

112TH CONGRESS
1ST SESSION

S. 1018

To amend title 10, United States Code, and the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 to provide for implementation of additional recommendations of the Defense Task Force on Sexual Assault in the Military Services.

IN THE SENATE OF THE UNITED STATES

MAY 18, 2011

Mr. KERRY (for himself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, and the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 to provide for implementation of additional recommendations of the Defense Task Force on Sexual Assault in the Military Services.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Defense Sexual Trauma Response Oversight and Good
6 Governance Act” (the “Defense STRONG Act”).

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Director of Sexual Assault Prevention and Response Office.
- Sec. 3. Sexual Assault Response Coordinators and Sexual Assault Victim Advocates.
- Sec. 4. Sexual assault victims access to legal counsel and services of Sexual Assault Response Coordinators and Sexual Assault Victim Advocates.
- Sec. 5. Confidentiality of communications between sexual assault victims and Sexual Assault Response Coordinators, Victim Advocates, and certain other persons.
- Sec. 6. Retention of medical and investigative records prepared in connection with sexual assaults involving members of the Armed Forces or dependents of members.
- Sec. 7. Expedited consideration and priority for application for consideration of a permanent change of station or unit transfer based on humanitarian conditions for victim of sexual assault.
- Sec. 8. Training and education programs for sexual assault prevention and response program.

3 **SEC. 2. DIRECTOR OF SEXUAL ASSAULT PREVENTION AND**
 4 **RESPONSE OFFICE.**

5 Section 1611(a) of the Ike Skelton National Defense
 6 Authorization Act for Fiscal Year 2011 (Public Law 111–
 7 383; 10 U.S.C. 1561 note) is amended by adding before
 8 the period at the end of the first sentence the following:
 9 “, who shall be appointed from among general or flag offi-
 10 cers of the Armed Forces or employees of the Department
 11 of Defense in a comparable Senior Executive Service posi-
 12 tion”.

13 **SEC. 3. SEXUAL ASSAULT RESPONSE COORDINATORS AND**
 14 **SEXUAL ASSAULT VICTIM ADVOCATES.**

15 (a) ASSIGNMENT AND TRAINING.—Chapter 80 of
 16 title 10, United States Code, is amended by adding at the
 17 end the following new section:

1 **“§ 1568. Sexual assault prevention and response: Sex-**
2 **ual Assault Response Coordinators and**
3 **Victim Advocates**

4 “(a) ASSIGNMENT OF COORDINATORS.—(1) At least
5 one full-time Sexual Assault Response Coordinator shall
6 be assigned to each brigade or equivalent unit level of the
7 armed forces. The Secretary of the military department
8 concerned may assign additional Sexual Assault Response
9 Coordinators as necessary based on the demographics or
10 needs of the unit. An additional Sexual Assault Response
11 Coordinator may serve on a full-time or part-time basis
12 at the discretion of the Secretary.

13 “(2) Effective October 1, 2013, only members of the
14 armed forces and civilian employees of the Department of
15 Defense may be assigned to duty as a Sexual Assault Re-
16 sponse Coordinator.

17 “(b) ASSIGNMENT OF VICTIM ADVOCATES.—(1) At
18 least one full-time Sexual Assault Victim Advocate shall
19 be assigned to each brigade or equivalent unit level of the
20 armed forces. The Secretary of the military department
21 concerned may assign additional Victim Advocates as nec-
22 essary based on the demographics or needs of the unit.
23 An additional Victim Advocate may serve on a full-time
24 or part-time basis at the discretion of the Secretary.

1 “(2) Effective October 1, 2013, only members of the
2 armed forces and civilian employees of the Department of
3 Defense may be assigned to duty as a Victim Advocate.

4 “(c) TRAINING AND CERTIFICATION.—(1) As part of
5 the sexual assault prevention and response program, the
6 Secretary of Defense shall establish a professional and
7 uniform training and certification program for Sexual As-
8 sault Response Coordinators assigned under subsection
9 (a) and Sexual Assault Victim Advocates assigned under
10 subsection (b). The program shall be structured and ad-
11 ministered in a manner similar to the professional training
12 available for Equal Opportunity Advisors through the De-
13 fense Equal Opportunity Management Institute.

