

117TH CONGRESS
1ST SESSION

H. R. 3224

To amend title 10, United States Code, to improve the responses of the Department of Defense to sex-related offenses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2021

Ms. SPEIER (for herself, Mr. MULLIN, Ms. GARCIA of Texas, Mr. BALDERSON, Ms. ESCOBAR, Mr. CROW, Mr. AUCHINCLOSS, Mrs. AXNE, Ms. BARRAGÁN, Mrs. BEATTY, Mr. BEYER, Mr. BILIRAKIS, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BROWN, Ms. BROWNLEY, Mrs. BUSTOS, Mr. CARBAJAL, Mr. CÁRDENAS, Mr. CARSON, Mr. CARTWRIGHT, Mr. CASTRO of Texas, Ms. CHU, Ms. CLARK of Massachusetts, Mr. CLEAVER, Mr. COHEN, Mr. COLE, Mr. CONNOLLY, Mr. COOPER, Mr. COSTA, Mr. COURTNEY, Mr. CUELLAR, Ms. DAVIDS of Kansas, Mr. DANNY K. DAVIS of Illinois, Mr. DEFAZIO, Ms. DELBENE, Mrs. DEMINGS, Mr. DESAULNIER, Mrs. DINGELL, Ms. ESHOO, Ms. LEGER FERNANDEZ, Mr. FITZPATRICK, Mr. FOSTER, Ms. LOIS FRANKEL of Florida, Mr. GALLEGRO, Mr. GARAMENDI, Mr. GARCIA of California, Mr. GARCÍA of Illinois, Mr. GOMEZ, Mr. TONY GONZALES of Texas, Mr. VICENTE GONZALEZ of Texas, Miss GONZÁLEZ-COLÓN, Mr. GOTTHEIMER, Mr. GRAVES of Louisiana, Mr. GREEN of Texas, Mr. GRIJALVA, Mr. HARDER of California, Mrs. HAYES, Mr. HERN, Mr. HORSFORD, Ms. HOULAHAN, Ms. JOHNSON of Texas, Mr. JONES, Mr. KHANNA, Mr. KILDEE, Mr. KILMER, Mr. KIM of New Jersey, Mr. KIND, Mrs. KIRKPATRICK, Ms. KUSTER, Mrs. LAWRENCE, Ms. LEE of California, Mr. LEVIN of California, Mr. LOWENTHAL, Mr. LYNCH, Mrs. CAROLYN B. MALONEY of New York, Ms. MATSUI, Mrs. MCBATH, Mr. MCCAUL, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. MEEKS, Ms. MENG, Mr. MFUME, Mr. MOOLENAAR, Ms. MOORE of Wisconsin, Mr. MORELLE, Mr. MOULTON, Mr. MRVAN, Mrs. NAPOLITANO, Mr. NEGUSE, Ms. NEWMAN, Ms. NORTON, Ms. OCASIO-CORTEZ, Mr. O'HALLERAN, Ms. OMAR, Mr. PALLONE, Mr. PANETTA, Mr. PAPPAS, Mr. SEAN PATRICK MALONEY of New York, Mr. PERLMUTTER, Mr. PHILLIPS, Ms. PINGREE, Mr. POCAN, Ms. PRESSLEY, Mr. QUIGLEY, Mrs. RADEWAGEN, Mr. RASKIN, Ms. ROSS, Ms. ROYBAL-ALLARD, Mr. RUPPERSBERGER, Mr. RUSH, Mr. RYAN, Ms. SÁNCHEZ, Mr. SARBANES, Ms. SCANLON, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SHERMAN, Ms. SHERRILL, Ms. SLOTKIN, Mr. SOTO, Ms. SPANBERGER, Ms. STRICKLAND, Mr. SUOZZI, Mr. TAKANO, Mr. THOMPSON of California, Ms. TITUS, Ms. TLAIB, Mrs. TORRES of California, Mrs. TRAHAN, Mr.

