

117TH CONGRESS  
1ST SESSION

# S. 1611

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

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## IN THE SENATE OF THE UNITED STATES

MAY 13, 2021

Ms. HIRONO (for herself, Mr. BOOKER, Mr. COONS, Mr. LEAHY, Ms. BALDWIN, Mr. LUJÁN, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## 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”.

1 **SEC. 2. MODIFICATION OF AUTHORITY TO DETERMINE TO**  
 2 **PROCEED TO TRIAL BY COURT-MARTIAL ON**  
 3 **CHARGES INVOLVING SEX-RELATED OF-**  
 4 **FENSES.**

5 (a) ROLE OF OFFICE OF THE CHIEF PROSECUTOR  
 6 IN DETERMINATION TO PROCEED TO TRIAL ON CHARGE  
 7 INVOLVING SEX-RELATED OFFENSE.—

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

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

15 (B) in subsection (b), by striking “Before  
 16 referral” and inserting “Except as provided in  
 17 subsection (c), before referral”;

18 (C) by redesignating subsections (c) and  
 19 (d) as subsections (d) and (e) respectively; and

20 (D) by inserting after the subsection (b)  
 21 the following new subsection (c):

22 “(c) REFERRAL AND DETERMINATIONS BY OFFICE  
 23 OF THE CHIEF PROSECUTOR.—

24 “(1) In the case of a charge relating to a sex-  
 25 related offense, instead of submitting the charge,  
 26 and any accompanying charges and specifications, to

1 the staff judge advocate under subsection (a), the  
 2 convening authority shall submit, as soon as reason-  
 3 ably practicable, the charge and accompanying  
 4 charges and specifications to the Office of the Chief  
 5 Prosecutor of the armed force of which the accused  
 6 is a member to make the determination required by  
 7 subsection (a). The advice and recommendations of  
 8 the Office of the Chief Prosecutor regarding disposi-  
 9 tion of charges by court-martial shall be free of un-  
 10 lawful or unauthorized influence or coercion.

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

13 “(A) An offense covered by section 920,  
 14 920a, 920b, 920c, or 920d of this title (article  
 15 120, 120a, 120b, 120c, or 120d).

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

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

22 “(D) An attempt to commit an offense  
 23 specified in subparagraphs (A) through (C) as  
 24 punishable under section 880 of this title (arti-  
 25 cle 80).

1           “(3) If the Office of the Chief Prosecutor deter-  
2 mines any specification under a charge should be  
3 disposed of at court-martial, the Office of the Chief  
4 Prosecutor also shall determine whether to try the  
5 charge by a general court-martial convened under  
6 section 822 of this title (article 22) or a special  
7 court-martial convened under section 823 of this  
8 title (article 23).

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

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

22           “(6) A determination under paragraph (3) not  
23 to proceed to trial on a charge by general or special  
24 court-martial shall not operate to terminate or oth-  
25 erwise alter the authority of commanding officers to

1 refer such charge for trial by summary court-martial  
 2 convened under section 824 of this title (article 24),  
 3 to impose non-judicial punishment in connection  
 4 with the conduct covered by the charge as author-  
 5 ized by section 815 of this title (article 15), or to  
 6 take other administrative action.

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

10 (2) APPOINTMENT OF CHIEF PROSECUTOR.—

11 For any Armed Force (other than the Coast Guard)  
 12 for which the position of Chief Prosecutor does not  
 13 exist as of the date of the enactment of this Act, the  
 14 Judge Advocate General of that Armed Force shall  
 15 establish the position of Chief Prosecutor and ap-  
 16 point as the Chief Prosecutor a judge advocate in  
 17 the grade of O-6 or above who meets the require-  
 18 ments set forth in paragraphs (1) and (2) of section  
 19 827(b) of title 10, United States Code (article 27(b)  
 20 of the Uniform Code of Military Justice), and who  
 21 has significant experience prosecuting sexual assault  
 22 trials by court-martial.

23 (b) CHIEF PROSECUTOR AUTHORITY TO CONVENE  
 24 ARTICLE 32 PRELIMINARY HEARINGS.—Section 832(a) of  
 25 title 10, United States Code (article 32(a) of the Uniform

1 Code of Military Justice), is amended by adding at the  
 2 end the following new paragraph:

3 “(3) The Office of the Chief Prosecutor of an armed  
 4 force may order a preliminary hearing under this section  
 5 in the event of an allegation of a sex-related offense (as  
 6 defined in section 834(c)(2) of this title (article 34(c)(2)))  
 7 involving a member of that armed force. This paragraph  
 8 does not apply to the Coast Guard when it is not operating  
 9 as a service in the Department of the Navy.”.

