

113TH CONGRESS
1ST SESSION

H. R. 1593

To amend title 10, United States Code, to improve the prevention of and response to sexual assault in the Armed Forces by establishing a Sexual Assault Oversight and Response Council and an enhanced Sexual Assault Oversight and Response Office and by requiring the appointment of a Director of Military Prosecutions for sexual-related offenses committed by a member of the Armed Forces, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2013

Ms. SPEIER (for herself, Mr. ANDREWS, Ms. BASS, Mr. BECERRA, Mr. BERA of California, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BRADY of Pennsylvania, Mr. BRALEY of Iowa, Ms. BROWN of Florida, Mr. BUTTERFIELD, Mr. CAPUANO, Mr. CARSON of Indiana, Mr. CARTWRIGHT, Ms. CASTOR of Florida, Ms. CHU, Mr. CICILLINE, Ms. CLARKE, Mr. CLAY, Mr. CLEAVER, Mr. COHEN, Mr. CONNOLLY, Mr. CONYERS, Mr. CROWLEY, Mr. CUMMINGS, Mr. DANNY K. DAVIS of Illinois, Mr. DEFazio, Ms. DEGETTE, Ms. DELAULO, Mr. DELANEY, Mr. DOGGETT, Ms. EDWARDS, Mr. ELLISON, Ms. ESHOO, Mr. FARR, Mr. FATTAH, Ms. FRANKEL of Florida, Mr. GARAMENDI, Mr. AL GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Ms. HAHN, Mr. HASTINGS of Florida, Mr. HOLT, Mr. HONDA, Mr. HUFFMAN, Ms. JACKSON LEE, Mr. JOHNSON of Georgia, Mr. JONES, Ms. KAPTUR, Mr. KEATING, Mr. KIND, Ms. LEE of California, Mr. LEWIS, Mr. LEVIN, Mr. BEN RAY LUJÁN of New Mexico, Mrs. CAROLYN B. MALONEY of New York, Mr. MARKEY, Ms. MATSUI, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. MCNERNEY, Mr. GEORGE MILLER of California, Ms. MOORE, Mrs. NAPOLITANO, Ms. NORTON, Mr. PAYNE, Mr. PERLMUTTER, Ms. PINGREE of Maine, Mr. POLIS, Mr. QUIGLEY, Mr. RANGEL, Mr. RAHALL, Ms. ROYBAL-ALLARD, Ms. SCHAKOWSKY, Ms. SCHWARTZ, Mr. SCHRAEDER, Mr. THOMPSON of California, Mr. THOMPSON of Mississippi, Mr. TIERNEY, Ms. TITUS, Mr. TONKO, Mr. WALZ, Ms. WATERS, Mr. WELCH, Ms. WILSON of Florida, and Mr. LARSON of Connecticut) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to improve the prevention of and response to sexual assault in the Armed Forces by establishing a Sexual Assault Oversight and Response Council and an enhanced Sexual Assault Oversight and Response Office and by requiring the appointment of a Director of Military Prosecutions for sexual-related offenses committed by a member of 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. SHORT TITLE.**

4 This Act may be cited as the “Sexual Assault Train-
 5 ing Oversight and Prevention Act” or the “STOP Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The Department of Defense conducted a
 9 survey of members of the Armed Forces serving on
 10 active duty that revealed that only 13.5 percent of
 11 such members reported incidents of sexual assault,
 12 which means that more than 19,000 incidents of
 13 sexual assault of members of the Armed Forces ac-
 14 tually occurred in 2010 alone.

15 (2) Despite modest attempts, the Department
 16 of Defense has failed to address the chronic under
 17 reporting of incidents of sexual assault and harass-

1 ment, as by the Department's own estimates, 86
2 percent of sexual assaults went unreported in 2010.

3 (3) The military adjudication system itself lacks
4 independence, as military judges depend on com-
5 mand, and members of the Armed Forces have only
6 limited access to civilian courts to address their
7 grievances.