TRONE, Mr. VARGAS, Mr. VEASEY, Mr. VELA, Ms. VELÁZQUEZ, Ms. WASSERMAN SCHULTZ, Mr. WELCH, Ms. WILD, Ms. WILSON of Florida, Mr. YARMUTH, Mr. YOUNG, Ms. BASS, Mr. BERA, Ms. BLUNT ROCHESTER, Mr. CICILLINE, Mr. CORREA, Ms. CRAIG, Mr. CRIST, Ms. DELAURO, Mrs. FLETCHER, Mr. HUFFMAN, Ms. JACKSON LEE, Ms. JAYAPAL, Mr. JEFFRIES, Mr. JOHNSON of Georgia, Ms. KAPTUR, Mr. KEATING, Mr. KRISHNAMOORTHY, Mr. LANGEVIN, Mrs. LEE of Nevada, Mr. LEVIN of Michigan, Ms. MANNING, Mr. NADLER, Mr. NORCROSS, Mr. DAVID SCOTT of Georgia, Ms. STEVENS, Mr. SWALWELL, Mr. THOMPSON of Mississippi, Ms. CASTOR of Florida, Ms. DEGETTE, Ms. SCHRIER, and Ms. JACOBS of California) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to improve the responses of the Department of Defense to sex-related offenses, 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 “I am Vanessa Guillén
 5 Act of 2021”.

6 **SEC. 2. MODIFICATION OF AUTHORITY TO DETERMINE TO**
 7 **PROCEED TO TRIAL BY COURT-MARTIAL ON**
 8 **CHARGES INVOLVING SEX-RELATED OF-**
 9 **FENSES.**

10 (a) **ROLE OF OFFICE OF THE CHIEF PROSECUTOR**
 11 **IN DETERMINATION TO PROCEED TO TRIAL ON CHARGE**
 12 **INVOLVING SEX-RELATED OFFENSE.—**

1 (1) REVIEW AND DETERMINATIONS BY OFFICE
2 OF THE CHIEF PROSECUTOR.—Section 834 of title
3 10, United States Code (article 34 of the Uniform
4 Code of Military Justice) is amended—

5 (A) in subsection (a)(1), by striking “Be-
6 fore referral” and inserting “Except as provided
7 in subsection (c), before referral”;

8 (B) in subsection (b), by striking “Before
9 referral” and inserting “Except as provided in
10 subsection (c), before referral”;

11 (C) by redesignating subsections (c) and
12 (d) as subsections (d) and (e) respectively; and

13 (D) by inserting after the subsection (b)
14 the following new subsection (c):

15 “(c) REFERRAL AND DETERMINATIONS BY OFFICE
16 OF THE CHIEF PROSECUTOR.—

17 “(1) In the case of a charge relating to a sex-
18 related offense, instead of submitting the charge,
19 and any accompanying charges and specifications, to
20 the staff judge advocate under subsection (a), the
21 convening authority shall submit, as soon as reason-
22 ably practicable, the charge and accompanying
23 charges and specifications to the Office of the Chief
24 Prosecutor of the armed force of which the accused
25 is a member to make the determination required by

1 subsection (a). The advice and recommendations of
2 the Office of the Chief Prosecutor regarding disposi-
3 tion of charges by court-martial shall be free of un-
4 lawful or unauthorized influence or coercion.

5 “(2) For purposes of this subsection, the term
6 ‘sex-related offense’ means any of the following:

7 “(A) An offense covered by section 920,
8 920a, 920b, 920c, or 920d of this title (article
9 120, 120a, 120b, 120c, or 120d).

10 “(B) A conspiracy to commit an offense
11 specified in subparagraph (A) as punishable
12 under section 881 of this title (article 81).

13 “(C) A solicitation to commit an offense
14 specified in subparagraph (A) as punishable
15 under section 882 of this title (article 82).

16 “(D) An attempt to commit an offense
17 specified in subparagraphs (A) through (C) as
18 punishable under section 880 of this title (arti-
19 cle 80).

20 “(3) If the Office of the Chief Prosecutor deter-
21 mines any specification under a charge should be
22 disposed of at court-martial, the Office of the Chief
23 Prosecutor also shall determine whether to try the
24 charge by a general court-martial convened under
25 section 822 of this title (article 22) or a special

1 court-martial convened under section 823 of this
2 title (article 23).

3 “(4) A determination under paragraph (3) to
4 try a charge relating to a sex-related offense by
5 court-martial shall include a determination to try all
6 known offenses, including lesser included offenses.

7 “(5) The Office of the Chief Prosecutor’s deter-
8 mination to dispose of any reviewed charge by court-
9 martial under paragraph (3), and by type of court-
10 martial, shall be transmitted to the convening au-
11 thority established in section 822(a)(8) of this title,
12 and shall be binding on any applicable convening au-
13 thority. The Office of the Chief Prosecutor will no-
14 tify the original convening authority of the deter-
15 mination.