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

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

15 (A) by redesignating paragraphs (8) and  
 16 (9) as paragraphs (9) and (10), respectively;  
 17 and

18 (B) by inserting after paragraph (7) the  
 19 following new paragraph (8):

20 “(8) an officer in the grade of O–6 or higher  
 21 who is assigned such responsibility by the Chief of  
 22 Staff of the Army, the Chief of Naval Operations,  
 23 the Chief of Staff of the Air Force, the Com-  
 24 mandant of the Marine Corps, or the Chief of Space

Operations, except that an officer designated as a convening authority under this paragraph—

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

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

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

(A) OFFICES REQUIRED.—The Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, and the Chief of Space Operations shall each establish or designate an office to do the following:

(i) To convene general and special courts-martial under sections 822 and 823 of title 10, United States Code (articles 22 and 23 of the Uniform Code of Military Justice), pursuant to paragraph (8) of section 822(a) of title 10, United States Code (article 22(a) of the Uniform Code of Mili-

tary Justice), as amended by paragraph (1), with respect to a sex-related offense (as defined in section 834(c)(2) of title 10, United States Code (article 34(c)(2) of the Uniform Code of Military Justice)) and any accompanying charges and specifications.

(ii) To detail under section 825 of title 10, United States Code (article 25 of the Uniform Code of Military Justice), members of courts-martial convened as described in clause (i).

(B) PERSONNEL.—The personnel of each office established under subparagraph (A) shall consist of such members of the Armed Forces and civilian personnel of the Department of Defense as may be detailed or assigned to the office by the service chief concerned. The members and personnel so detailed or assigned, as the case may be, shall be detailed or assigned from personnel billets in existence on the date of the enactment of this Act.

(d) IMPLEMENTATION AND EFFECTIVE DATE.—

(1) FUNDING SOURCE.—The Secretaries of the military departments shall carry out subsections (a),



1 (b), and (c) (and the amendments made by such  
2 subsections) using funds appropriated after the date  
3 of enactment of this Act and otherwise available to  
4 the Secretary of the military department concerned.

5 (2) POLICIES AND PROCEDURES.—

6 (A) IN GENERAL.—The Secretaries of the  
7 military departments shall revise policies and  
8 procedures as necessary to comply with this sec-  
9 tion.

10 (B) UNIFORMITY.—The General Counsel  
11 of the Department of Defense shall review the  
12 policies and procedures revised under this para-  
13 graph in order to ensure that any lack of uni-  
14 formity in policies and procedures, as so re-  
15 vised, among the military departments does not  
16 render unconstitutional any policy or procedure,  
17 as so revised.

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

22 (4) EFFECTIVE DATE AND APPLICABILITY.—

23 The amendments made by this section shall take ef-  
24 fect on the first day of the first month beginning  
25 after the 2-year period following the date of the en-

1 actment of this Act, and shall apply with respect to  
 2 charges preferred under section 830 of title 10,  
 3 United States Code (article 30 of the Uniform Code  
 4 of Military Justice), on or after such effective date.

5 **SEC. 3. PUNITIVE ARTICLE ON SEXUAL HARASSMENT AND**  
 6 **RELATED INVESTIGATION MATTERS.**

7 (a) PUNITIVE ARTICLE ON SEXUAL HARASSMENT.—

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

13 **“§ 920d. Art. 120d. Sexual harassment**

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

17 “(b) SEXUAL HARASSMENT DEFINED.—

18 “(1) In this section, the term ‘sexual harass-  
 19 ment’ means conduct that takes place in a cir-  
 20 cumstance described in paragraph (2) that takes the  
 21 form of—

22 “(A) a sexual advance;

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

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

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

3           “(A) submission to the conduct involved is  
4 made either explicitly or implicitly a term or  
5 condition of employment;

6           “(B) submission to or rejection of such  
7 conduct is used as the basis for an employment  
8 decision affecting an individual’s employment;  
9 or

10          “(C) such conduct unreasonably alters an  
11 individual’s terms, conditions, or privileges of  
12 employment, including by creating an intimi-  
13 dating hostile, or offensive work environment,  
14 as determined in accordance with paragraph  
15 (3).

