

116TH CONGRESS
2D SESSION

S. 4600

To amend title 10, United States Code, to improve the responses of the Department of Defense to sex-related offenses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2020

Ms. HIRONO (for herself and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to improve the responses of the Department of Defense to sex-related offenses, 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 “I Am Vanessa Guillén
5 Act”.

1 **SEC. 2. MODIFICATION OF AUTHORITY TO DETERMINE TO**
 2 **PROCEED TO TRIAL BY COURT-MARTIAL ON**
 3 **CHARGES INVOLVING SEX-RELATED OF-**
 4 **FENSES.**

5 (a) ROLE OF OFFICE OF THE CHIEF PROSECUTOR
 6 IN DETERMINATION TO PROCEED TO TRIAL ON CHARGE
 7 INVOLVING SEX-RELATED OFFENSE.—

8 (1) REFERRAL AND DETERMINATIONS BY OF-
 9 FICE OF THE CHIEF PROSECUTOR.—Section 834 of
 10 title 10, United States Code (article 34 of the Uni-
 11 form Code of Military Justice), is amended—

12 (A) by redesignating subsection (d) as sub-
 13 section (e); and

14 (B) by inserting after the subsection (c)
 15 the following new subsection (d):

16 “(d) REFERRAL TO OFFICE OF THE CHIEF PROS-
 17 ECUTOR.—(1) In the case of a charge relating to a sex-
 18 related offense, in addition to referring the charge to the
 19 staff judge advocate under subsection (a), the convening
 20 authority shall refer, as soon as reasonably practicable, the
 21 charge to the Office of the Chief Prosecutor of the armed
 22 force of which the accused is a member to make the deter-
 23 mination required by paragraph (3). The actions of the
 24 Office of the Chief Prosecutor under this subsection
 25 whether or not to try charges by court-martial shall be
 26 free of unlawful or unauthorized influence or coercion.

1 “(2) For purposes of this subsection, the term ‘sex-
2 related offense’ means any of the following:

3 “(A) An offense covered by section 920, 920a,
4 920b, 920c, or 920d of this title (article 120, 120a,
5 120b, 120c, or 120d).

6 “(B) A conspiracy to commit an offense speci-
7 fied in subparagraph (A) as punishable under sec-
8 tion 881 of this title (article 81).

9 “(C) A solicitation to commit an offense speci-
10 fied in subparagraph (A) as punishable under sec-
11 tion 882 of this title (article 82).

12 “(D) An attempt to commit an offense specified
13 in subparagraphs (A) through (C) as punishable
14 under section 880 of this title (article 80).

15 “(3) The Office of the Chief Prosecutor shall make
16 a determination regarding whether a charge relating to a
17 sex-related offense should be referred to trial. If the Office
18 of the Chief Prosecutor makes a determination to try the
19 charge by court-martial, the Office of the Chief Prosecutor
20 also shall determine whether to try the charge by a general
21 court-martial convened under section 822 of this title (ar-
22 ticle 22) or a special court-martial convened under section
23 823 of this title (article 23).

24 “(4) A determination under paragraph (3) to try a
25 charge relating to a sex-related offense by court-martial

1 shall include a determination to try all known offenses,
2 including lesser included offenses.

3 “(5) The determination to try a charge relating to
4 a sex-related offense by court-martial under paragraph
5 (3), and by type of court-martial, shall be binding on any
6 applicable convening authority for a trial by court-martial
7 on the charge.

8 “(6) A determination under paragraph (3) not to pro-
9 ceed to trial on a charge relating to a sex-related offense
10 by general or special court-martial shall not operate to ter-
11 minate or otherwise alter the authority of commanding of-
12 ficers to refer such charge for trial by summary court-
13 martial convened under section 824 of this title (article
14 24), or to impose non-judicial punishment in connection
15 with the conduct covered by the charge as authorized by
16 section 815 of this title (article 15).

17 “(7) Nothing in this subsection shall be construed to
18 alter or affect the disposition of charges under this chapter
19 (the Uniform Code of Military Justice) that allege an of-
20 fense triable by court-martial under this chapter for which
21 the maximum punishment authorized under this chapter
22 includes confinement for one year or less.

23 “(8) This subsection does not apply to the Coast
24 Guard when it is not operating as a service in the Depart-
25 ment of the Navy.”.

1 (2) APPOINTMENT OF CHIEF PROSECUTOR.—

2 For any Armed Force (other than the Coast Guard)
 3 for which the position of Chief Prosecutor does not
 4 exist as of the date of the enactment of this Act, the
 5 Judge Advocate General of that Armed Force shall
 6 establish the position of Chief Prosecutor and ap-
 7 point as the Chief Prosecutor a commissioned officer
 8 in the grade of O-6 or above who has significant ex-
 9 perience prosecuting sexual assault trials by court-
 10 martial.

