

113TH CONGRESS
1ST SESSION

H. R. 2002

To amend title 10, United States Code, to enhance assistance for victims of sexual assault committed by members of the Armed Forces, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2013

Mr. RYAN of Ohio (for himself, Ms. GRANGER, Ms. MCCOLLUM, Ms. KUSTER, Mrs. LOWEY, Ms. KAPTUR, Mr. COLE, and Mr. CRENSHAW) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to enhance assistance for victims of sexual assault committed by members 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 “Combating Military
5 Sexual Assault Act of 2013”.

1 **SEC. 2. SPECIAL VICTIMS' COUNSEL FOR VICTIMS OF SEX-**
2 **UAL ASSAULT COMMITTED BY MEMBERS OF**
3 **THE ARMED FORCES.**

4 (a) SPECIAL VICTIMS' COUNSEL FOR VICTIMS OF
5 SEXUAL ASSAULT COMMITTED BY MEMBERS OF THE
6 ARMED FORCES.—

7 (1) IN GENERAL.—Not later than 180 days
8 after the date of the enactment of this Act, the Sec-
9 retaries of the military departments shall each im-
10 plement a program on the provision of a Special Vic-
11 tims' Counsel to victims of a sexual assault com-
12 mitted by a member of the Armed Forces.

13 (2) QUALIFICATION.—An individual may not be
14 designated as a Special Victims' Counsel under this
15 subsection unless the individual is—

16 (A) a judge advocate who is a graduate of
17 an accredited law school or is a member of the
18 bar of a Federal court or the highest court of
19 a State; and

20 (B) is certified as competent to be des-
21 ignated as a Special Victims' Counsel by the
22 Judge Advocate General of the Armed Force of
23 which the individual is a member.

24 (3) DUTIES.—

25 (A) IN GENERAL.—Subject to subpara-
26 graph (C), the duties of a Special Victims'

1 Counsel shall include the provision of legal rep-
2 resentation to a victim in connection with crimi-
3 nal and civil legal matters related to the sexual
4 assault committed against the victim, including
5 the following:

6 (i) Legal assistance regarding crimi-
7 nal liability of the victim.

8 (ii) Legal assistance regarding the vic-
9 tim's responsibility to testify, and other
10 duties to the court.

11 (iii) Legal assistance regarding the
12 potential for civil litigation against other
13 parties (other than the Department of De-
14 fense).

15 (iv) Legal assistance regarding any
16 proceeding in connection with the report-
17 ing, investigation, and prosecution of the
18 sexual assault.

19 (v) Legal assistance regarding civilian
20 and military restraining and protective or-
21 ders.

22 (vi) Legal assistance regarding avail-
23 able military and veteran benefits.

24 (vii) Legal assistance in personal civil
25 legal matters in connection with the sexual

1 assault in accordance with section 1044 of
2 title 10, United States Code.

3 (viii) Such other legal representation,
4 advice, and assistance as the Secretary of
5 the military department concerned shall
6 specify for purposes of the program imple-
7 mented under this subsection.

8 (B) NATURE OF RELATIONSHIP.—The re-
9 lationship between a Special Victims' Counsel
10 and a victim shall be the relationship between
11 an attorney and client.

12 (C) REPRESENTATION EXCLUDED.—In
13 providing legal representation, advice, and as-
14 sistance, a Special Victims' Counsel may not
15 provide legal representation or appearance in
16 any court, or administrative hearing, except
17 under the following circumstances:

18 (i) To the extent that a victim has a
19 right to be heard, in accordance with the
20 Manual for Courts Martial, in proceedings
21 under the Uniform Code of Military Jus-
22 tice, the Special Victims' Counsel may pro-
23 vide that representation and appear on be-
24 half of the victim, unless excluded by the

1 Secretary of Defense in accordance with
2 clause (ii).

3 (ii) The Secretary of Defense may de-
4 termine to explicitly exclude Special Vic-
5 tims' Counsel from appearing at a hearing
6 at which a victim has a right to be heard,
7 but, if Special Victims' Counsel are to be
8 excluded from certain hearings, the Sec-
9 retary of Defense shall submit a report to
10 Congress at the time of implementation of
11 this Act explaining why the appearance of
12 Special Victim's Counsel at the hearings
13 would adversely affect the constitutional
14 rights of the accused.

15 (iii) To the extent such representation
16 and appearance is allowed under regula-
17 tions promulgated by the Secretary of the
18 military department concerned regarding
19 the provision of legal assistance in accord-
20 ance with section 1044 of title 10, United
21 States Code.