16 “(6) A determination under paragraph (3) not
17 to proceed to trial on a charge by general or special
18 court-martial shall not operate to terminate or oth-
19 erwise alter the authority of commanding officers to
20 refer such charge for trial by summary court-martial
21 convened under section 824 of this title (article 24),
22 to impose non-judicial punishment in connection
23 with the conduct covered by the charge as author-
24 ized by section 815 of this title (article 15), or to
25 take other administrative action.

1 “(7) This subsection does not apply to the
2 Coast Guard when it is not operating as a service
3 in the Department of the Navy.”.

4 (2) APPOINTMENT OF CHIEF PROSECUTOR.—
5 For any Armed Force (other than the Coast Guard)
6 for which the position of Chief Prosecutor does not
7 exist as of the date of the enactment of this Act, the
8 Judge Advocate General of that Armed Force shall
9 establish the position of Chief Prosecutor and ap-
10 point as the Chief Prosecutor a judge advocate in
11 the grade of O–6 or above who meets the require-
12 ments set forth in paragraphs (1) and (2) of section
13 827(b) of title 10, United States Code (article 27(b)
14 of the Uniform Code of Military Justice), and who
15 has significant experience prosecuting sexual assault
16 trials by court-martial.

17 (b) CHIEF PROSECUTOR AUTHORITY TO CONVENE
18 ARTICLE 32 PRELIMINARY HEARINGS.—Section 832(a) of
19 title 10, United States Code (article 32(a) of the Uniform
20 Code of Military Justice), is amended by adding at the
21 end the following new paragraph:

22 “(3) The Office of the Chief Prosecutor of an armed
23 force may order a preliminary hearing under this section
24 in the event of an allegation of a sex-related offense (as
25 defined in section 834(c)(2) of this title (article 34(c)(2)))

1 involving a member of that armed force. This paragraph
2 does not apply to the Coast Guard when it is not operating
3 as a service in the Department of the Navy.”.

4 (c) MODIFICATION OF OFFICERS AUTHORIZED TO
5 CONVENE GENERAL AND SPECIAL COURTS-MARTIAL.—

6 (1) IN GENERAL.—Section 822(a) of title 10,
7 United States Code (article 22(a) of the Uniform
8 Code of Military Justice) is amended—

9 (A) by redesignating paragraphs (8) and
10 (9) as paragraphs (9) and (10), respectively;
11 and

12 (B) by inserting after paragraph (7) the
13 following new paragraph (8):

14 “(8) an officer in the grade of O–6 or higher
15 who is assigned such responsibility by the Chief of
16 Staff of the Army, the Chief of Naval Operations,
17 the Chief of Staff of the Air Force, the Com-
18 mandant of the Marine Corps, or the Chief of Space
19 Operations, except that an officer designated as a
20 convening authority under this paragraph—

21 “(A) may convene a court-martial only
22 with respect to a sex-related offense (as defined
23 in section 834(c)(2) of this title (article
24 34(c)(2))) and any accompanying charges and
25 specifications; and

1 “(B) may not convene a court-martial if
2 such officer is in the chain of command of the
3 accused or the victim;”.

4 (2) OFFICES OF CHIEFS OF STAFF ON COURTS-
5 MARTIAL.—

6 (A) OFFICES REQUIRED.—The Chief of
7 Staff of the Army, the Chief of Naval Oper-
8 ations, the Chief of Staff of the Air Force, the
9 Commandant of the Marine Corps, and the
10 Chief of Space Operations shall each establish
11 or designate an office to do the following:

12 (i) To convene general and special
13 courts-martial under sections 822 and 823
14 of title 10, United States Code (articles 22
15 and 23 of the Uniform Code of Military
16 Justice), pursuant to paragraph (8) of sec-
17 tion 822(a) of title 10, United States Code
18 (article 22(a) of the Uniform Code of Mili-
19 tary Justice), as amended by paragraph
20 (1), with respect to a sex-related offense
21 (as defined in section 834(c)(2) of title 10,
22 United States Code (article 34(c)(2) of the
23 Uniform Code of Military Justice)) and
24 any accompanying charges and specifica-
25 tions.

1 (ii) To detail under section 825 of
2 title 10, United States Code (article 25 of
3 the Uniform Code of Military Justice),
4 members of courts-martial convened as de-
5 scribed in clause (i).