11 (b) CHIEF PROSECUTOR AUTHORITY TO CONVENE
 12 ARTICLE 32 PRELIMINARY HEARINGS.—Section 832(a) of
 13 title 10, United States Code (article 32(a) of the Uniform
 14 Code of Military Justice), is amended by adding at the
 15 end the following new paragraph:

16 “(3) The Office of the Chief Prosecutor of an armed
 17 force may order a preliminary hearing under this section
 18 in the event of an allegation of a sex-related offense (as
 19 defined in section 834(d)(2) of this title (article 34(d)(2)))
 20 involving a member of that armed force. This paragraph
 21 does not apply to the Coast Guard when it is not operating
 22 as a service in the Department of the Navy.”.

23 (c) MODIFICATION OF OFFICERS AUTHORIZED TO
 24 CONVENE GENERAL AND SPECIAL COURTS-MARTIAL.—

1 (1) IN GENERAL.—Section 822(a) of title 10,
 2 United States Code (article 22(a) of the Uniform
 3 Code of Military Justice), is amended—

4 (A) by redesignating paragraphs (8) and
 5 (9) as paragraphs (9) and (10), respectively;
 6 and

7 (B) by inserting after paragraph (7) the
 8 following new paragraph (8):

9 “(8) the officers in the offices established pur-
 10 suant to section 2(c)(3) of the Justice for SPC
 11 Vanessa Guillén Act, or officers in the grade of O-
 12 6 or higher who are assigned such responsibility by
 13 the Chief of Staff of the Army, the Chief of Naval
 14 Operations, the Chief of Staff of the Air Force, or
 15 the Commandant of the Marine Corps, but only with
 16 respect to a sex-related offense (as defined in section
 17 834(d)(2) of this title (article 34(d)(2)));”.

18 (2) NO EXERCISE BY OFFICERS IN CHAIN OF
 19 COMMAND OF ACCUSED OR VICTIM.—Section 822 of
 20 title 10, United States Code (article 22 of the Uni-
 21 form Code of Military Justice), is amended by add-
 22 ing at the end the following new subsection:

23 “(c) An officer specified in subsection (a)(8) may not
 24 convene a court-martial under this section if the officer
 25 is in the chain of command of the accused or the victim.”.

1 (3) OFFICES OF CHIEFS OF STAFF ON COURTS-
2 MARTIAL.—

3 (A) OFFICES REQUIRED.—The Chief of
4 Staff of the Army, the Chief of Naval Oper-
5 ations, the Chief of Staff of the Air Force, or
6 the Commandant of the Marine Corps shall es-
7 tablish an office to do the following:

8 (i) To convene general and special
9 courts-martial under sections 822 and 823
10 of title 10, United States Code (articles 22
11 and 23 of the Uniform Code of Military
12 Justice), pursuant to paragraph (8) of sec-
13 tion 822(a) of title 10, United States Code
14 (article 22(a) of the Uniform Code of Mili-
15 tary Justice), as amended by paragraph
16 (1), with respect to a sex-related offense
17 (as defined in section 834(d)(2) of title 10,
18 United States Code (article 34(d)(2) of the
19 Uniform Code of Military Justice)).

20 (ii) To detail under section 825 of
21 title 10, United States Code (article 25 of
22 the Uniform Code of Military Justice),
23 members of courts-martial convened as de-
24 scribed in clause (i).

1 (B) PERSONNEL.—The personnel of each
 2 office established under subparagraph (A) shall
 3 consist of such members of the Armed Forces
 4 and civilian personnel of the Department of De-
 5 fense as may be detailed or assigned to the of-
 6 fice by the Chief of Staff or Commandant con-
 7 cerned. The members and personnel so detailed
 8 or assigned, as the case may be, shall be de-
 9 tailed or assigned from personnel billets in ex-
 10 istence on the date of the enactment of this
 11 Act.

12 (d) IMPLEMENTATION AND EFFECTIVE DATE.—

13 (1) FUNDING SOURCE.—The Secretaries of the
 14 military departments shall carry out subsections (a),
 15 (b), and (c) (and the amendments made by such
 16 subsections) using funds appropriated after the date
 17 of enactment of this Act and otherwise available to
 18 the Secretary of the military department concerned.