16          “(3) In determining, for purposes of paragraph  
17 (2)(C), whether conduct constitutes sexual harass-  
18 ment because the conduct unreasonably alters an in-  
19 dividual’s terms, conditions, or privileges of employ-  
20 ment, including by creating an intimidating, hostile,  
21 or offensive work environment, the following rules  
22 shall apply:

23          “(A) The determination shall be made on  
24 the basis of the record as a whole, according to

1 the totality of the circumstances. A single inci-  
2 dent may constitute sexual harassment.

3 “(B) Incidents that may be sexual harass-  
4 ment shall be considered in the aggregate,  
5 with—

6 “(i) conduct of varying types (such as  
7 expressions of sex-based hostility, requests  
8 for sexual favors, and denial of employ-  
9 ment opportunities due to sexual orienta-  
10 tion) viewed in totality, rather than in iso-  
11 lation; and

12 “(ii) conduct based on multiple pro-  
13 tected characteristics (such as sex and  
14 race) viewed in totality, rather than in iso-  
15 lation.

16 “(C) The factors specified in this subpara-  
17 graph are among the factors to be considered in  
18 determining whether conduct constitutes sexual  
19 harassment and are not meant to be exhaustive.  
20 No one of those factors shall be considered to  
21 be determinative in establishing whether con-  
22 duct constitutes sexual harassment. Such fac-  
23 tors are each of the following:

24 “(i) The frequency of the conduct.

25 “(ii) The duration of the conduct.

1 “(iii) The location where the conduct  
2 occurred.

3 “(iv) The number of individuals en-  
4 gaged in the conduct.

5 “(v) The nature of the conduct, which  
6 may include physical, verbal, pictorial, or  
7 visual conduct, and conduct that occurs in  
8 person or is transmitted, such as electroni-  
9 cally.

10 “(vi) Whether the conduct is threat-  
11 ening.

12 “(vii) Any power differential between  
13 the alleged harasser and the person alleg-  
14 edly harassed.

15 “(viii) Any use of epithets, slurs, or  
16 other conduct that is humiliating or de-  
17 grading.

18 “(ix) Whether the conduct reflects  
19 stereotypes about individuals in the pro-  
20 tected class involved.”.

21 (2) CLERICAL AMENDMENT.—The table of sec-  
22 tions at the beginning of such subchapter is amend-  
23 ed by inserting after the item relating to section  
24 920c (article 120c) the following new item:

“920d. Art. 120d. Sexual harassment.”.

25 (b) INVESTIGATIONS OF SEXUAL HARASSMENT.—

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

3 **“§ 1561. Complaints of sexual harassment: inde-**  
4 **pendent investigation**

5 “(a) ACTION ON COMPLAINTS ALLEGING SEXUAL  
6 HARASSMENT.—A commanding officer or officer in charge  
7 of a unit, vessel, facility, or area of an armed force under  
8 the jurisdiction of the Secretary of a military department,  
9 who receives, from a member of the command or a mem-  
10 ber under the supervision of the officer, a formal com-  
11 plaint alleging sexual harassment by a member of the  
12 armed forces shall, as soon as practicable after such re-  
13 ceipt, forward the complaint to an independent investi-  
14 gator.

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

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

22 “(2) receiving a formal complaint of sexual har-  
23 assment directly from a member of the armed forces.

24 “(c) DURATION OF INVESTIGATION.—To the extent  
25 practicable, an investigation under subsection (b) shall be

1 completed not later than 14 days after the date on which  
2 the investigation commences.

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

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

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

20 “(e) DEFINITIONS.—In this section:

21 “(1) The term ‘formal complaint’ means a com-  
22 plaint that an individual files in writing and attests  
23 to the accuracy of the information contained in the  
24 complaint.

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

4                   “(A) who is outside the chain of command  
5                   of the complainant; and

6                   “(B) whom the Secretary concerned deter-  
7                   mines is trained in the investigation of sexual  
8                   harassment.

9           “(3) The term ‘sexual harassment’ has the  
10          meaning given that term in section 920d(b) of this  
11          title (article 120d of the Uniform Code of Military  
12          Justice).”.

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

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

18          (3) EFFECTIVE DATE.—The amendment to sec-  
19          tion 1561 of such title made by this subsection  
20          shall—

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

23                   (B) apply to any investigation of a formal  
24                   complaint of sexual harassment (as those terms



1 are defined in such section, as amended) made  
 2 on or after that date.

3 (4) REPORT ON IMPLEMENTATION.—Not later  
 4 than nine months after the date of the enactment of  
 5 this Act, each Secretary of a military department  
 6 shall submit to Congress a report on preparation of  
 7 that Secretary to implement the amendment to sec-  
 8 tion 1561 of such title made by this subsection.