8 (4) The Cox Commission, sponsored by the Na-
9 tional Institute of Military Justice, as well as several
10 other actors, have consistently observed that the
11 United States has fallen behind countries such as
12 Canada and the United Kingdom in terms of its
13 military justice system.

14 (5) The military atmosphere is not conducive to
15 resolving issues of sexual assault and harassment,
16 and sexual violence continues to infect the Armed
17 Forces.

18 (6) The culture of the United States Armed
19 Forces is based on the chain of command. In a case
20 of sexual assault, a commander may be responsible
21 for both the victim and the offender, or both of their
22 units, or the entire base or ship where the offense
23 occurred. Command discretion empowers a com-
24 mander to decide if the case goes forward to court
25 martial. The great deference afforded command dis-

1 cretion raises serious concerns about conflicts of in-
 2 terest and the potential for abuse of power.

3 **SEC. 3. DEPARTMENT OF DEFENSE SEXUAL ASSAULT OVER-**
 4 **SIGHT AND RESPONSE COUNCIL.**

5 (a) IN GENERAL.—Chapter 7 of title 10, United
 6 States Code, is amended by adding at the end the fol-
 7 lowing new section:

8 **“§ 189. Sexual Assault Oversight and Response Coun-**
 9 **cil**

10 “(a) ESTABLISHMENT; MEMBERSHIP.—There is a
 11 Sexual Assault Oversight and Response Council (herein-
 12 after in this section referred to as the ‘Council’). Com-
 13 posed of a majority of civilians this Council shall be inde-
 14 pendent from the chain of command within the Depart-
 15 ment of Defense.

16 “(b) MEMBERSHIP.—(1) The membership of the
 17 Council is comprised of individuals selected by the Presi-
 18 dent and the Secretary of Defense who are governmental
 19 and nongovernmental experts and professionals in the ju-
 20 dicial and sexual assault fields as follows:

21 “(A) Two members shall be appointed by the
 22 Secretary of the Defense from among the Depart-
 23 ment of Defense personnel who have previously
 24 served as military judges in courts-martial cases re-
 25 lating to sexual assault.

1 “(B) One member shall be appointed by the
2 President from among the Department of Justice
3 personnel with expertise in prosecuting cases of sex-
4 ual assault.

5 “(C) One member shall be appointed by the
6 President who shall have extensive experience advo-
7 cating for the rights of those sexually assaulted
8 while serving in the Armed Forces.

9 “(D) One member shall be appointed by the
10 President who shall have extensive expertise adjudi-
11 cating civilian cases of sexual assault.

12 “(2) Members shall be appointed for a term of three
13 years, except that a member of the Council appointed to
14 fill a vacancy occurring before the end of the term for
15 which the member’s predecessor was appointed shall only
16 serve until the end of such term. A member may serve
17 after the end of the member’s term until the member’s
18 successor takes office.

19 “(c) CHAIRMAN; MEETINGS.—(1) The Council shall
20 elect a chair from among its members.

21 “(2) The Council shall meet not less often than once
22 every year.

23 “(d) ADMINISTRATIVE PROVISIONS.—(1) Each mem-
24 ber of the Council who is not an officer or employee of
25 the Federal Government shall be compensated at a rate

1 equal to the daily equivalent of the annual rate of basic
2 pay prescribed for Executive Schedule Level IV under sec-
3 tion 5315 of title 5, for each day (including travel time)
4 during which such member is engaged in the performance
5 of the duties of the Council. Members of the Council who
6 are officers or employees of the United States shall serve
7 without compensation in addition to that received for their
8 services as officers or employees of the United States.

9 “(2) The members of the Council shall be allowed
10 travel expenses, including per diem in lieu of subsistence,
11 at rates authorized for employees of agencies under sub-
12 chapter I of chapter 57 of title 5, while away from their
13 homes or regular places of business in the performance
14 of services for the board.