6 (B) PERSONNEL.—The personnel of each
7 office established under subparagraph (A) shall
8 consist of such members of the Armed Forces
9 and civilian personnel of the Department of De-
10 fense as may be detailed or assigned to the of-
11 fice by the service chief concerned. The mem-
12 bers and personnel so detailed or assigned, as
13 the case may be, shall be detailed or assigned
14 from personnel billets in existence on the date
15 of the enactment of this Act.

16 (d) IMPLEMENTATION AND EFFECTIVE DATE.—

17 (1) FUNDING SOURCE.—The Secretaries of the
18 military departments shall carry out subsections (a),
19 (b), and (c) (and the amendments made by such
20 subsections) using funds appropriated after the date
21 of enactment of this Act and otherwise available to
22 the Secretary of the military department concerned.

23 (2) POLICIES AND PROCEDURES.—

24 (A) IN GENERAL.—The Secretaries of the
25 military departments shall revise policies and

1 procedures as necessary to comply with this sec-
2 tion.

3 (B) UNIFORMITY.—The General Counsel
4 of the Department of Defense shall review the
5 policies and procedures revised under this para-
6 graph in order to ensure that any lack of uni-
7 formity in policies and procedures, as so re-
8 vised, among the military departments does not
9 render unconstitutional any policy or procedure,
10 as so revised.

11 (3) MANUAL FOR COURTS-MARTIAL.—The Sec-
12 retary of Defense shall recommend such changes to
13 the Manual for Courts-Martial as are necessary to
14 ensure compliance with this section.

15 (4) EFFECTIVE DATE AND APPLICABILITY.—
16 The amendments made by this section shall take ef-
17 fect on the first day of the first month beginning
18 after the 2-year period following the date of the en-
19 actment of this Act, and shall apply with respect to
20 charges preferred under section 830 of title 10,
21 United States Code (article 30 of the Uniform Code
22 of Military Justice), on or after such effective date.

23 **SEC. 3. PUNITIVE ARTICLE ON SEXUAL HARASSMENT AND**
24 **RELATED INVESTIGATION MATTERS.**

25 (a) PUNITIVE ARTICLE ON SEXUAL HARASSMENT.—

1 (1) IN GENERAL.—Subchapter X of chapter 47
2 of title 10, United States Code (the Uniform Code
3 of Military Justice), is amended by inserting after
4 section 920c (article 120c) the following new section
5 (article):

6 **“§ 920d. Art. 120d. Sexual harassment**

7 “(a) IN GENERAL.—Any person subject to this chap-
8 ter who commits sexual harassment against another per-
9 son shall be punished as a court-martial may direct.

10 “(b) SEXUAL HARASSMENT DEFINED.—

11 “(1) In this section, the term ‘sexual harass-
12 ment’ means conduct that takes place in a cir-
13 cumstance described in paragraph (2) that takes the
14 form of—

15 “(A) a sexual advance;

16 “(B) a request for sexual favors; or

17 “(C) any other conduct of a sexual nature.

18 “(2) A circumstance described in this para-
19 graph is a situation in which—

20 “(A) submission to the conduct involved is
21 made either explicitly or implicitly a term or
22 condition of employment;

23 “(B) submission to or rejection of such
24 conduct is used as the basis for an employment

1 decision affecting an individual's employment;
2 or

3 “(C) such conduct unreasonably alters an
4 individual's terms, conditions, or privileges of
5 employment, including by creating an intimi-
6 dating hostile, or offensive work environment,
7 as determined in accordance with paragraph
8 (3).

9 “(3) In determining, for purposes of paragraph
10 (2)(C), whether conduct constitutes sexual harass-
11 ment because the conduct unreasonably alters an in-
12 dividual's terms, conditions, or privileges of employ-
13 ment, including by creating an intimidating, hostile,
14 or offensive work environment, the following rules
15 shall apply:

16 “(A) The determination shall be made on
17 the basis of the record as a whole, according to
18 the totality of the circumstances. A single inci-
19 dent may constitute sexual harassment.

20 “(B) Incidents that may be sexual harass-
21 ment shall be considered in the aggregate,
22 with—

23 “(i) conduct of varying types (such as
24 expressions of sex-based hostility, requests
25 for sexual favors, and denial of employ-

1 ment opportunities due to sexual orienta-
2 tion) viewed in totality, rather than in iso-
3 lation; and

4 “(ii) conduct based on multiple pro-
5 tected characteristics (such as sex and
6 race) viewed in totality, rather than in iso-
7 lation.

