

111TH CONGRESS  
2D SESSION

# H. R. 5347

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2010

Ms. SLAUGHTER (for herself and Ms. HARMAN) introduced the following bill;  
which was referred to the Committee on Armed Services

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## A BILL

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

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       “Force Protection and Readiness Act of 2010”.

6       (b) **TABLE OF CONTENTS.**—The table of contents for  
7       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 hu-  
manitarian 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.

1 **SEC. 2. SEXUAL ASSAULT VICTIM ADVOCATE, VICTIM SERV-**  
 2 **ICE ORGANIZATION, AND HEALTH CARE PRO-**  
 3 **FESSIONAL PRIVILEGES IN CASES ARISING**  
 4 **UNDER UNIFORM CODE OF MILITARY JUS-**  
 5 **TICE.**

6 (a) PRIVILEGES ESTABLISHED.—

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

11 **“§ 940a. Art. 140a. Privilege for communication with**  
 12 **Sexual Assault Victim Advocate, victim**  
 13 **service organization, or health care pro-**  
 14 **fessional**

15 “(a) DEFINITIONS.—In this section:

16 “(1) The term ‘client’ means a person who  
 17 consults with or is examined or interviewed by a  
 18 Sexual Assault Victim Advocate of the Department  
 19 of Defense, a victim service organization or any rep-  
 20 resentative of the organization, or a health care pro-  
 21 fessional or any representative of the professional.

1           “(2) The term ‘victim service organization’  
2           means an organization (whether public or private)  
3           that provides advice, counseling, or assistance to vic-  
4           tims of domestic violence, family violence, dating vio-  
5           lence, stalking, or sexual assault, or to the families  
6           of such victims.

7           “(3) The term ‘representative’, with respect to  
8           an organization or professional, means a person di-  
9           rected by or assigned to assist that organization or  
10          professional, respectively, in providing advice, coun-  
11          seling, treatment, or assistance.

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

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

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

21          “(b) GENERAL RULE OF PRIVILEGE.—(1) A client  
22          has a privilege to refuse to disclose, and to prevent any  
23          other person from disclosing, in a case arising under this  
24          chapter, a confidential communication made between the  
25          client and a person or entity specified in paragraph (2)

1 if such communication was made for the purpose of secur-  
2 ing advice, counseling, treatment, or assistance concerning  
3 the client's mental, physical, or emotional condition caused  
4 by a sexual assault or other offense covered by section 920  
5 of this title (article 120).

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

8 “(A) any operator or recording device of the  
9 Department of Defense sexual assault reporting hot-  
10 line;

11 “(B) a Sexual Assault Victim Advocate;

12 “(C) a victim service organization or any rep-  
13 resentative of the organization; and

14 “(D) a health care professional or any rep-  
15 resentative of the professional.

16 “(3) A person referred to in paragraph (2) shall no-  
17 tify clients as soon as practicable of the existence of the  
18 privilege afforded by paragraph (1).

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

24 “(1) the name, address, location, or telephone  
25 number of a safe house, abuse shelter, or other facil-

1       ity that provided temporary emergency shelter to the  
2       victim of the offense or transaction that is the sub-  
3       ject of the proceeding; or

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

6       “(d) WHO MAY CLAIM THE PRIVILEGE.—The privi-  
7       lege under subsection (b) or (c) may be claimed by the  
8       client or the guardian or conservator of the client. A per-  
9       son who may claim the privilege may authorize trial coun-  
10      sel or defense counsel to claim the privilege on his or her  
11      behalf. The Sexual Assault Victim Advocate, victim service  
12      organization, health care professional, or representative  
13      who received the communication may claim the privilege  
14      on behalf of the client. The authority of the Sexual Assault  
15      Victim Advocate, organization, professional, representa-  
16      tive, guardian, or conservator to assert the privilege is pre-  
17      sumed in the absence of evidence to the contrary.

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

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

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

24               “(3) when a Sexual Assault Victim Advocate,  
25      victim service organization, health care professional,

1 or representative believes that a mental or emotional  
2 condition of the client makes the client a danger to  
3 any person, including the client; or

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

12 (2) CLERICAL AMENDMENT.—The table of sec-  
13 tions at the beginning of such subchapter is amend-  
14 ed 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.”.