22 (4) REVISION OF MANUAL FOR COURTS-MAR-
23 TIAL ON APPEARANCES BY SPECIAL VICTIM'S COUN-
24 SEL.—Not later than 180 days after the date of the
25 enactment of this Act, the Manual for Courts-Mar-

1 tial shall be revised to provide that military victims
2 of crime, in proceedings under the Uniform Code of
3 Military Justice, to the extent victims have a right
4 to be heard, they have a right to be heard through
5 counsel, if represented and if counsel is reasonably
6 available, unless counsel are excluded by the Sec-
7 retary of Defense in accordance with clause (ii).

8 (b) ASSISTANCE AND REPORTING.—

9 (1) ASSISTANCE.—Section 1565b of title 10,
10 United States Code, is amended—

11 (A) by redesignating subsection (b) as sub-
12 section (c); and

13 (B) by inserting after subsection (a) the
14 following new subsection (b):

15 “(b) AVAILABILITY OF SPECIAL VICTIMS’ COUNSEL
16 FOR VICTIMS OF SEXUAL ASSAULT COMMITTED BY MEM-
17 BERS OF THE ARMED FORCES.—(1) A member of the
18 armed forces, or a dependent of a member, who is the
19 victim of a sexual assault described in paragraph (2) may
20 be provided assistance by a Special Victims’ Counsel.

21 “(2) A sexual assault described in this paragraph is
22 any offense if alleged to have been committed by a member
23 of the armed forces as follows:

1 “(A) Any offense covered by section 920 of this
2 title (article 120 of the Uniform Code of Military
3 Justice).

4 “(B) An attempt to commit an offense specified
5 in subparagraph (A) or (B) as punishable under sec-
6 tion 880 of this title (article 80 of the Uniform Code
7 of Military Justice).

8 “(3) A member of the armed forces or dependent who
9 is the victim of sexual assault described in paragraph (2)
10 shall be informed of the availability of assistance under
11 paragraph (1) as soon as the member or dependent seeks
12 assistance from a Sexual Assault Response Coordinator,
13 a Sexual Assault Victim Advocate, a military criminal in-
14 vestigator, a victim/witness liaison, a trial counsel, health
15 care providers, or any other personnel designated by the
16 Secretary of the military department concerned for pur-
17 poses of this paragraph. The member or dependent shall
18 also be informed that the assistance of a Special Victims’
19 Counsel under paragraph (1) is optional and may be de-
20 clined, in whole or in part, at any time.

21 “(4) Assistance of a Special Victims’ Counsel under
22 paragraph (1) shall be available to a member or dependent
23 regardless of whether the member or dependent elects un-
24 restricted or restricted (confidential) reporting of the sex-
25 ual assault.”.

1 (2) REPORTING.—Subsection (c) of such sec-
2 tion, as redesignated by paragraph (1)(A) of this
3 subsection, is further amended in paragraph (2)—

4 (A) by redesignating subparagraph (C) as
5 subparagraph (D); and

6 (B) by inserting after subparagraph (B)
7 the following new subparagraph (C):

8 “(C) A Special Victims’ Counsel.”.

9 (c) CONFORMING AMENDMENTS TO AUTHORITY ON
10 SARC, SAVA, AND RELATED ASSISTANCE.—Subsection
11 (a) of such section is amended—

12 (1) in paragraph (1), by striking “may” and in-
13 serting “shall, upon request,”; and

14 (2) in paragraph (2)—

15 (A) by inserting “a Special Victims’ Coun-
16 sel,” after “a Sexual Assault Victim Advocate,”;
17 and

18 (B) by striking “or a trial counsel” and in-
19 serting “a trial counsel, a health care provider,
20 or any other person designated by the Secretary
21 of the military department concerned for pur-
22 poses of this paragraph”.

23 (d) CONFORMING AND CLERICAL AMENDMENTS.—

24 (1) HEADING AMENDMENT.—The heading of
25 such section is amended to read as follows:

1 **“§ 1565b. Victims of sexual assault: access to legal as-**
 2 **sistance and services of Sexual Assault**
 3 **Coordinators, Sexual Assault Victim Ad-**
 4 **vocates, and Special Victims’ Counsels”.**

5 (2) TABLE OF SECTIONS.—The table of sections
 6 at the beginning of chapter 80 of such title is
 7 amended by striking the item relating to section
 8 1565b and inserting the following new item:

“1565b. Victims of sexual assault: access to legal assistance and services of Sexual Assault Coordinators, Sexual Assault Victim Advocates, and Special Victims’ Counsels.”.

