

112TH CONGRESS  
1ST SESSION

# H. R. 1260

To provide for the preservation by the Department of Defense of documentary evidence of the Department of Defense on incidents of sexual assault and sexual harassment in the military, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2011

Mr. BRALEY of Iowa (for himself, Mr. POE of Texas, Ms. PINGREE of Maine, and Ms. SLAUGHTER) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for the preservation by the Department of Defense of documentary evidence of the Department of Defense on incidents of sexual assault and sexual harassment in the military, 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 “Support for Survivors  
5 Act”.

1 **SEC. 2. PRESERVATION OF DOCUMENTARY EVIDENCE OF**  
2 **DEPARTMENT OF DEFENSE ON INCIDENTS**  
3 **OF SEXUAL ASSAULT AND SEXUAL HARASS-**  
4 **MENT IN THE MILITARY.**

5 (a) IDENTIFICATION OF MEANS OF PRESERVA-  
6 TION.—

7 (1) IN GENERAL.—The Secretary of Defense  
8 shall, in consultation with the Secretary of Veterans  
9 Affairs, identify the most appropriate and effective  
10 means for the preservation by the Department of  
11 Defense of documentary evidence of the Department  
12 on covered incidents of sexual assault and sexual  
13 harassment during the life of the victims of such in-  
14 cidents. The means so identified shall be a single  
15 means that is used uniformly by all the military de-  
16 partments.

17 (2) DOCUMENTARY EVIDENCE.—For purposes  
18 of this section, documentary evidence on covered in-  
19 cidents of sexual assault and sexual harassment  
20 means the following:

21 (A) All forms, reports, or other documents,  
22 whether in paper or electronic form, currently  
23 generated by the Department of Defense at the  
24 time of, or otherwise in connection with, a re-  
25 port or allegation regarding a covered incident  
26 of sexual assault or sexual harassment.

1 (B) Such other form, report, or document  
2 as may be established by the Secretary of De-  
3 fense, in consultation with the Secretary of Vet-  
4 erans Affairs, for purposes of compliance with  
5 the requirements of this section as a result of  
6 the work of the joint task force under para-  
7 graph (6).

8 (3) REQUIREMENTS FOR MEANS IDENTIFIED.—

9 The means for the preservation of documentary evi-  
10 dence identified under this subsection shall ensure  
11 the following:

12 (A) The preservation by the Department of  
13 Defense of documentary evidence of the Depart-  
14 ment on covered incidents of sexual assault and  
15 sexual harassment during the life of the victims  
16 of such incidents.

17 (B) The full protection of the privacy of  
18 the victims, including, where applicable, the  
19 preservation of the nature of the documentary  
20 evidence as restricted or unrestricted.

21 (C) Lifetime access of the victim to the  
22 documentary evidence, whether or not while a  
23 member of the Armed Forces, including for  
24 purposes of the submittal or development of a  
25 claim for benefits from the Department of Vet-

1           erans Affairs and for use in a criminal or civil  
2           proceeding in connection with a covered inci-  
3           dent of sexual assault or sexual harassment.

4           (D) On-going access by the Department of  
5           Defense to the documentary evidence (with per-  
6           sonal identifying information redacted in the  
7           case of restricted reports) for purposes of re-  
8           search, reporting, and training by the Depart-  
9           ment regarding incidents of sexual assault and  
10          sexual harassment and for such other purposes  
11          as the Secretary of Defense considers appro-  
12          priate.

13          (E) On-going access by the Department of  
14          Veterans Affairs to the documentary evidence  
15          for purposes of assisting an individual in the  
16          submittal or development of a claim for benefits  
17          from the Department, but only if the individual  
18          expressly authorizes such access by the Depart-  
19          ment for such purposes.

20          (4) METHOD OF PRESERVATION.—The means  
21          for the preservation of documentary evidence identi-  
22          fied under this subsection shall provide for the pres-  
23          ervation of such evidence in digitized, electronic  
24          form.

1           (5) UTILIZATION OF CURRENT MEANS OF PRES-  
2           ERVATION.—The means for the preservation of doc-  
3           umentary evidence identified under this subsection  
4           may utilize or incorporate elements of databases or  
5           other means of document preservation currently em-  
6           ployed by the Department of Defense, subject to the  
7           requirements of this subsection.

8           (6) JOINT TASK FORCE ON SUPERSEDING  
9           FORM.—

10           (A) IN GENERAL.—The Secretary of De-  
11           fense and the Secretary of Veterans Affairs  
12           shall establish a joint task force for purposes of  
13           recommending to the Secretary of Defense  
14           whether or not to establish under paragraph  
15           (2)(B) a form, report, or document to be gen-  
16           erated by the Department of Defense in lieu of  
17           the forms, reports, and documents described in  
18           paragraph (2)(A). The task force shall be com-  
19           posed of officers and employees of the Depart-  
20           ment of Defense and the Department of Vet-  
21           erans Affairs appointed to the task force by the  
22           Secretary of Defense and the Secretary of Vet-  
23           erans Affairs, as applicable.

24           (B) REPORT.—The joint task force shall  
25           submit to the Secretary of Defense and the Sec-

1           retary of Veterans Affairs a report setting forth  
2           the recommendation of the task force under  
3           subparagraph (A). If the recommendation is to  
4           establish a form, report, or document, the re-  
5           port shall include a proposal for such form, re-  
6           port, or document.