14 “(2) Effective October 1, 2013, before a member or
15 civilian employee may be assigned to duty as a Sexual As-
16 sault Response Coordinator under subsection (a) or Victim
17 Advocate under subsection (b), the member or employee
18 must have completed the training program required by
19 paragraph (1) and obtained the certification.

20 “(d) DEFINITIONS.—In this section:

21 “(1) The term ‘armed forces’ means the Army,
22 Navy, Air Force, and Marine Corps.

23 “(2) The term ‘sexual assault prevention and
24 response program’ has the meaning given such term
25 in section 1601(a) of the Ike Skelton National De-

1 fense Authorization Act for Fiscal Year 2011 (Pub-
2 lic Law 111–383; 10 U.S.C. 1561 note).”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of such chapter is amended by adding
5 at the end the following new item:

 “1568. Sexual assault prevention and response: Sexual Assault Response Coordi-
 nators and Victim Advocates.”.

6 **SEC. 4. SEXUAL ASSAULT VICTIMS ACCESS TO LEGAL**
7 **COUNSEL AND SERVICES OF SEXUAL AS-**
8 **SAULT RESPONSE COORDINATORS AND SEX-**
9 **UAL ASSAULT VICTIM ADVOCATES.**

10 (a) ACCESS.—Chapter 53 of title 10, United States
11 Code, is amended by inserting after section 1044d the fol-
12 lowing new section:

13 **“§ 1044e. Victims of sexual assault: access to legal as-**
14 **sistance and services of Sexual Assault**
15 **Response Coordinators and Sexual As-**
16 **sault Victim Advocates**

17 “(a) AVAILABILITY OF LEGAL ASSISTANCE AND VIC-
18 TIM ADVOCATE SERVICES.—

19 “(1) MEMBERS.—A member of the armed
20 forces or a dependent of a member of the armed
21 forces who is the victim of a sexual assault is enti-
22 tled to—

23 “(A) legal assistance provided by a mili-
24 tary legal assistance counsel certified as com-

1 petent to provide such duties pursuant to sec-
2 tion 827(b) of this title (article 27(b) of the
3 Uniform Code of Military Justice);

4 “(B) assistance provided by a qualified
5 Sexual Assault Response Coordinator; and

6 “(C) assistance provided by a qualified
7 Sexual Assault Victim Advocate.

8 “(2) DEPENDENTS.—To the extent practicable,
9 the Secretary of a military department shall make
10 the assistance described in paragraph (1) available
11 to a dependent of a member of the armed forces who
12 is the victim of a sexual assault and resides on or
13 in the vicinity of a military installation at that mili-
14 tary installation. The Secretary concerned shall de-
15 fine the term ‘vicinity’ for purposes of this para-
16 graph.

17 “(3) NOTICE OF AVAILABILITY OF ASSISTANCE;
18 OPT OUT.—The member or dependent shall be in-
19 formed of the availability of assistance under this
20 subsection as soon as the member or dependent
21 seeks assistance from a Sexual Assault Response Co-
22 ordinator or any other responsible member of the
23 armed forces or Department of Defense civilian em-
24 ployee. The victim shall also be informed that the
25 legal assistance and services of a Sexual Assault Re-

1 sponse Coordinator and Sexual Assault Victim Advoca-
2 cate are optional and these services may be declined,
3 in whole or in part, at any time.

4 “(4) NATURE OF REPORTING IMMATERIAL.—In
5 the case of a member of the armed forces, access to
6 legal assistance and the services of Sexual Assault
7 Response Coordinators and Sexual Assault Victim
8 Advocates are available regardless of whether the
9 member elects unrestricted or restricted (confiden-
10 tial) reporting of the sexual assault.

11 “(b) RESTRICTED REPORTING OPTION.—

12 “(1) AVAILABILITY OF RESTRICTED REPORT-
13 ING.—A member of the armed forces who is the vic-
14 tim of a sexual assault may confidentially disclose
15 the details of the assault to an individual specified
16 in paragraph (2) and receive medical treatment,
17 legal assistance, or counseling, without triggering an
18 official investigation of the allegations.