8 “(C) The factors specified in this subpara-
9 graph are among the factors to be considered in
10 determining whether conduct constitutes sexual
11 harassment and are not meant to be exhaustive.
12 No one of those factors shall be considered to
13 be determinative in establishing whether con-
14 duct constitutes sexual harassment. Such fac-
15 tors are each of the following:

16 “(i) The frequency of the conduct.

17 “(ii) The duration of the conduct.

18 “(iii) The location where the conduct
19 occurred.

20 “(iv) The number of individuals en-
21 gaged in the conduct.

22 “(v) The nature of the conduct, which
23 may include physical, verbal, pictorial, or
24 visual conduct, and conduct that occurs in

1 person or is transmitted, such as electroni-
2 cally.

3 “(vi) Whether the conduct is threat-
4 ening.

5 “(vii) Any power differential between
6 the alleged harasser and the person alleg-
7 edly harassed.

8 “(viii) Any use of epithets, slurs, or
9 other conduct that is humiliating or de-
10 grading.

11 “(ix) Whether the conduct reflects
12 stereotypes about individuals in the pro-
13 tected class involved.”.

14 (2) CLERICAL AMENDMENT.—The table of sec-
15 tions at the beginning of such subchapter is amend-
16 ed by inserting after the item relating to section
17 920e (article 120e) the following new item:

“920d. 120d. Sexual harassment.”.

18 (b) INVESTIGATIONS OF SEXUAL HARASSMENT.—

19 (1) IN GENERAL.—Section 1561 of title 10,
20 United States Code, is amended to read as follows:

21 **“§ 1561. Complaints of sexual harassment: inde-**
22 **pendent investigation**

23 “(a) ACTION ON COMPLAINTS ALLEGING SEXUAL
24 HARASSMENT.—A commanding officer or officer in charge
25 of a unit, vessel, facility, or area of an armed force under

1 the jurisdiction of the Secretary of a military department,
2 who receives, from a member of the command or a mem-
3 ber under the supervision of the officer, a formal com-
4 plaint alleging sexual harassment by a member of the
5 armed forces shall, as soon as practicable after such re-
6 ceipt, forward the complaint to an independent investi-
7 gator.

8 “(b) COMMENCEMENT OF INVESTIGATION.—To the
9 extent practicable, an independent investigator shall com-
10 mence an investigation of a formal complaint of sexual
11 harassment not later than 72 hours after—

12 “(1) receiving a formal complaint of sexual har-
13 assment forwarded by a commanding officer or offi-
14 cer in charge under subsection (a); or

15 “(2) receiving a formal complaint of sexual har-
16 assment directly from a member of the armed forces;
17 and

18 “(c) DURATION OF INVESTIGATION.—To the extent
19 practicable, an investigation under subsection (b) shall be
20 completed not later than 14 days after the date on which
21 the investigation commences.

22 “(d) REPORT ON COMMAND INVESTIGATION.—To the
23 extent practicable, an independent investigator who com-
24 mences an investigation under subsection (b) shall—

1 “(1) submit a final report on the results of the
2 investigation, including any action taken as a result
3 of the investigation, to the officer described in sub-
4 section (a) not later than 20 days after the date on
5 which the investigation commenced; or

6 “(2) submit a report on the progress made in
7 completing the investigation to the officer described
8 in subsection (a) not later than 20 days after the
9 date on which the investigation commenced and
10 every 14 days thereafter until the investigation is
11 completed and, upon completion of the investigation,
12 then submit a final report on the results of the in-
13 vestigation, including any action taken as a result of
14 the investigation, to that officer.

15 “(e) DEFINITIONS.—In this section:

16 “(1) The term ‘formal complaint’ means a com-
17 plaint that an individual files in writing and attests
18 to the accuracy of the information contained in the
19 complaint.

20 “(2) The term ‘independent investigator’ means
21 a member of the armed forces or employee of the
22 Department of Defense—

23 “(A) who is outside the chain of command
24 of the complainant; and

1 “(B) whom the Secretary concerned deter-
2 mines is trained in the investigation of sexual
3 harassment.

4 “(3) The term ‘sexual harassment’ has the
5 meaning given that term in section 920d(b) of this
6 title (article 120d of the Uniform Code of Military
7 Justice).”.

8 (2) CLERICAL AMENDMENT.—The table of sec-
9 tions at the beginning of chapter 80 of title 10,
10 United States Code, is amended by striking the item
11 relating to section 1561 and inserting the following
12 new item:

“1561. Complaints of sexual harassment: independent investigation.”.