9 **SEC. 3. ENHANCED RESPONSIBILITIES OF SEXUAL AS-**
 10 **SAULT PREVENTION AND RESPONSE OFFICE**
 11 **FOR DEPARTMENT OF DEFENSE SEXUAL AS-**
 12 **SAULT PREVENTION AND RESPONSE PRO-**
 13 **GRAM.**

14 (a) IN GENERAL.—Section 1611(b) of the Ike Skel-
 15 ton National Defense Authorization Act for Fiscal Year
 16 2011 (10 U.S.C. 1561 note) is amended by striking
 17 “shall—” and all the follows and inserting “shall do the
 18 following:

19 “(1) Oversee development and implementation
 20 of the comprehensive policy for the Department of
 21 Defense sexual assault prevention and response pro-
 22 gram, including guidance and assistance for the
 23 military departments in addressing matters relating
 24 to sexual assault prevention and response.

1 “(2) Serve as the single point of authority, ac-
2 countability, and oversight for the sexual assault
3 prevention and response program.

4 “(3) Undertake responsibility for the oversight
5 of the implementation of the sexual assault preven-
6 tion and response program by the Armed Forces.

7 “(4) Collect, maintain, and disseminate data of
8 the military departments on sexual assault in ac-
9 cordance with section 1615.

10 “(5) Provide oversight to ensure that the mili-
11 tary departments maintain documents relating to
12 the following:

13 “(A) Allegations and complaints of sexual
14 assault involving members of the Armed Forces.

15 “(B) Courts-martial or trials of members
16 of the Armed Forces for offenses relating to
17 sexual assault.

18 “(6) Act as liaison between the Department of
19 Defense and other Federal and State agencies on
20 programs and efforts relating to sexual assault pre-
21 vention and response.

22 “(7) Oversee development of strategic program
23 guidance and joint planning objectives for resources
24 in support of the sexual assault prevention and re-
25 sponse program, and make recommendations on

1 modifications to policy, law, and regulations needed
2 to ensure the continuing availability of such re-
3 sources.

4 “(8) Provide to the Secretary of Veterans Af-
5 fairs any records or documents on sexual assault in
6 the Armed Forces, including restricted reports with
7 the approval of the individuals who filed such re-
8 ports, that are required by the Secretary of Veterans
9 Affairs for purposes of the administration of the
10 laws administered by the Secretary of Veterans Af-
11 fairs.”.

12 (b) COLLECTION AND MAINTENANCE OF DATA.—
13 Subtitle A of title XVI of such Act (10 U.S.C. 1561 note)
14 is amended by adding at the end the following new section:

15 **“SEC. 1615. COLLECTION AND MAINTENANCE OF DATA OF**
16 **MILITARY DEPARTMENTS ON SEXUAL AS-**
17 **SAULT PREVENTION AND RESPONSE.**

18 “In carrying out the requirements of section
19 1611(b)(4), the Director of the Sexual Assault Prevention
20 and Response Office shall do the following:

21 “(1) Collect, in a manner consistent with the
22 policy and procedures developed pursuant to section
23 586 of the National Defense Authorization Act for
24 Fiscal Year 2012 (Public Law 112–81; 10 U.S.C.
25 1561 note), from each military department on a

1 quarterly and annual basis data of such military de-
2 partment on sexual assaults involving members of
3 the Armed Forces.

4 “(2) Maintain data collected from the military
5 departments under paragraph (1).

6 “(3) Assemble from the data collected each cal-
7 endar-year quarter under this section a quarterly re-
8 port on the involvement of members of the Armed
9 Forces in incidents of sexual assault.

10 “(4) Develop metrics to measure the effective-
11 ness of, and compliance with, training and aware-
12 ness objectives of the military departments on sexual
13 assault prevention and response.

14 “(5) Establish categories of information to be
15 provided by the military departments in connection
16 with reports on sexual assault prevention and re-
17 sponse, including, but not limited to, the annual re-
18 ports required by section 1631, and ensure that the
19 submittals of the military departments for purposes
20 of such reports include data within such cat-
21 egories.”.

22 (c) ELEMENT ON UNIT OF ACCUSED AND VICTIM IN
23 CASE SYNOPSES IN ANNUAL REPORT ON SEXUAL AS-
24 SAULTS.—

1 (1) IN GENERAL.—Section 1631(f) of such Act
 2 (10 U.S.C. 1561 note) is amended—

3 (A) by redesignating paragraphs (5) and
 4 (6) as paragraphs (6) and (7), respectively; and

5 (B) by inserting after paragraph (4) the
 6 following new paragraph (5):

7 “(5) The case synopsis shall indicate the unit of
 8 each member of the Armed Forces accused of com-
 9 mitting a sexual assault and the unit of each mem-
 10 ber of the Armed Forces who is a victim of sexual
 11 assault.”.