19 “(2) PERSONS COVERED BY RESTRICTED RE-
20 PORTING.—Individuals covered by paragraph (1) are
21 the following:

22 “(A) Military legal assistance counsel.

23 “(B) Sexual Assault Response Coordi-
24 nator.

25 “(C) Sexual Assault Victim Advocate.

1 “(D) Personnel staffing the DOD Safe
2 Helpline or successor operation.

3 “(E) Healthcare personnel.

4 “(F) Chaplain.

5 “(c) DEFINITIONS.—In this section:

6 “(1) The term ‘sexual assault’ includes any of
7 the offenses covered by section 920 of this title (arti-
8 cle 120 of the Uniform Code of Military Justice).

9 “(2) The term ‘military legal assistance counsel’
10 means—

11 “(A) a judge advocate (as defined in sec-
12 tion 801(13) of this title (article 1(13) of the
13 Uniform Code of Military Justice)); or

14 “(B) a civilian attorney serving as a legal
15 assistance officer under the provisions of sec-
16 tion 1044 of this title.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 at the beginning of such chapter is amended by inserting
19 after the item relating to section 1044d the following new
20 item:

 “1044e. Victims of sexual assault: access to legal assistance and services of Sex-
 ual Assault Response Coordinators and Sexual Assault Victim
 Advocates.”.

21 (c) CONFORMING AMENDMENT REGARDING PROVI-
22 SION OF LEGAL COUNSEL.—Section 1044(d)(3)(B) of
23 such title is amended by striking “sections 1044a, 1044b,

1 1044c, and 1044d” and inserting “sections 1044a through
2 1044e”.

3 **SEC. 5. CONFIDENTIALITY OF COMMUNICATIONS BETWEEN**
4 **SEXUAL ASSAULT VICTIMS AND SEXUAL AS-**
5 **SAULT RESPONSE COORDINATORS, VICTIM**
6 **ADVOCATES, AND CERTAIN OTHER PERSONS.**

7 (a) ACCESS.—Chapter 53 of title 10, United States
8 Code, is amended by inserting after section 1034 the fol-
9 lowing new section:

10 **“§ 1034a. Privilege against disclosure of certain com-**
11 **munications for victims of sexual assault**

12 “(a) PRIVILEGED COMMUNICATIONS.—Communica-
13 tions between a member of the armed forces or a depend-
14 ent of a member of the armed forces who is the victim
15 of a sexual assault and a person specified in subsection
16 (b), and records of such communications created by or for
17 the Department of Defense, are confidential and privi-
18 leged.

19 “(b) COMMUNICATIONS COVERED BY PRIVILEGE.—
20 The privilege granted by subsection (a) applies to commu-
21 nications between a member of the armed forces or a de-
22 pendent of a member of the armed forces who is the victim
23 of a sexual assault and any of the following persons:

24 “(1) Sexual Assault Response Coordinator.

25 “(2) Sexual Assault Victim Advocate.

1 “(3) Personnel staffing the DOD Safe Helpline
2 or successor operation.

3 “(c) CONSENT EXCEPTION.—Without the consent of
4 the member or dependent involved, any communication or
5 record referred to in subsection (a) may not be—

6 “(1) subject to discovery or admitted into evi-
7 dence in any judicial or administrative proceeding;
8 or

9 “(2) disclosed to any person or entity.

10 “(d) RELATION TO OTHER PRIVILEGES AGAINST
11 DISCLOSURE.—The privilege granted by subsection (a) is
12 in addition to any other privilege against disclosure that
13 may exist with regard to communications between a victim
14 of a sexual assault and another person.

15 “(e) SEXUAL ASSAULT DEFINED.—In this section,
16 the term ‘sexual assault’ includes any of the offenses cov-
17 ered by section 920 of this title (article 120 of the Uni-
18 form Code of Military Justice).”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of such chapter is amended by inserting
21 after the item relating to section 1034 the following new
22 item:

 “1034a. Privilege against disclosure of certain communications for victims of
 sexual assault.”.