13 (3) EFFECTIVE DATE.—The amendment to sec-
14 tion 1561 of such title made by this subsection
15 shall—

16 (A) take effect on the day that is two years
17 after the date of the enactment of this Act; and

18 (B) apply to any investigation of a formal
19 complaint of sexual harassment (as those terms
20 are defined in such section, as amended) made
21 on or after that date.

22 (4) REPORT ON IMPLEMENTATION.—Not later
23 than nine months after the date of the enactment of
24 this Act, each Secretary of a military department
25 shall submit to Congress a report on preparation of

1 that Secretary to implement the amendment to sec-
2 tion 1561 of such title made by this subsection.

3 **SEC. 4. AUTHORIZATION OF CLAIMS BY MEMBERS OF THE**
4 **ARMED FORCES AGAINST THE UNITED**
5 **STATES THAT ARISE FROM SEX-RELATED OF-**
6 **FENSES.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—Chapter 163 of title 10,
9 United States Code, is amended by inserting after
10 section 2733a the following new section:

11 **“§ 2733b. Claims arising from sex-related offenses**

12 “(a) IN GENERAL.—Consistent with this section and
13 under such regulations as the Secretary of Defense shall
14 prescribe under subsection (d), the Secretary may allow,
15 settle, and pay a claim against the United States for per-
16 sonal injury or death of a claimant arising from—

17 “(1) a sex-related offense committed by a cov-
18 ered individual; and

19 “(2)(A) the negligent failure to prevent such
20 sex-related offense; or

21 “(B) the negligent failure to investigate such
22 sex-related offense.

23 “(b) REQUIREMENT FOR CLAIMS.—A claim may be
24 allowed, settled, and paid under subsection (a) only if—

1 “(1) the claim is filed by the claimant who is
2 the victim of the sex-related offense, or by an au-
3 thorized representative on behalf of such claimant
4 who is deceased or otherwise unable to file the claim
5 due to incapacitation;

6 “(2) the claimant was a member of an armed
7 force under the jurisdiction of the Secretary of a
8 military department at the time of the sex-related
9 offense;

10 “(3) the claim is presented to the Department
11 in writing within two years after the claim accrues;

12 “(4) the claim is not allowed to be settled and
13 paid under any other provision of law; and

14 “(5) the claim is substantiated as prescribed in
15 regulations prescribed by the Secretary of Defense
16 under subsection (d).

17 “(c) PAYMENT OF CLAIMS.—(1) If the Secretary of
18 Defense determines, pursuant to regulations prescribed by
19 the Secretary under subsection (d), that a claim under this
20 section in excess of \$100,000 is meritorious, and the claim
21 is otherwise payable under this section, the Secretary may
22 pay the claimant \$100,000 and report any meritorious
23 amount in excess of \$100,000 to the Secretary of the
24 Treasury for payment under section 1304 of title 31.

1 “(2) Except as provided in paragraph (1), no claim
2 may be paid under this section unless the amount tendered
3 is accepted by the claimant in full satisfaction.

4 “(d) REGULATIONS.—(1) The Secretary of Defense
5 shall prescribe regulations to implement this section.

6 “(2) Regulations prescribed by the Secretary under
7 paragraph (1) shall include the following:

8 “(A) Policies and procedures to ensure the
9 timely, efficient, and effective processing and admin-
10 istration of claims under this section, including—

11 “(i) the filing, receipt, investigation, and
12 evaluation of a claim;

13 “(ii) the negotiation, settlement, and pay-
14 ment of a claim; and

15 “(iii) such other matters relating to the
16 processing and administration of a claim, in-
17 cluding an administrative appeals process, as
18 the Secretary considers appropriate.

19 “(B) Uniform standards consistent with gen-
20 erally accepted standards used in a majority of
21 States in adjudicating claims under chapter 171 of
22 title 28 (commonly known as the ‘Federal Tort
23 Claims Act’) to be applied to the evaluation, settle-
24 ment, and payment of claims under this section
25 without regard to the place of occurrence of the sex-

1 related offense giving rise to the claim or the mili-
2 tary department of the covered individual, and with-
3 out regard to foreign law in the case of claims aris-
4 ing in foreign countries, including uniform standards
5 to be applied to determinations with respect to—

6 “(i) whether an act or omission by a cov-
7 ered individual was negligent or wrongful, con-
8 sidering the specific facts and circumstances;

9 “(ii) whether the personal injury or death
10 of the claimant was caused by a negligent or
11 wrongful act or omission of a covered indi-
12 vidual;

13 “(iii) requirements relating to proof of
14 duty, breach of duty, and causation resulting in
15 compensable injury or loss, subject to such ex-
16 clusions as may be established by the Secretary
17 of Defense; and

18 “(iv) calculation of damages.

