H. R. 1709

To prevent and end the occurrence of sexual assaults involving members of the Armed Forces.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2011

Ms. SLAUGHTER introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To prevent and end the occurrence of sexual assaults involving members of the Armed Forces.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Force Protection and Readiness Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Sexual Assault Victim Advocate, victim service organization, and health care professional privileges in cases arising under Uniform Code of Military Justice.
Sec. 3. 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. 4. Codification of required information database on sexual assault incidents involving members of the Armed Forces.
Sec. 5. Establishment of hotline to improve reporting of sexual assaults involving members of the Armed Forces.
Sec. 6. Assignment and training of Sexual Assault Victim Advocates.
Sec. 7. Provision of court-martial record to victim of sexual assault involving a member of the Armed Forces.
Sec. 8. Legal training for judge advocates to improve investigation and prosecution of sexual assault offenses.

SEC. 2. SEXUAL ASSAULT VICTIM ADVOCATE, VICTIM SERVICE ORGANIZATION, AND HEALTH CARE PROFESSIONAL PRIVILEGES IN CASES ARISING UNDER UNIFORM CODE OF MILITARY JUSTICE.

(a) Privileges Established.—

(1) In general.—Subchapter XI of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by adding at the end the following new section:

“§ 940a. Art. 140a. Privilege for communication with Sexual Assault Victim Advocate, victim service organization, or health care professional

“(a) Definitions.—In this section:

“(1) The term ‘client’ means a person who consults with or is examined or interviewed by a Sexual Assault Victim Advocate of the Department of Defense, a victim service organization or any representative of the organization, or a health care professional or any representative of the professional.
“(2) The term ‘victim service organization’ means an organization (whether public or private) that provides advice, counseling, or assistance to victims of domestic violence, family violence, dating violence, stalking, or sexual assault, or to the families of such victims.

“(3) The term ‘representative’, with respect to an organization or professional, means a person directed by or assigned to assist that organization or professional, respectively, in providing advice, counseling, treatment, or assistance.

“(4) The term ‘confidential communication’ means a communication not intended to be disclosed to third persons other than—

“(A) those persons to whom disclosure is in furtherance of providing advice, counseling, treatment, or assistance to the client; and

“(B) those persons reasonably necessary for facilitating disclosure under subparagraph (A).

“(b) General Rule of Privilege.—(1) A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, in a case arising under this chapter, a confidential communication made between the client and a person or entity specified in paragraph (2)
if such communication was made for the purpose of securing advice, counseling, treatment, or assistance concerning the client’s mental, physical, or emotional condition caused by a sexual assault or other offense covered by section 920 of this title (article 120).

“(2) The privilege afforded by paragraph (1) applies to confidential communications with—

“(A) any operator or recording device of the Department of Defense sexual assault reporting hotline;

“(B) a Sexual Assault Victim Advocate;

“(C) a victim service organization or any representative of the organization; and

“(D) a health care professional or any representative of the professional.

“(3) A person referred to in paragraph (2) shall notify clients as soon as practicable of the existence of the privilege afforded by paragraph (1).

“(c) EMERGENCY SHELTER PROTECTION.—A client or representative of a client may not be compelled to provide testimony in a case arising under this chapter (or other disciplinary or administrative proceeding of an armed force) that would identify—

“(1) the name, address, location, or telephone number of a safe house, abuse shelter, or other facil-
ity that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding; or

“(2) the name, address, or telephone number of a victim representative.

“(d) WHO MAY CLAIM THE PRIVILEGE.—The privilege under subsection (b) or (c) may be claimed by the client or the guardian or conservator of the client. A person who may claim the privilege may authorize trial counsel or defense counsel to claim the privilege on his or her behalf. The Sexual Assault Victim Advocate, victim service organization, health care professional, or representative who received the communication may claim the privilege on behalf of the client. The authority of the Sexual Assault Victim Advocate, organization, professional, representative, guardian, or conservator to assert the privilege is presumed in the absence of evidence to the contrary.

“(e) EXCEPTIONS.—There is no privilege under this section—

“(1) when the client is dead, except for the privilege under subsection (c);

“(2) to the extent the communication reports child abuse;

“(3) when a Sexual Assault Victim Advocate, victim service organization, health care professional,
or representative believes that a mental or emotional condition of the client makes the client a danger to any person, including the client; or

“(4) if the communication clearly contemplated the future commission of a fraud or crime or if the services of the Sexual Assault Victim Advocate, victim service organization, or health care professional are sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

“940a. 140a. Privilege for communication with Sexual Assault Victim Advocate, victim service organization, or health care professional.”.