23 (c) APPLICABILITY.—Section 1034a of title 10,
24 United States Code, as added by subsection (a), applies

1 to communications described in such section whether made
2 before, on, or after the date of the enactment of this Act.

3 **SEC. 6. RETENTION OF MEDICAL AND INVESTIGATIVE**
4 **RECORDS PREPARED IN CONNECTION WITH**
5 **SEXUAL ASSAULTS INVOLVING MEMBERS OF**
6 **THE ARMED FORCES OR DEPENDENTS OF**
7 **MEMBERS.**

8 (a) RETENTION AND CONFIDENTIALITY OF SEXUAL
9 ASSAULT RECORDS.—

10 (1) IN GENERAL.—Chapter 50 of title 10,
11 United States Code, is amended by adding at the
12 end the following new section:

13 **“§ 993. Recordkeeping requirement: medical and in-**
14 **vestigative records prepared in connec-**
15 **tion with sexual assaults**

16 “(a) PERMANENT RETENTION OF RECORDS.—The
17 Secretary of Defense shall establish a system for tracking
18 and permanently maintaining the records described in
19 subsection (b) that are prepared by personnel of the De-
20 partment of Defense or obtained by the Department in
21 connection with a sexual assault involving a member of
22 the armed forces or a dependent of a member to guarantee
23 future access to the records.

1 “(b) COVERED RECORDS.—The recordkeeping re-
2 quirement imposed by subsection (a) applies to the fol-
3 lowing:

4 “(1) Department of Defense Form 2910, re-
5 garding the victim reporting preference statement,
6 or any successor document.

7 “(2) Department of Defense Form 2911, re-
8 garding the forensic medical report prepared in the
9 case of a sexual assault examination, or any suc-
10 cessor document.

11 “(3) Medical records.

12 “(4) Investigative records prepared in connec-
13 tion with a sexual assault.

14 “(5) Such other information and reports as the
15 Secretary of Defense considers appropriate.

16 “(c) PROTECTION OF RESTRICTED REPORTING OP-
17 TION.—The Secretary of Defense shall ensure that the
18 recordkeeping system established pursuant to this section
19 does not jeopardize the confidentiality of the restricted re-
20 porting option available under section 1044e(b) of this
21 title to a victim of a sexual assault.”.

22 (2) CLERICAL AMENDMENT.—The table of sec-
23 tions at the beginning of such chapter is amended
24 by adding at the end the following new item:

“993. Recordkeeping requirement: medical and investigative records prepared in
 connection with sexual assaults.”.

1 (b) TRANSMITTAL OF MEDICAL INFORMATION TO
2 DEPARTMENT OF VETERANS AFFAIRS.—Subsection (c) of
3 section 1142 of title 10, United States Code, is amended
4 to read as follows:

5 “(c) TRANSMITTAL OF MEDICAL INFORMATION TO
6 DEPARTMENT OF VETERANS AFFAIRS.—(1) In the case
7 of a member described in paragraph (2), the Secretary
8 concerned shall transmit (subject to the consent of the
9 member) a copy of the service medical record of the mem-
10 ber, including the results of any Physical Evaluation
11 Board held with regard to the member, to the Secretary
12 of Veterans Affairs.

13 “(2) Paragraph (1) applies with respect to the fol-
14 lowing members:

15 “(A) A member being medically separated or
16 retired under chapter 61 of this title.

17 “(B) A member who was the victim of a sexual
18 assault.

19 “(3) The copy of the service medical record shall be
20 transmitted within 60 days of the separation or retirement
21 of the member.

22 “(4) In the case of the transmittal of medical records
23 of a member described in paragraph (2)(B), the Secretary
24 concerned shall include such other information as may be

1 necessary to assist the member establishing a claim for
 2 a service-connected disability.”.