19 “(C) Such other matters as the Secretary con-
20 siders appropriate.

21 “(3) In order to implement expeditiously the provi-
22 sions of this section, the Secretary may prescribe the regu-
23 lations under this subsection—

24 “(A) by prescribing an interim final rule; and

1 “(B) not later than one year after prescribing
2 such interim final rule and considering public com-
3 ments with respect to such interim final rule, by pre-
4 scribing a final rule.

5 “(e) LIMITATIONS ON ATTORNEY FEES.—(1) No at-
6 torney shall charge, demand, receive, or collect for services
7 rendered, fees in excess of 20 percent of any claim paid
8 pursuant to this section.

9 “(2) Any attorney who charges, demands, receives,
10 or collects for services rendered in connection with a claim
11 under this section any amount in excess of the amount
12 allowed under paragraph (1), if recovery be had, shall be
13 fined not more than \$2,000, imprisoned not more than
14 one year, or both.

15 “(3) The United States shall not be liable for any
16 attorney fees of a claimant under this section.

17 “(f) ANNUAL REPORT.—Not less frequently than an-
18 nually until 2026, the Secretary of Defense shall submit
19 to the Committees on Armed Services of the Senate and
20 the House of Representatives a report—

21 “(1) indicating the number of claims processed
22 under this section;

23 “(2) indicating the resolution of each such
24 claim; and

1 “(3) describing any other information that may
2 enhance the effectiveness of the claims process under
3 this section.

4 “(g) DEFINITIONS.—In this section:

5 “(1) The term ‘covered individual’ means a
6 member of the armed forces or an employee of the
7 Department of Defense.

8 “(2) The term ‘sex-related offense’ has the
9 meaning given that term in section 834 of this
10 title.”.

11 (2) CLERICAL AMENDMENT.—The table of sec-
12 tions at the beginning of chapter 163 of such title
13 is amended by inserting after the item relating to
14 section 2733a the following new item:

“2733b. Claims arising from sex-related offenses.”.

15 (b) INTERIM BRIEFING ON DEVELOPMENT OF REGU-
16 LATIONS.—Not later than 180 days after the date of the
17 enactment of this Act, the Secretary of Defense shall pro-
18 vide to the Committees on Armed Services of the Senate
19 and the House of Representatives a briefing on the devel-
20 opment of regulations under section 2733b(d) of title 10,
21 United States Code, as added by subsection (a)(1).

22 (c) CONFORMING AMENDMENTS.—

23 (1) Section 2735 of such title is amended by in-
24 serting “2733b,” after “2733a,”.

1 (2) Section 1304(a)(3)(D) of title 31, United
2 States Code, is amended by inserting “2733b,” after
3 “2733a,”.

4 (d) EFFECTIVE DATE AND TRANSITION PROVI-
5 SION.—

6 (1) EFFECTIVE DATE.—The amendments made
7 by this section shall apply to any claim filed under
8 section 2733b of such title, as added by subsection
9 (a)(1), on or after January 1, 2022.

10 (2) TRANSITION.—Any claim filed in calendar
11 year 2021 shall be deemed to be filed within the
12 time period specified in section 2733b(b)(2) of such
13 title, as so added, if it is filed within three years
14 after it accrues.

15 **SEC. 5. REPORTS ON SEXUAL HARASSMENT/ASSAULT RE-**
16 **SPONSE PROGRAMS OF THE ARMED FORCES.**

17 (a) SECRETARY OF DEFENSE REPORT.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of the enactment of this Act, the Sec-
20 retary of Defense shall submit to Congress a report
21 on the Sexual Harassment/Assault Response Pro-
22 grams of each military department.

23 (2) ELEMENTS.—The report required by para-
24 graph (1) shall include the following:

1 (A) A description and assessment of the
2 Sexual Harassment/Assault Response Program
3 of each military department including the fund-
4 ing for such program, the manner in which
5 such funding is allocated, and the elements of
6 such program that receive funding.

7 (B) A comparative assessment of the feasi-
8 bility and advisability of carrying out the Sex-
9 ual Harassment/Assault Response Programs
10 through each structure as follows:

11 (i) The current structure.

12 (ii) A structure involving discharge
13 through civilian personnel.

