actions as appropriate.

1 (c) **NONPROSECUTABLE SEX-RELATED OFFENSE**
2 **DEFINED.**—In this section, the term “nonprosecutable
3 sex-related offense” means an alleged sex-related offense
4 (as that term is defined in section 1044e(g) of title 10,
5 United States Code) that a court-martial convening au-
6 thority has declined to refer for trial by a general or spe-
7 cial court-martial under chapter 47 of title 10, United
8 States Code (the Uniform Code of Military Justice) due
9 to a determination that there is insufficient evidence to
10 support prosecution of the sex-related offense.

11 **SEC. 6. VICTIM PREFERENCE IN RESTRICTED REPORTING**
12 **OF SEXUAL ASSAULT.**

13 (a) **POLICY REQUIRED.**—Not later than 180 days
14 after the date of the enactment of this Act, the Secretary
15 of Defense shall develop and implement a policy to ensure
16 that a member of the Armed Forces, or an adult depend-
17 ent of a member, who is the victim of a sexual assault
18 may elect to file a restricted report of the assault, without
19 regard to whether the allegation was disclosed, directly or
20 indirectly, to a third party.

21 (b) **SEXUAL ASSAULT DEFINED.**—In this section, the
22 term “sexual assault” includes the offenses of rape, sexual
23 assault, forcible sodomy, aggravated sexual contact, abu-
24 sive sexual contact, and attempts to commit such offenses,
25 as punishable under applicable Federal or State law.

1 **SEC. 7. EXTENSION OF DEFENSE ADVISORY COMMITTEE ON**
2 **INVESTIGATION, PROSECUTION, AND DE-**
3 **FENSE OF SEXUAL ASSAULT IN THE ARMED**
4 **FORCES.**

5 Section 546 of the Carl Levin and Howard P.
6 “Buck” McKeon National Defense Authorization Act for
7 Fiscal Year 2015 (Public Law 113–291; 10 U.S.C. 1561
8 note) is amended—

9 (1) by redesignating the second subsection (f)
10 as subsection (g); and

11 (2) in subsection (f)(1), by striking “five years”
12 and inserting “10 years”.

13 **SEC. 8. REPORT ON GUARDIAN AD LITEM FOR CHILD VIC-**
14 **TIMS OF SEXUAL ASSAULT.**

15 Not later than 180 days after the date of the enact-
16 ment of this Act, the Defense Advisory Committee on In-
17 vestigation, Prosecution, and Defense of Sexual Assault
18 in the Armed Forces shall submit to the Committees on
19 Armed Services of the Senate and the House of Represent-
20 atives a report that evaluates the need for, and the
21 feasibility of, establishing a process under which a guard-
22 ian ad litem may be appointed to represent the interests
23 of a victim of an alleged sex-related offense (as that term
24 is defined in section 1044e(g) of title 10, United States
25 Code) who has not attained the age of 18 years.

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