3 **SEC. 7. EXPEDITED CONSIDERATION AND PRIORITY FOR**
 4 **APPLICATION FOR CONSIDERATION OF A**
 5 **PERMANENT CHANGE OF STATION OR UNIT**
 6 **TRANSFER BASED ON HUMANITARIAN CONDI-**
 7 **TIONS FOR VICTIM OF SEXUAL ASSAULT.**

8 (a) IN GENERAL.—Chapter 39 of title 10, United
 9 States Code, is amended by inserting after section 672 the
 10 following new section:

11 **“§ 673. Consideration of application for permanent**
 12 **change of station or unit transfer for**
 13 **members on active duty who are the vic-**
 14 **tim of a sexual assault**

15 “(a) EXPEDITED CONSIDERATION AND PRIORITY
 16 FOR APPROVAL.—To the maximum extent practicable, the
 17 Secretary concerned shall provide for the expedited consid-
 18 eration and approval of an application for consideration
 19 of a permanent change of station or unit transfer sub-
 20 mitted by a member of the armed forces serving on active
 21 duty who was a victim of a sexual assault or other offense
 22 covered by section 920 of this title (article 120 of the Uni-
 23 form Code of Military Justice) so as to reduce the possi-
 24 bility of retaliation against the member for reporting the
 25 sexual assault.

1 “(b) REGULATIONS.—The Secretaries of the military
2 departments shall issue regulations to carry out this sec-
3 tion, within guidelines provided by the Secretary of De-
4 fense.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 at the beginning of such chapter is amended by inserting
7 after the item relating to section 672 the following new
8 item:

“673. Consideration of application for permanent change of station or unit
transfer for members on active duty who are the victim of a
sexual assault.”.

9 **SEC. 8. TRAINING AND EDUCATION PROGRAMS FOR SEX-**
10 **UAL ASSAULT PREVENTION AND RESPONSE**
11 **PROGRAM.**

12 Subtitle A of title XVI of the Ike Skelton National
13 Defense Authorization Act for Fiscal Year 2011 (Public
14 Law 111–383; 10 U.S.C. 1561 note) is amended by add-
15 ing at the end the following new section:

16 **“SEC. 1615. IMPROVED TRAINING AND EDUCATION PRO-**
17 **GRAMS.**

18 “(a) SEXUAL ASSAULT PREVENTION AND RESPONSE
19 TRAINING AND EDUCATION.—

20 “(1) DEVELOPMENT OF CURRICULA.—Not later
21 than one year after the date of the enactment of this
22 section, the Secretary of each military department
23 shall develop curricula to provide sexual assault pre-
24 vention and response training and education for

1 members of the Armed Forces under the jurisdiction
2 of the Secretary and civilian employees of the mili-
3 tary department to strengthen individual knowledge,
4 skills, and capacity to prevent and respond to sexual
5 assault.

6 “(2) SCOPE OF TRAINING AND EDUCATION.—
7 The sexual assault prevention and response training
8 and education shall encompass initial entry and ac-
9 cession programs, annual refresher training, profes-
10 sional military education, peer education, and spe-
11 cialized leadership training. Training shall be tai-
12 lored for specific leadership levels and local area re-
13 quirements.

14 “(3) CONSISTENT TRAINING.—The Secretary of
15 Defense shall ensure that the sexual assault preven-
16 tion and response training provided to members of
17 the Armed Forces and Department of Defense civil-
18 ian employees is consistent throughout the military
19 departments.

20 “(b) INCLUSION IN PROFESSIONAL MILITARY EDU-
21 CATION.—The Secretary of Defense shall provide for the
22 inclusion of a sexual assault prevention and response
23 training module at each level of professional military edu-
24 cation. The training shall be tailored to the new respon-

1 sibilities and leadership requirements of members of the
2 Armed Forces as they are promoted.

3 “(c) INCLUSION IN FIRST RESPONDER TRAINING.—

4 “(1) IN GENERAL.—The Secretary of Defense
5 shall direct that managers of specialty skills associ-
6 ated with first responders described in paragraph
7 (2) integrate sexual assault response training in ini-
8 tial and recurring training courses.

9 “(2) COVERED FIRST RESPONDERS.—First re-
10 sponders referred to in paragraph (1) include fire-
11 fighters, emergency medical technicians, law enforce-
12 ment officers, military criminal investigators,
13 healthcare personnel, judge advocates, and chap-
14 lains.”.

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