12 (2) APPLICATION OF AMENDMENTS.—The
 13 amendments made by paragraph (1) shall apply be-
 14 ginning with the report regarding sexual assaults in-
 15 volving members of the Armed Forces required to be
 16 submitted by March 1, 2014, under section 1631 of
 17 the Ike Skelton National Defense Authorization Act
 18 for Fiscal Year 2011.

19 **SEC. 4. DISPOSITION AND OTHER REQUIREMENTS FOR**
 20 **SEX-RELATED OFFENSES UNDER THE UNI-**
 21 **FORM CODE OF MILITARY JUSTICE.**

22 (a) DISPOSITION AND OTHER REQUIREMENTS.—

23 (1) IN GENERAL.—Subchapter VI of chapter 47
 24 of title 10, United States Code (the Uniform Code
 25 of Military Justice), is amended by inserting after

1 section 830 (article 30) the following new section
2 (article):

3 **“§ 830a. Art. 30a. Sex-related offenses: disposition and**
4 **other requirements**

5 “(a) IN GENERAL.—Notwithstanding any other pro-
6 vision of this chapter, charges on offenses specified in sub-
7 section (b) shall be subject to the disposition requirements
8 in subsection (c) and subject to the other requirements
9 and limitations set forth in this section.

10 “(b) COVERED OFFENSES.—The charges on offenses
11 specified in this subsection are charges on the offenses as
12 follows:

13 “(1) Any offense covered by section 920 of this
14 title (article 120).

15 “(2) An attempt to commit an offense specified
16 in paragraph (1) or (2) as punishable under section
17 880 of this title (article 80).

18 “(c) DISPOSITION REQUIREMENTS.—(1) Subject to
19 paragraph (2), the charges on any offense specified in sub-
20 section (b) shall be referred to an appropriate authority
21 for convening general courts-martial under section 822 of
22 this title (article 22) for disposition.

23 “(2) If the appropriate authority to whom charges
24 described in paragraph (1) would be referred under that
25 paragraph is a member with direct supervisory authority

1 over the member alleged to have committed the offense,
2 such charges shall be referred for disposition to a superior
3 authority competent to convene general courts-martial.

4 “(d) VICTIM’S RIGHTS.—A victim of an offense speci-
5 fied in subsection (b) shall have rights as follows:

6 “(1) To a Special Victims’ Counsel provided
7 under section 1565b(b) of this title.

8 “(2) To have all communications between the
9 victim and any Sexual Assault Response Coordi-
10 nator, Sexual Assault Victim Advocate, or Special
11 Victims’ Counsel for the victim considered privileged
12 communications for purposes of the case and any
13 proceedings relating to the case.

14 “(e) AVAILABILITY OF WRIT OF MANDAMUS.—To
15 seek enforcement of the rights accorded a victim under
16 subsection (d), the victim may apply for a writ of man-
17 damus. The right shall first be asserted to the military
18 judge in any court-martial proceeding in which the ac-
19 cused is being tried. The military judge shall take up and
20 decide any motion asserting a victim’s right in this section.
21 If the military judge denies the relief sought, the victim
22 may petition the court of criminal appeals for a writ of
23 mandamus. The Court of Criminal Appeals for an armed
24 force has jurisdiction to grant relief sought under this
25 paragraph. If the court of appeals denies the relief sought,

1 the reasons for the denial shall be clearly stated on the
 2 record in a written opinion.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
 4 tions at the beginning of subchapter VI of chapter
 5 47 of such title (the Uniform Code of Military Jus-
 6 tice) is amended by inserting after the item relating
 7 to section 830 (article 30) the following new item:
 “830a. Art. 30a. Sex-related offenses: disposition and other requirements.”.

8 (b) REVISION OF MANUAL FOR COURTS-MARTIAL.—
 9 The Joint Service Committee on Military Justice shall
 10 amend the Manual for Courts-Martial to reflect the re-
 11 quirements in section 830a of title 10, United States Code
 12 (article 830a of the Uniform Code of Military Justice),
 13 as added by this section, including, in particular, section
 14 306 of the Manual relating to disposition of charges.

