

111TH CONGRESS
2D SESSION

S. 3311

To improve and enhance the capabilities of the Department of Defense to prevent and respond to sexual assault in the Armed Forces, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 5, 2010

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To improve and enhance the capabilities of the Department of Defense to prevent and respond to sexual assault in the Armed Forces, 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. ENHANCEMENT OF PROCEDURES FOR COMMU-**
4 **NICATIONS BY MEMBERS OF THE ARMED**
5 **FORCES REGARDING ALLEGATIONS OF SEX-**
6 **UAL ASSAULT.**

7 (a) JUDGE ADVOCATES TO BE RECIPIENTS OF RE-
8 STRICTED REPORTING OF ALLEGATIONS WITHOUT TRIG-
9 GERING OFFICIAL INVESTIGATIVE PROCESS.—The offi-

1 cials who are authorized to receive a restricted reporting
 2 by a member of the Armed Forces of an allegation of sex-
 3 ual assault without resulting in the initiation of an official
 4 investigative process with respect to the allegation shall
 5 include judge advocates.

6 (b) PRIVILEGED NATURE OF COMMUNICATIONS BE-
 7 TWEEN MEMBERS AND VICTIM ADVOCATES.—

8 (1) IN GENERAL.—The Secretary of Defense
 9 shall modify the Military Rules of Evidence to pro-
 10 vide that a member of the Armed Forces who alleges
 11 sexual assault shall have the privilege to refuse to
 12 disclose, and to prevent any other person from dis-
 13 closing, a confidential communication made between
 14 the member and a Victim Advocate (VA), in a case
 15 arising under chapter 47 of title 10, United States
 16 Code (the Uniform Code of Military Justice), or
 17 chapter 47A of title 10, United States Code (relat-
 18 ing to military commissions), if the communication
 19 was made for the purpose of facilitating victim advo-
 20 cacy for the member with respect to the allegation.
 21 The privilege shall be similar in scope and excep-
 22 tions, and the privilege shall be administered in a
 23 manner similar, to the psychotherapist-patient privi-
 24 lege under Rule 513 of the Military Rules of Evi-
 25 dence.

1 (2) CONFIDENTIAL DEFINED.—In this sub-
 2 section, the term “confidential”, in the case of a
 3 communication, means not intended to be disclosed
 4 to third persons other than those to whom disclosure
 5 is in furtherance of victim advocacy or those reason-
 6 ably necessary for the transmission of the commu-
 7 nication.

8 (c) OTHER DEFINITIONS.—In this section, the terms
 9 “official investigative process”, “restricted reporting”, and
 10 “unrestricted reporting” have the meaning given such
 11 terms in Department of Defense Directive 6495.01, dated
 12 October 6, 2005 (as amended).

13 **SEC. 2. REQUIREMENTS AND LIMITATIONS REGARDING**
 14 **SEXUAL ASSAULT RESPONSE COORDINATORS**
 15 **AND VICTIM ADVOCATES.**

16 (a) LIMITATION ON PERSONNEL DISCHARGING
 17 SARC FUNCTIONS.—

18 (1) IN GENERAL.—Each Sexual Assault Re-
 19 sponse Coordinator (SARC) shall be a member of
 20 the Armed Forces on active duty or a full-time civil-
 21 ian employee of the Department of Defense.

22 (2) PROHIBITION ON DISCHARGE BY CON-
 23 TRACTOR PERSONNEL.—A contractor or employee of
 24 a contractor of the Federal Government may not

1 serve or act as, or discharge the functions of, a Sex-
 2 ual Assault Response Coordinator.

3 (b) MINIMUM NUMBER OF VAS.—Each battalion of
 4 the Armed Forces shall be assigned not less than one Vic-
 5 tim Advocate (VA) who is a member of the Armed Forces
 6 on active duty or a full-time civilian employee of the De-
 7 partment of Defense.

8 (c) TRAINING AND CERTIFICATION.—

9 (1) TRAINING AND CERTIFICATION FOR
 10 SARCS.—The Secretary of Defense shall, in consulta-
 11 tion with the National Organization of Victim Advoc-
 12 ates (NOVA), carry out a program as follows:

13 (A) To provide standardized training for
 14 all individuals who will serve as Sexual Assault
 15 Response Coordinators on matters relating to
 16 sexual assault in the Armed Forces.

17 (B) To certify individuals who successfully
 18 complete training provided pursuant to sub-
 19 paragraph (A) as qualified for the discharge of
 20 the functions of Sexual Assault Response Coord-
 21 inator.

22 (2) PARTICIPATION OF VAS.—The Secretary
 23 shall permit individuals who will serve as a Victim
 24 Advocate to participate in training provided pursu-
 25 ant to paragraph (1)(A) if such training is not oth-

1 erwise provided or available to such individuals
 2 through individuals certified as Sexual Assault Re-
 3 sponse Coordinators under paragraph (1)(B).

4 (d) DEFINITIONS.—In this section, the term “Sexual
 5 Assault Response Coordinator” and “Victim Advocate”
 6 have the meaning given such terms in Department of De-
 7 fense Directive 6495.01, dated October 6, 2005 (as
 8 amended).

9 **SEC. 3. REQUIREMENTS FOR THE SEXUAL ASSAULT PRE-**
 10 **VENTION AND RESPONSE PROGRAM.**

11 (a) SES POSITION FOR DIRECTOR OF SAPRO.—The
 12 position of Director of the Sexual Assault Prevention and
 13 Response Office (SAPRO) of the Department of Defense
 14 shall be a position in the Senior Executive Service (SES).

15 (b) STANDARDIZATION OF PROGRAM.—The Sec-
 16 retary of Defense shall take appropriate actions to stand-
 17 ardize and update programs and activities relating to sex-
 18 ual assault prevention and response across the Armed
 19 Forces and the military departments. Such actions shall
 20 include the following:

21 (1) The establishment of common organiza-
 22 tional structures for organizations in the Armed
 23 Forces and the military departments responsible for
 24 sexual assault prevention and response activities in
 25 order to achieve commonality in the structure of

1 such organizations and their discharge of their func-
2 tions.

3 (2) The standardization of terminology on sex-
4 ual assault prevention and response to be utilized by
5 the organizations described in paragraph (1), the
6 Armed Forces, and the military departments.

7 (3) The establishment of position descriptions
8 for positions in the Armed Forces and the military
9 departments charged with sexual assault prevention
10 and response duties, and the specification of the re-
11 sponsibilities of such positions.

12 (4) The establishment of minimum standards
13 for programs and activities of the Armed Forces and
14 the military departments relating to sexual assault
15 prevention and response.

16 (5) Such other actions as the Secretary con-
17 siders appropriate.

18 **SEC. 4. SEXUAL ASSAULT PREVENTION AND RESPONSE**
19 **TRAINING IN PROFESSIONAL MILITARY EDU-**
20 **CATION.**

21 The Secretary of Defense shall, in consultation with
22 the Secretaries of the military departments, ensure that
23 training on sexual assault prevention and response is pro-
24 vided to members of the Armed Forces at each level of
25 professional military education (PME) for members of the

1 Armed Forces. Such training shall, to the extent prac-
2 ticable, be uniform across the Armed Forces.

3 **SEC. 5. SEXUAL ASSAULT DEFINED.**

4 In this Act, the term “sexual assault” has the mean-
5 ing given that term in Department of Defense Directive
6 6495.01, dated October 6, 2005 (as amended).

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