15 “(e) RESPONSIBILITIES.—The Council shall be re-
16 sponsible for the following matters:

17 “(1) Appointing certain personnel to the Sexual
18 Assault Oversight and Response Office and advising
19 the Sexual Assault Oversight and Response Office.

20 “(2) Appointing, in consultation with the Sec-
21 retary of Defense, the Director of Military Prosecu-
22 tions.

23 “(3) Appointing, in consultation with the Presi-
24 dent and the Secretary of Defense, the Executive Di-

1 rector of the Sexual Assault Oversight and Response
2 Office.

3 “(4) Reviewing each request of the Director of
4 Military Prosecutions with respect to a case stem-
5 ming from a sexual-related offense that has been re-
6 ferred to an appellate court within the military or
7 that has been referred to the Department of Justice.

8 “(5) Submitting to the Secretary of Defense,
9 Congress, and the Attorney General a report on each
10 request by the Director of Military Prosecutions for
11 a referral to a higher court.

12 “(6) Advising the Sexual Assault Oversight and
13 Response Office on—

14 “(A) the development of sexual assault re-
15 porting protocols;

16 “(B) the development of sexual assault
17 risk-reduction and response training;

18 “(C) the development of sexual assault pol-
19 icy; and

20 “(D) the effectiveness of the Director of
21 Military Prosecution.”.

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

“189. Sexual Assault Oversight and Response Council.”.

1 **SEC. 4. DEPARTMENT OF DEFENSE SEXUAL ASSAULT OVER-**
2 **SIGHT AND RESPONSE OFFICE.**

3 (a) IN GENERAL.—Chapter 4 of title 10, United
4 States Code, is amended by adding at the end the fol-
5 lowing new section:

6 **“§ 145. Sexual Assault Oversight and Response Office**

7 “(a) ESTABLISHMENT.—There is in the Department
8 a Sexual Assault Oversight and Response Office (in this
9 section referred to as the ‘Office’). The head of the Office
10 is the Executive Director of the Sexual Assault Oversight
11 and Response Office, who shall be appointed by the Sec-
12 retary of Defense, in consultation with the President.

13 “(b) RESPONSIBILITIES.—The Office shall be respon-
14 sible for the following:

15 “(1) Coordination with appropriate military
16 criminal investigative organizations to carry out in-
17 vestigations of accusations of sexual assault.

18 “(2) Coordination and oversight of the provi-
19 sion of the three fundamental rights of victims of
20 sexual assault, safety, security, and a place to com-
21 municate and to be validated.

22 “(3) Determining whether alleged victims or al-
23 leged perpetrators of sexual assault should be tem-
24 porarily reassigned to be separated from the alleged
25 assailant.

1 “(4) Establishing protocols to ensure that all
2 reports of sexual assault are taken out of the chain
3 of command and reported directly to the Office.

4 “(5) Providing instruction in referring alleged
5 victims of sexual assault to the Office to the fol-
6 lowing personnel:

7 “(A) Sexual assault coordinators.

8 “(B) Sexual assault prevention and re-
9 sponse victim advocates.

10 “(C) Health care personnel.

11 “(D) Chaplains.

12 “(E) Unit commanders.

13 “(F) Investigators and law enforcement
14 personnel.

15 “(G) Judge advocates.

16 “(6) Maintaining the Military Sexual Registry
17 under section 563 of the Duncan Hunter National
18 Defense Authorization Act for Fiscal Year 2009
19 (Public Law 110–417).

20 “(c) COORDINATION OF TRAINING.—The Executive
21 Director shall coordinate the training efforts of the Office
22 with each of the military departments to ensure that all
23 members of the Armed Forces receive—

1 “(1) the contact information for the Sexual As-
2 sault Oversight and Response Office for purposes of
3 reporting violations of sexual-related offenses; and

4 “(2) clear, written guidelines regarding who on
5 the Sexual Assault Oversight and Response Office to
6 contact, including the direct telephone number for a
7 victims’ advocate, and what steps to take in the
8 event of a sexual assault.