15 **SEC. 5. MODIFICATION OF AUTHORITIES AND RESPON-**
 16 **SIBILITIES OF CONVENING AUTHORITIES IN**
 17 **TAKING ACTIONS ON THE FINDINGS AND**
 18 **SENTENCES OF COURTS-MARTIAL.**

19 (a) IN GENERAL.—Section 860(c) of title 10, United
 20 States Code (article 60(c) of the Uniform Code of Military
 21 Justice), is amended—

22 (1) in paragraph (2), by adding at the end the
 23 following new sentence: “In taking such an action
 24 (other than an action to approve a sentence), the
 25 convening authority or other person taking such ac-

1 tion shall prepare a written justification of such ac-
2 tion, which written justification shall be made a part
3 of the record of the court-martial.”;

4 (2) in paragraph (3), by striking the second
5 sentence; and

6 (3) by adding at the end the following new
7 paragraphs:

8 “(4) If a convening authority or other person acts
9 on the findings of a court-martial, the convening authority
10 or other person may not, except for a charge or specifica-
11 tion for a minor offense—

12 “(A) dismiss any charge or specification by set-
13 ting aside a finding of guilty thereto; or

14 “(B) change a finding of guilty to a charge or
15 specification to a finding of guilty to an offense that
16 is a lesser included offense of the offense stated in
17 the charge or specification.

18 “(5) For purposes of this section (article), whether
19 an offense is minor depends on the nature of the offense,
20 the circumstances surrounding its commission, and the
21 maximum sentence imposable for the offense if tried by
22 general court-martial. Ordinarily, a minor offense is an
23 offense for which the maximum sentence imposable would
24 not include dismissal or a dishonorable discharge or con-
25 finement for longer than one year. The decision whether

1 an offense is minor is a matter of discretion of the con-
 2 vening authority, except that no offense of a sexual nature
 3 may be considered minor.”.

4 (b) EFFECTIVE DATE.—The amendments made by
 5 this section shall take effect on the date of the enactment
 6 of this Act, and shall apply with respect to findings and
 7 sentences of courts-martial reported to convening authori-
 8 ties under section 860 of title 10, United States Code (ar-
 9 ticle 60 of the Uniform Code of Military Justice), as so
 10 amended, on or after that date.

11 **SEC. 6. AVAILABILITY OF SEXUAL ASSAULT RESPONSE CO-**
 12 **ORDINATORS FOR MEMBERS OF THE NA-**
 13 **TIONAL GUARD.**

14 (a) AVAILABILITY IN EACH NATIONAL GUARD STATE
 15 AND TERRITORY.—Section 584(a) of the National De-
 16 fense Authorization Act for Fiscal Year 2012 (Public Law
 17 112–81; 125 Stat. 1433; 10 U.S.C. 1561 note) is amend-
 18 ed—

19 (1) by redesignating paragraph (2) as para-
 20 graph (3); and

21 (2) by inserting after paragraph (1) the fol-
 22 lowing new paragraph (2):

23 “(2) AVAILABILITY IN EACH NATIONAL GUARD
 24 STATE AND TERRITORY.—The National Guard of
 25 each State and Territory shall ensure that a Sexual

1 Assault Response Coordinator is available at all
2 times to the members of the National Guard of such
3 State or Territory. The Secretary of the Army and
4 the Secretary of the Air Force may, in consultation
5 with the Chief of the National Guard Bureau, assign
6 additional Sexual Assault Response Coordinators in
7 a State or Territory as necessary based on the re-
8 source requirements of National Guard units within
9 such State or Territory. Any additional Sexual As-
10 sult Response Coordinator may serve on a full-time
11 or part-time basis at the discretion of the assigning
12 Secretary.”.

13 (b) AVAILABILITY TO PROVIDE ASSISTANCE FOR
14 MEMBERS OF THE NATIONAL GUARD IN STATE STA-
15 TUS.—Section 1565b of title 10, United States Code, as
16 amended by section 2 of this Act, is further amended in
17 subsection (a)—

18 (1) by redesignating paragraphs (2) and (3) as
19 paragraphs (3) and (4), respectively; and

20 (2) by inserting after paragraph (1) the fol-
21 lowing new paragraph (2):

22 “(2) In the case of a member of the National Guard
23 in State status under title 32 who is the victim of a sexual
24 assault, assistance provided by a Sexual Assault Response
25 Coordinator shall be provided by the Sexual Assault Re-

1 sponse Coordinator Assistance available in the State or
2 Territory concerned under paragraph (2) of section 584(a)
3 of the National Defense Authorization Act for Fiscal Year
4 2012 (10 U.S.C. 1561 note), but, with the approval of
5 the Secretary of the Army or the Secretary of the Air
6 Force, as applicable, may also be provided by Sexual As-
7 sault Response Coordinator assigned under paragraph (1)
8 of that section.”.

○