15 (b) APPLICABILITY.—Section 940a of title 10, United  
16 States Code (article 140a of the Uniform Code of Military  
17 Justice), as added by subsection (a), applies to commu-  
18 nications made after the date of the enactment of this Act.

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

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

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

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

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

1 (b) CLERICAL AMENDMENT.—The table of sections  
 2 at the beginning of such chapter is amended by inserting  
 3 after the item relating to section 672 the following new  
 4 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.”.

5 **SEC. 4. CODIFICATION OF REQUIRED INFORMATION DATA-**  
 6 **BASE ON SEXUAL ASSAULT INCIDENTS IN-**  
 7 **VOLVING MEMBERS OF THE ARMED FORCES.**

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

11 **“§ 1562a. Database on sexual assault incidents**

12 “(a) DATABASE REQUIRED.—The Secretary of De-  
 13 fense shall maintain a centralized, case-level database for  
 14 the collection, in a manner consistent with Department of  
 15 Defense regulations for restricted reporting, and mainte-  
 16 nance of information regarding sexual assaults involving  
 17 a member of the armed forces, including information, if  
 18 available, about the nature of the assault, the victim, the  
 19 offender, and the outcome of any legal proceedings in con-  
 20 nection with the assault.

21 “(b) AVAILABILITY OF DATABASE.—The database  
 22 required by subsection (a) shall be available to personnel  
 23 of the Sexual Assault Prevention and Response Office of  
 24 the Department of Defense.



1       “(c) REPORTS.—The database required by subsection  
 2 (a) shall be used to develop and implement congressional  
 3 reports, as required by the following

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

6               “(2) Section 577(f) of the Ronald W. Reagan  
 7 National Defense Authorization Act for Fiscal Year  
 8 2005 (Public Law 108–375; 10 U.S.C. 113 note).”.

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

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

13       (c) REPEAL OF SUPERSEDED REQUIREMENT.—Sec-  
 14 tion 563 of the Duncan Hunter National Defense Author-  
 15 ization Act for Fiscal Year 2009 (Public Law 110–417;  
 16 122 Stat. 4470) is repealed.

17       (d) COMPLETION.—Not later than one year after the  
 18 date of the enactment of this Act, the Secretary of Defense  
 19 shall complete implementation of the database required by  
 20 subsection (a).

21 **SEC. 5. ESTABLISHMENT OF HOTLINE TO IMPROVE RE-**  
 22 **PORTING OF SEXUAL ASSAULTS INVOLVING**  
 23 **MEMBERS OF THE ARMED FORCES.**

24       Not later than 180 days after the date of the enact-  
 25 ment of this Act, the Secretary of Defense shall establish

1 a universal hotline to facilitate the reporting of a sexual  
2 assault—

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

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

9 **SEC. 6. ASSIGNMENT AND TRAINING OF SEXUAL ASSAULT**  
10 **VICTIM ADVOCATES.**

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

14 **“§ 1568. Sexual Assault Victim Advocates**

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

23 “(2) The Secretary concerned shall assign members  
24 of the armed forces under the jurisdiction of the Secretary  
25 to serve as a deployable Sexual Assault Victim Advocate

1 when Victim Advocates assigned to a unit under para-  
 2 graph (1) are not deployed with the unit.

3 “(b) TRAINING AND CERTIFICATION.—(1) The Sec-  
 4 retary of Defense shall establish a training and certifi-  
 5 cation program for Sexual Assault Victim Advocates. In  
 6 developing the program, the Secretary of Defense shall  
 7 work with the National Victim Assistance Academy.

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

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

“1568. Sexual Assault Victim Advocates.”.

14 **SEC. 7. PROVISION OF COURT-MARTIAL RECORD TO VIC-**  
 15 **TIM OF SEXUAL ASSAULT INVOLVING A MEM-**  
 16 **BER OF THE ARMED FORCES.**

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

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

4 Section 806 of title 10, United States Code (article  
5 6 of the Uniform Code of Military Justice), is amended  
6 by adding at the end the following new subsection:  
7 “(e) The Secretary of Defense shall provide for the  
8 inclusion of a training module for judge advocates who  
9 serve as trial counsel to improve their ability to investigate  
10 and prosecute cases involving a sexual assault or other of-  
11 fense covered by section 920 of this title (article 120).”.

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