

108TH CONGRESS
2D SESSION

H. R. 4123

To amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to bring military sexual assault crimes into parallel with Federal sexual assault crimes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2004

Ms. LORETTA SANCHEZ of California introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to bring military sexual assault crimes into parallel with Federal sexual assault crimes.

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 “Military Sexual Assault
5 Crimes Revision Act of 2004”.

1 **SEC. 2. MILITARY SEXUAL ABUSE.**

2 (a) SEXUAL ABUSE.—Section 920 of title 10, United
3 States Code (article 120 of the Uniform Code of Military
4 Justice), is amended to read as follows:

5 **“§ 920. Art. 120. Sexual abuse**

6 “(a) Any person subject to this chapter who know-
7 ingly causes another person to engage in a sexual act—

8 “(1) by using force against that other person;

9 or

10 “(2) by threatening or placing that other per-
11 son in fear that any person will be subjected to
12 death, serious bodily injury, or kidnapping;

13 is guilty of aggravated sexual abuse and shall be punished
14 as a court-martial may direct.

15 “(b) Any person subject to this chapter who know-
16 ingly—

17 “(1) renders another person unconscious and
18 thereby engages in a sexual act with that other per-
19 son; or

20 “(2) administers to another person by force or
21 threat of force, or without the knowledge or permis-
22 sion of that other person, a drug, intoxicant, or
23 other similar substance and thereby—

24 “(A) substantially impairs the ability of
25 that other person to appraise or control con-
26 duct; and

1 “(B) engages in a sexual act with that
2 other person;
3 is guilty of aggravated sexual abuse and shall be punished
4 as a court-martial may direct.

5 “(c) Any person subject to this chapter who know-
6 ingly engages in a sexual act with another person who has
7 not attained the age of twelve years is guilty of aggravated
8 sexual abuse of a child and shall be punished as a court-
9 martial may direct. In a prosecution under this subsection,
10 it need not be proven that the accused knew that the other
11 person engaging in the sexual act had not attained the
12 age of twelve years.

13 “(d) Any person subject to this chapter who know-
14 ingly—

15 “(1) causes another person to engage in a sex-
16 ual act by threatening or placing that other person
17 in fear (other than by threatening or placing that
18 other person in fear that any person will be sub-
19 jected to death, serious bodily injury, or kidnap-
20 ping); or

21 “(2) engages in a sexual act with another per-
22 son if that other person is—

23 “(A) incapable of appraising the nature of
24 the conduct; or

1 “(B) physically incapable of declining par-
2 ticipation in, or communicating unwillingness to
3 engage in, that sexual act;
4 is guilty of sexual abuse and shall be punished as a court-
5 martial may direct.

6 “(e)(1) Any person subject to this chapter who know-
7 ingly engages in a sexual act with another person who—

8 “(A) has attained the age of twelve years but
9 has not attained the age of sixteen years;

10 “(B) is at least four years younger than the
11 person so engaging; and

12 “(C) is not that person’s spouse;
13 is guilty of sexual abuse of a minor and shall be punished
14 as a court-martial may direct.

15 “(2) In a prosecution under this subsection, it need
16 not be proven that the accused knew the age of the other
17 person engaging in the sexual act or that the requisite age
18 difference existed between the persons so engaging.

19 “(3) In a prosecution under this subsection, it is an
20 affirmative defense that the accused reasonably believed
21 that the other person had attained the age of sixteen
22 years. The accused has the burden of proving a defense
23 under this paragraph by a preponderance of the evidence.

24 “(f) Any person subject to this chapter who know-
25 ingly engages in a sexual act with another person who is—

1 “(1) in official detention or confinement; and

2 “(2) under the custodial, supervisory, or dis-
3 ciplinary authority of the person so engaging; and

4 “(3) is not that person’s spouse;

5 is guilty of sexual abuse of a ward and shall be punished
6 as a court-martial may direct.

7 “(g) In this section, the term ‘sexual act’ means—

8 “(1) contact between the penis and the vulva or
9 the penis and the anus, and for purposes of this sub-
10 paragraph contact involving the penis occurs upon
11 penetration, however slight;

12 “(2) contact between the mouth and the penis,
13 the mouth and the vulva, or the mouth and the
14 anus;

15 “(3) the penetration, however slight, of the anal
16 or genital opening of another by a hand or finger or
17 by any object, with an intent to abuse, humiliate,
18 harass, degrade, or arouse or gratify the sexual de-
19 sire of any person; or

20 “(4) the intentional touching, not through the
21 clothing, of the genitalia of another person who has
22 not attained the age of sixteen years with an intent
23 to abuse, humiliate, harass, degrade, or arouse or
24 gratify the sexual desire of any person.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) MURDER.—Section 918(4) of title 10,
2 United States Code (article 118 of the Uniform
3 Code of Military Justice), is amended by striking
4 “sodomy, rape,” and inserting “aggravated sexual
5 abuse, aggravated sexual abuse of a child,”.

6 (2) SODOMY.—Section 925 of title 10, United
7 States Code (article 125 of the Uniform Code of
8 Military Justice), is repealed.

9 (c) CLERICAL AMENDMENTS.—The table of sections
10 at the beginning of chapter 47 of title 10, United States
11 Code, is amended—

12 (1) by striking the item relating to section 925;
13 and

14 (2) by striking the item relating to section 920
15 and inserting the following new item:

“920. Art. 120. Sexual abuse.”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply with respect to offenses committed
18 after the date of the enactment of this Act.

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