(b) APPLICABILITY.—Section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice), as added by subsection (a), applies to communications made after the date of the enactment of this Act.
SEC. 3. 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.

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

“§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

“(a) EXPEDITED CONSIDERATION AND PRIORITY FOR APPROVAL.—To the maximum extent practical, the Secretary concerned shall provide for the expedited consideration and approval of an application for consideration of a permanent change of station or unit transfer submitted by a member of the armed forces serving on active duty who was a victim of a sexual assault or other offense covered by section 920 of this title (article 120) so as to reduce the possibility of retaliation against the member for reporting the sexual assault.

“(b) REGULATIONS.—The Secretaries of the military departments shall issue regulations to carry out this section, within guidelines provided by the Secretary of Defense.”.
(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 672 the following new 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.”

SEC. 4. CODIFICATION OF REQUIRED INFORMATION DATABASE ON SEXUAL ASSAULT INCIDENTS INVOLVING MEMBERS OF THE ARMED FORCES.

(a) DATABASE REQUIRED.—Chapter 80 of title 10, United States Code, is amended by inserting after section 1562 the following new section:

§ 1562a. Database on sexual assault incidents

“(a) DATABASE REQUIRED.—The Secretary of Defense shall maintain a centralized, case-level database for the collection, in a manner consistent with Department of Defense regulations for restricted reporting, and maintenance of information regarding sexual assaults involving a member of the armed forces, including information, if available, about the nature of the assault, the victim, the offender, and the outcome of any legal proceedings in connection with the assault.

“(b) AVAILABILITY OF DATABASE.—The database required by subsection (a) shall be available to personnel of the Sexual Assault Prevention and Response Office of the Department of Defense.
“(c) REPORTS.—The database required by subsection (a) shall be used to develop and implement congressional reports, as required by the following

“(1) Sections 4361, 6980, and 9361 of this title.


(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1562 the following new item:

“1562a. Database on sexual assault incidents.”.


(d) COMPLETION.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall complete implementation of the database required by the amendment made by subsection (a).
SEC. 5. ESTABLISHMENT OF HOTLINE TO IMPROVE REPORTING OF SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall establish a universal hotline to facilitate the reporting of a sexual assault—

(1) by a member of the Armed Forces, whether serving in the United States or overseas, who is a victim of a sexual assault; or

(2) by any other person who is a victim of a sexual assault involving a member of the Armed Forces.

SEC. 6. ASSIGNMENT AND TRAINING OF SEXUAL ASSAULT VICTIM ADVOCATES.

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

“§ 1568. Sexual Assault Victim Advocates

“(a) ASSIGNMENT OF VICTIM ADVOCATES.—(1) At least one full-time Sexual Assault Victim Advocate shall be assigned to each battalion or equivalent military unit. The Secretary concerned may assign additional Victim Advocates as necessary based on the demographics or needs of the unit. The additional Victim Advocates may serve
on a full-time or part-time basis at the discretion of the Secretary.

“(2) The Secretary concerned shall assign members of the armed forces under the jurisdiction of the Secretary to serve as a deployable Sexual Assault Victim Advocate when Victim Advocates assigned to a unit under paragraph (1) are not deployed with the unit.

“(b) Training and Certification.—(1) The Secretary of Defense shall establish a training and certification program for Sexual Assault Victim Advocates. In developing the program, the Secretary of Defense shall work with the National Victim Assistance Academy.

“(2) A member or civilian employee assigned to duty as a Victim Advocate may obtain certification under the training program.”.

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1568. Sexual Assault Victim Advocates.”.

SEC. 7. PROVISION OF COURT-MARTIAL RECORD TO VICTIM OF SEXUAL ASSAULT INVOLVING A MEMBER OF THE ARMED FORCES.

A copy of the prepared record of the proceedings of a court-martial involving a sexual assault or other sexual offense shall be given to the victim of the offence if the victim testified during the proceedings. The record of the
proceedings shall be provided without charge and as soon
as the record is authenticated. The victim shall be notified
of the opportunity to receive the record of the proceedings.

SEC. 8. LEGAL TRAINING FOR JUDGE ADVOCATES TO IM-
PROVE INVESTIGATION AND PROSECUTION
OF SEXUAL ASSAULT OFFENSES.

Section 806 of title 10, United States Code (article
6 of the Uniform Code of Military Justice), is amended
by adding at the end the following new subsection:

“(e) The Secretary of Defense shall provide for the
inclusion of a training module for judge advocates who
serve as trial counsel to improve their ability to investigate
and prosecute cases involving a sexual assault or other of-
fense covered by section 920 of this title (article 120).”.

○