9 **SEC. 4. AUTHORIZATION OF CLAIMS BY MEMBERS OF THE**  
 10 **ARMED FORCES AGAINST THE UNITED**  
 11 **STATES THAT ARISE FROM SEX-RELATED OF-**  
 12 **FENSES.**

13 (a) ESTABLISHMENT.—

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

17 **“§ 2733b. Claims arising from sex-related offenses**

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

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

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

3           “(B) the negligent failure to investigate such  
4 sex-related offense.

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

7           “(1) the claim is filed by the claimant who is  
8 the victim of the sex-related offense, or by an au-  
9 thorized representative on behalf of such claimant  
10 who is deceased or otherwise unable to file the claim  
11 due to incapacitation;

12           “(2) the claimant was a member of an armed  
13 force under the jurisdiction of the Secretary of a  
14 military department at the time of the sex-related  
15 offense;

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

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

20           “(5) the claim is substantiated as prescribed in  
21 regulations prescribed by the Secretary of Defense  
22 under subsection (d).

23           “(c) PAYMENT OF CLAIMS.—(1) If the Secretary of  
24 Defense determines, pursuant to regulations prescribed by  
25 the Secretary under subsection (d), that a claim under this

1 section in excess of \$100,000 is meritorious, and the claim  
2 is otherwise payable under this section, the Secretary may  
3 pay the claimant \$100,000 and report any meritorious  
4 amount in excess of \$100,000 to the Secretary of the  
5 Treasury for payment under section 1304 of title 31.

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

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

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

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

16 “(i) the filing, receipt, investigation, and  
17 evaluation of a claim;

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

20 “(iii) such other matters relating to the  
21 processing and administration of a claim, in-  
22 cluding an administrative appeals process, as  
23 the Secretary considers appropriate.

24 “(B) Uniform standards consistent with gen-  
25 erally accepted standards used in a majority of

1 States in adjudicating claims under chapter 171 of  
2 title 28 (commonly known as the ‘Federal Tort  
3 Claims Act’) to be applied to the evaluation, settle-  
4 ment, and payment of claims under this section  
5 without regard to the place of occurrence of the sex-  
6 related offense giving rise to the claim or the mili-  
7 tary department of the covered individual, and with-  
8 out regard to foreign law in the case of claims aris-  
9 ing in foreign countries, including uniform standards  
10 to be applied to determinations with respect to—

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

14 “(ii) whether the personal injury or death  
15 of the claimant was caused by a negligent or  
16 wrongful act or omission of a covered indi-  
17 vidual;

18 “(iii) requirements relating to proof of  
19 duty, breach of duty, and causation resulting in  
20 compensable injury or loss, subject to such ex-  
21 clusions as may be established by the Secretary  
22 of Defense; and

23 “(iv) calculation of damages.

24 “(C) Such other matters as the Secretary con-  
25 siders appropriate.

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

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

5               “(B) not later than one year after prescribing  
6 such interim final rule and considering public com-  
7 ments with respect to such interim final rule, by pre-  
8 scribing a final rule.

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

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

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

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

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

3           “(2) indicating the resolution of each such  
4           claim; and

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

8           “(g) DEFINITIONS.—In this section:

9           “(1) The term ‘covered individual’ means a  
10          member of the armed forces or an employee of the  
11          Department of Defense.

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

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

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

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

1 (c) CONFORMING AMENDMENTS.—

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

4 (2) Section 1304(a)(3)(D) of title 31, United  
5 States Code, is amended by inserting “2733b,” after  
6 “2733a,”.

7 (d) EFFECTIVE DATE AND TRANSITION PROVI-  
8 SION.—

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

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

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

20 (a) SECRETARY OF DEFENSE REPORT.—

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

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

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

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

13           (i) The current structure.

14           (ii) A structure involving discharge  
15 through civilian personnel.

16           (iii) A structure involving discharge  
17 though substantial numbers of contractors.

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



1 (v) Any other structure the Secretary  
2 considers appropriate.

3 (b) COMPTROLLER GENERAL OF THE UNITED  
4 STATES REPORT.—

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

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

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

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

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

23 (a) IMPROVEMENTS AND MODIFICATIONS.—

24 (1) IN GENERAL.—The Secretary of the Army  
25 shall take such actions as are necessary to enhance

1 the independence and professionalization of the Sex-  
2 ual Harassment/Assault Response Program of the  
3 Army (referred to in this section as the “Program”).

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

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

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

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

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

23 (E) Part-time personnel may be assigned  
24 to the Program only if the responsibilities of  
25 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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