14 (iii) A structure involving discharge
15 though substantial numbers of contractors.

16 (iv) A structure involving the estab-
17 lishment of a military occupational spe-
18 cialty to permit members of the Armed
19 Forces to extend their time in a Sexual
20 Harassment/Assault Response Program
21 and professionalize their services (including
22 proper education and training as well as
23 continuing education).

24 (v) Any other structure the Secretary
25 considers appropriate.

1 (b) COMPTROLLER GENERAL OF THE UNITED
2 STATES REPORT.—

3 (1) IN GENERAL.—Not later than one year
4 after the date of the enactment of this Act, the
5 Comptroller General of the United States shall sub-
6 mit to Congress a report on the Sexual Harassment/
7 Assault Response Programs of the military depart-
8 ments.

9 (2) ELEMENTS.—The report required by para-
10 graph (1) shall include the following:

11 (A) An assessment by the Comptroller
12 General of the efficacy and impacts of the Sex-
13 ual Harassment/Assault Response Programs of
14 the military departments.

15 (B) Such recommendations as the Comp-
16 troller General considers appropriate for im-
17 provements to the Sexual Harassment/Assault
18 Response Programs.

19 **SEC. 6. IMPROVEMENT OF THE SEXUAL HARASSMENT/AS-**
20 **SAULT RESPONSE PROGRAM OF THE ARMY.**

21 (a) IMPROVEMENTS AND MODIFICATIONS.—

22 (1) IN GENERAL.—The Secretary of the Army
23 shall take such actions as are necessary to enhance
24 the independence and professionalization of the Sex-

1 ual Harassment/Assault Response Program of the
2 Army (referred to in this section as the “Program”).

3 (2) REGULATIONS AND GUIDANCE.—In carrying
4 out paragraph (1), the Secretary of the Army shall
5 modify the regulations, policies, and guidance relat-
6 ing to the Program, to meet the following criteria:

7 (A) Personnel of the Program shall be se-
8 lected by the Department of the Army through
9 a centralized process that does not rely upon in-
10 ternal unit appointments.

11 (B) Personnel of the Program shall not be
12 supervised by unit commanders.

13 (C) The Program shall be structured to
14 support the command while remaining inde-
15 pendent from local commands, including
16 through the establishment of an independent re-
17 porting chain and a central supervisory office.

18 (D) Except as provided subparagraph (E),
19 the Program shall consist entirely of full-time
20 personnel, including Victim Advocates and Sex-
21 ual Assault Response Coordinators.

22 (E) Part-time personnel may be assigned
23 to the Program only if the responsibilities of
24 such personnel—

1 (i) are limited to activities relating to
2 prevention; and

3 (ii) do not involve reporting or pro-
4 viding assistance directly to victims.

5 (F) Each manager of the Program shall be
6 a civilian employee of the Department of De-
7 fense who is—

8 (i) a senior executive (as defined in
9 section 3132 of title 5, United States
10 Code);

11 (ii) otherwise classified above GS–15
12 (as provided in section 5108 of title 5,
13 United States Code) and rated by the Sen-
14 ior Pentagon-level Commander of the Pro-
15 gram; or

16 (iii) in the case of a manager sup-
17 porting an O–7 level command, an em-
18 ployee classified at GS–15.

19 (G) The responsibilities of the Sexual As-
20 sault Review Board as set forth in regulation
21 shall be revised to incorporate a requirement
22 for periodic trend analysis of problems related
23 to providing for the needs of victims.

24 (b) REVIEW AND REPORT.—

1 (1) IN GENERAL.—The Secretary of the Army
2 shall—

3 (A) evaluate whether to create a separate
4 career track for personnel of the Program,
5 which may include a separate occupational spe-
6 cialty or strengthened qualification identifier,
7 with consideration of strategies for ensuring
8 that positions in the Program are competitive
9 for promotion with positions in other areas; and

10 (B) conduct a comprehensive review of the
11 certification courses and professional standards
12 under the Program.

13 (2) REPORT.—Not later than one year after the
14 date of the enactment of this Act, the Secretary of
15 the Army shall submit to the Committees on Armed
16 Services of the Senate and the House of Representa-
17 tives a report on the results of the evaluation and
18 review conducted under paragraph (1).

19 (c) DEADLINE FOR IMPLEMENTATION.—The Sec-
20 retary of the Army shall implement the improvements and
21 modifications required under subsections (a) and (b) not
22 later than two years after the date of the enactment of
23 this Act.

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