7           (7) REPORT.—Not later than 180 days after  
8           the date of the enactment of this Act, the Secretary  
9           of Defense shall submit to Congress a report on the  
10          means for the preservation of documentary evidence  
11          in covered incidents of sexual assault and sexual  
12          harassment identified under this subsection. The re-  
13          port shall set forth the following:

14                 (A) A comprehensive description of the  
15                 means for the preservation of documentary evi-  
16                 dence identified under this subsection.

17                 (B) A description of the work of the joint  
18                 task force under paragraph (6), including the  
19                 form, report, or document, if any, to be estab-  
20                 lished under paragraph (2)(A) as a result of  
21                 such work.

22                 (C) A plan for the implementation of the  
23                 means so identified by the Department of De-  
24                 fense.

1           (D) Such recommendations for additional  
2           legislative or administrative action as the Sec-  
3           retary considers appropriate.

4           (b) IMPLEMENTATION OF IDENTIFIED MEANS OF  
5 PRESERVATION.—

6           (1) IN GENERAL.—The Secretary of Defense  
7           shall provide for the implementation by the military  
8           departments of the means for the preservation of  
9           documentary evidence on covered incidents of sexual  
10          assault and sexual harassment identified under sub-  
11          section (a) by not later than 18 months after the  
12          date of the enactment of this Act. If the Secretary  
13          establishes a form, report, or document under sub-  
14          section (a)(2)(B), the means so implemented shall  
15          provide for the preservation of such evidence uti-  
16          lizing such form, report, or document.

17          (2) INTERIM MEANS.—If the means for the  
18          preservation of documentary evidence identified  
19          under subsection (a) is not fully implementable by  
20          the deadline specified in paragraph (1), the Sec-  
21          retary shall implement such means to the extent  
22          practicable, but may utilize additional appropriate  
23          means for the preservation of such evidence (includ-  
24          ing the preservation of such evidence in paper form)

1 on an interim basis pending the full implementation  
2 of such means.

3 (3) REPORTS.—Not later than one year after  
4 the completion of the implementation of the means  
5 for the preservation of documentary evidence by the  
6 military departments under paragraph (1), and  
7 every year thereafter for the next two years, the Sec-  
8 retary of Defense shall submit to Congress a report  
9 on the implementation of the means for the preser-  
10 vation of documentary evidence. Each report shall  
11 set forth the following:

12 (A) A current description and assessment  
13 of the implementation by the military depart-  
14 ments of the means for the preservation of doc-  
15 umentary evidence.

16 (B) For the one-year period ending on the  
17 date of such report, the following:

18 (i) In consultation with the Secretary  
19 of Veterans Affairs, a statement of the  
20 number of individuals who sought docu-  
21 mentary evidence preserved by such means  
22 for the submittal or development of a claim  
23 for benefits from the Department of Vet-  
24 erans Affairs.



1                   (ii) A description and assessment of  
2                   efforts to inform members of the Armed  
3                   Forces regarding the preservation of docu-  
4                   mentary evidence on covered incidents of  
5                   sexual assault and sexual harassment and  
6                   of means for accessing evidence so pre-  
7                   served.

8                   (C) Such recommendations for additional  
9                   legislative or administrative action as the Sec-  
10                  retary of Defense considers appropriate.

11               (c) DEFINITIONS.—In this section:

12                   (1) The term “covered incident of sexual as-  
13                  sault or sexual harassment” means an incident of  
14                  sexual assault or sexual harassment in which a  
15                  member of the Armed Forces is the victim.

16                   (2) The term “sexual assault” means the fol-  
17                  lowing:

18                               (A) Rape.

19                               (B) Sexual assault.

20                               (C) Any other sexual misconduct covered  
21                  by section 920 of title 10, United States Code  
22                  (article 120 of the Uniform Code of Military  
23                  Justice).

24                               (D) Sodomy.

1           (E) Any other intentional sexual contact,  
2           characterized by use of force, threats, intimidat-  
3           tion, abuse of authority, or when the victim  
4           does not or cannot consent.

5           (F) Any other unwanted sexual contact  
6           that is aggravated, abusive, or wrongful, includ-  
7           ing unwanted and inappropriate sexual contact.

8           (G) Any attempt to commit an act speci-  
9           fied in subparagraphs (A) through (F).

10          (3) The term “sexual harassment” means sex-  
11          ual discrimination that involves unwelcome sexual  
12          advances, requests for sexual favors, or other verbal  
13          or physical conduct of a sexual nature when—

14                (A) submission to or rejection of such con-  
15                duct is made either explicitly or implicitly a  
16                term or condition of a person’s service, pay, or  
17                retention or promotion in the Armed Forces;

18                (B) submission to or rejection of such con-  
19                duct by a person is used as a basis for decisions  
20                affecting the person’s service, pay, or retention  
21                or promotion in the Armed Forces; or

22                (C) such conduct interferes with a person’s  
23                performance of duty in the Armed Forces or

- 1 creates an intimidating, hostile, or offensive en-
- 2 vironment for the performance of such duty.

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