9 “(d) PERSONNEL.—For the purposes of carrying out
10 the responsibilities of the Office, the Executive Director
11 of the Sexual Assault Oversight and Response Office, in
12 consultation with the Sexual Assault Response Council es-
13 tablished under section 188 of this title, may select, ap-
14 point, and employ such officers and employees as may be
15 necessary, subject to the provisions of title 5, United
16 States Code, governing appointments in the competitive
17 service, and the provisions of chapter 51 and subchapter
18 III of chapter 53 of such title, relating to classification
19 and General Schedule pay rates.

20 “(e) INSPECTOR GENERAL REVIEWS.—The Inspector
21 General shall conduct case reviews of a statistically signifi-
22 cant number of cases involving allegations of sexual as-
23 sault on a quarterly basis to determine if proper proce-
24 dures were followed in accordance with the sexual assault

1 protocols and guidelines within the Sexual Assault Over-
2 sight and Response Office.

3 “(f) REPORT TO CONGRESS.—The Executive Direc-
4 tor shall submit to Congress an annual report on sexual
5 assault in the Armed Forces.

6 “(g) DEFINITION OF MILITARY CRIMINAL INVES-
7 TIGATIVE ORGANIZATION.—In this section, the term ‘mili-
8 tary criminal investigative organization’ means the Army
9 Criminal Investigation Command, the Naval Criminal In-
10 vestigative Service, and the Air Force Office of Special In-
11 vestigations.”.

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

“145. Sexual Assault Oversight and Response Office.”.

15 (c) TRANSFER OF FUNCTION.—All functions and
16 personnel of the Sexual Assault Prevention and Response
17 Office of the Department of Defense, as of the date of
18 the enactment of this Act, shall be transferred to the Sex-
19 ual Assault Oversight and Response Office established by
20 section 145 of title 10, United States Code, as added by
21 subsection (a).

22 **SEC. 5. DIRECTOR OF MILITARY PROSECUTIONS.**

23 (a) IN GENERAL.—Chapter 47 of title 10, United
24 States Code, is amended by inserting after section 940 the
25 following new section:

1 **“§ 940A. Art. 140A. Director of Military Prosecutions**

2 “(a) APPOINTMENT.—There is a Director of Military
3 Prosecutions who shall be appointed by the Sexual Assault
4 Oversight and Response Council established under section
5 189 of this title.

6 “(b) RESPONSIBILITIES.—(1) Notwithstanding any
7 other provision of this chapter, the Director of Military
8 Prosecutions shall have independent and final authority
9 to oversee the prosecution of all sexual-related offenses
10 committed by a member of the armed forces.

11 “(2) The Director of Military Prosecutions shall refer
12 sexual-related offenses to be tried by courts-martial. The
13 Director may consult with relevant commanding officers
14 and refer less serious offenses, as determined by the Direc-
15 tor, to a commanding officer for non-judicial punishment
16 pursuant to section 815 of this title (article 15).

17 “(3) The Director of Military Prosecutions shall be
18 the convening authority for all sexual-related offenses and
19 shall determine the type of court-martial to which each
20 such case will be referred. Members of a court-martial
21 shall be selected by a court-martial administrator at the
22 request of the Director.

23 “(c) SEXUAL-RELATED OFFENSE.—In this section,
24 the term ‘sexual-related offense’ means—

25 “(1) rape;

26 “(2) sexual assault;

1 “(3) aggravated sexual contact;

2 “(4) abusive sexual contact;

3 “(5) indecent assault;

4 “(6) nonconsensual sodomy;

5 “(7) any other sexual-related offense the Sec-
6 retary of Defense determines should be covered by
7 this section; and

8 “(8) an attempt to commit an offense described
9 in a preceding paragraph.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 at the beginning of such chapter is amended by inserting
12 after the item relating to section 940 the following new
13 item:

“940A. Art. 140A. Director of Military Prosecutions.”.

