

115TH CONGRESS  
2D SESSION

# H. R. 5940

To require the Secretary of Defense to submit to Congress a report on victims in military criminal investigative organization reports, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2018

Ms. KUSTER of New Hampshire (for herself, Mrs. LOVE, and Mrs. DINGELL) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To require the Secretary of Defense to submit to Congress a report on victims in military criminal investigative organization reports, 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 “Military Sexual Assault  
5       Transparency and Accountability Act”.

6       **SEC. 2. REPORT ON VICTIMS IN MCIO REPORTS.**

7       Not later than September 30, 2019, and not less than  
8       once every two years thereafter, the Secretary of Defense,  
9       through the Defense Advisory Committee on Investiga-

tions, Prosecutions, and Defense of Sexual Assault in the Armed Forces, shall submit to Congress a report regarding the frequency at which individuals, who are identified as victims of sexual offenses in case files of military criminal investigative organizations (hereinafter in this section referred to as “MCIO”), are accused of or punished for misconduct or crimes considered collateral to the investigation of sexual assault during the MCIO investigations in which the individuals were so identified.

**SEC. 3. INCLUSION IN ANNUAL REPORTS ON SEXUAL ASSAULT PREVENTION AND RESPONSE EFFORTS OF THE ARMED FORCES OF INFORMATION ON COLLATERAL MISCONDUCT IN CONNECTION WITH REPORTS OF SEXUAL ASSAULT IN THE ARMED FORCES.**

Section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 1561 note) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

“(15) Information on each disciplinary action related to collateral misconduct in connection with a report of sexual assault in the Armed Forces made by or against a member of the Armed Forces as follows:

1           “(A) A narrative description of each dis-  
2           ciplinary action.

3           “(B) The nature of each disciplinary ac-  
4           tion, including whether the member of the  
5           Armed Forces receiving such disciplinary action  
6           alleged professional or social retaliation in con-  
7           nection with such disciplinary action.

8           “(C) The sex of the member disciplined.

9           “(D) The official or office that initiated  
10          the disciplinary action.

11          “(E) The organization that investigated  
12          the conduct that led to the disciplinary action.

13          “(F) The official or office that adjudicated  
14          the disciplinary action.

15          “(G) The official or office that adminis-  
16          tered the disciplinary action.

17          “(H) The status of the investigation into  
18          the related claim of sexual assault at the time  
19          disciplinary action for collateral misconduct was  
20          adjudicated.

21          “(I) If the investigation into the sexual as-  
22          sault is complete, a description of the results of  
23          the investigation, including whether the inves-  
24          tigation led to charges under chapter 47 of title

1           10, United States Code (the Uniform Code of  
2           Military Justice).

3           “(J) If the sexual assault investigation re-  
4           sulted in charges under chapter 47 of title 10,  
5           United States Code, whether those charges were  
6           under Article 120.

7           “(K) If the sexual assault investigation re-  
8           sulted in charges under chapter 47 of title 10,  
9           United States Code, the final disposition of  
10          those charges.”; and

11          (2) by adding at the end the following new sub-  
12          section:

13          “(h) DEFINITIONS.—In this section:

14               “(1) The term ‘collateral misconduct’ means  
15               victim misconduct that might be in time, place, or  
16               circumstance associated with the victim’s sexual as-  
17               sault incident or victim misconduct that was exposed  
18               only as a result of the sexual assault investigation.

19               “(2) The term ‘disciplinary action’ means any  
20               adverse action, including administrative action (in-  
21               cluding corrective measures such as counseling, let-  
22               ter of reprimand, negative performance evaluation,  
23               admonition, reprimand, exhortation, disapproval,  
24               criticism, censure, reproach, rebuke, extra military  
25               instruction, or other administrative withholding of

1       privileges, or any combination thereof) and criminal  
 2       punishment (including non-judicial punishment,  
 3       court martial, administrative discharge, or any com-  
 4       bination thereof).”.

5       **SEC. 4. UNIFORM COLLECTION OF DATA ON COLLATERAL**  
 6                               **MISCONDUCT IN CONNECTION WITH RE-**  
 7                               **PORTS OF SEXUAL ASSAULT IN THE ARMED**  
 8                               **FORCES.**

9       (a) IN GENERAL.—Section 563 of the Duncan Hun-  
 10     ter National Defense Authorization Act for Fiscal Year  
 11     2009 (Public Law 110–417; 122 Stat. 4470) is amend-  
 12     ed—

13               (1) in subsection (a), by striking “and the out-  
 14     come of any legal proceedings in connection with the  
 15     assault” and inserting “, the outcome of any legal  
 16     proceedings in connection with the assault, and any  
 17     disciplinary action for collateral misconduct related  
 18     to the assault”; and

19               (2) by adding at the end the following new sub-  
 20     section:

21     “(f) DEFINITIONS.—In this section:

22               “(1) The term ‘collateral misconduct’ means  
 23     victim misconduct that might be in time, place, or  
 24     circumstance associated with the victim’s sexual as-

1       sault incident or victim misconduct that was exposed  
2       only as a result of the sexual assault investigation.

3           “(2) The term ‘disciplinary action’ means any  
4       adverse action, including administrative action (in-  
5       cluding corrective measures such as counseling, let-  
6       ter of reprimand, negative performance evaluation,  
7       admonition, reprimand, exhortation, disapproval,  
8       criticism, censure, reproach, rebuke, extra military  
9       instruction, or other administrative withholding of  
10      privileges, or any combination thereof) and criminal  
11      punishment (including non-judicial punishment,  
12      court martial, administrative discharge, or any com-  
13      bination thereof).”.

14      (b) PLAN FOR IMPLEMENTATION.—Not later than 90  
15   days after the date of enactment of this Act, the Secretary  
16   of Defense shall submit to the congressional defense com-  
17   mittees a plan to provide for the implementation of case-  
18   level tracking of disciplinary actions for collateral mis-  
19   conduct as required by the amendments made by sub-  
20   section (a).

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