19 (2) POLICIES AND PROCEDURES.—

20 (A) IN GENERAL.—The Secretaries of the
 21 military departments shall revise policies and
 22 procedures as necessary to comply with this sec-
 23 tion.

24 (B) UNIFORMITY.—The General Counsel
 25 of the Department of Defense shall review the

1 policies and procedures revised under this para-
 2 graph in order to ensure that any lack of uni-
 3 formity in policies and procedures, as so re-
 4 vised, among the military departments does not
 5 render unconstitutional any policy or procedure,
 6 as so revised.

7 (3) MANUAL FOR COURTS-MARTIAL.—The Sec-
 8 retary of Defense shall recommend such changes to
 9 the Manual for Courts-Martial as are necessary to
 10 ensure compliance with this section.

11 (4) EFFECTIVE DATE AND APPLICABILITY.—
 12 This section and the amendments made by this sec-
 13 tion shall take effect on the date designated by the
 14 President, which shall not be later than the first day
 15 of the first calendar month that begins two years
 16 after the date of the enactment of this Act.

17 **SEC. 3. PUNITIVE ARTICLE ON SEXUAL HARASSMENT AND**
 18 **RELATED INVESTIGATION MATTERS.**

19 (a) PUNITIVE ARTICLE ON SEXUAL HARASSMENT.—

20 (1) IN GENERAL.—Subchapter X of chapter 47,
 21 United States Code (the Uniform Code of Military
 22 Justice), is amended by inserting after section 920c
 23 (article 120c) the following new section (article):

1 **“§ 920d. Art. 120d. Sexual harassment**

2 “(a) IN GENERAL.—Any person subject to this chap-
3 ter who commits sexual harassment against another per-
4 son shall be punished as a court-martial may direct.

5 “(b) SEXUAL HARASSMENT DEFINED.—

6 “(1) In this section term ‘sexual harassment’
7 means conduct that takes place in a circumstance
8 described in paragraph (2) that takes the form of—

9 “(A) a sexual advance;

10 “(B) a request for sexual favors; or

11 “(C) any other conduct of a sexual nature.

12 “(2) A circumstance described in this para-
13 graph is a situation in which—

14 “(A) submission to the conduct involved is
15 made either explicitly or implicitly a term or
16 condition of employment;

17 “(B) submission to or rejection of such
18 conduct is used as the basis for an employment
19 decision affecting an individual’s employment;
20 or

21 “(C) such conduct unreasonably alters an
22 individual’s terms, conditions, or privileges of
23 employment, including by creating an intimi-
24 dating hostile, or offensive work environment,
25 as determined in accordance with paragraph
26 (3).

1 “(3) In determining, for purposes of paragraph
2 (2)(C), whether conduct constitutes sexual harass-
3 ment because the conduct unreasonably alters an in-
4 dividual’s terms, conditions, or privileges of employ-
5 ment, including by creating an intimidating, hostile,
6 or offensive work environment, the following rules
7 shall apply:

8 “(A) The determination shall be made on
9 the basis of the record as a whole, according to
10 the totality of the circumstances. A single inci-
11 dent may constitute sexual harassment.

12 “(B) Incidents that may be sexual harass-
13 ment shall be considered in the aggregate,
14 with—

15 “(i) conduct of varying types (such as
16 expressions of sex-based hostility, requests
17 for sexual favors, and denial of employ-
18 ment opportunities due to sexual orienta-
19 tion) viewed in totality, rather than in iso-
20 lation; and

21 “(ii) conduct based on multiple pro-
22 tected characteristics (such as sex and
23 race) viewed in totality, rather than in iso-
24 lation.

1 “(C) The factors specified in this subpara-
2 graph are among the factors to be considered in
3 determining whether conduct constitutes sexual
4 harassment and are not meant to be exhaustive.
5 Not one of those factors shall be considered to
6 be determinative in establishing whether con-
7 duct constitutes sexual harassment. Such fac-
8 tors are each of the following:

9 “(i) The frequency of the conduct.

10 “(ii) The duration of the conduct.

11 “(iii) The location where the conduct
12 occurred.

13 “(iv) The number of individuals en-
14 gaged in the conduct.

15 “(v) The nature of the conduct, which
16 may include physical, verbal, pictorial, or
17 visual conduct, and conduct that occurs in
18 person or is transmitted, such as electroni-
19 cally.

20 “(vi) Whether the conduct is threat-
21 ening.

22 “(vii) Any power differential between
23 the alleged harasser and the person alleg-
24 edly harassed.

1 “(viii) Any use of epithets, slurs, or
 2 other conduct that is humiliating or de-
 3 grading.

4 “(ix) Whether the conduct reflects
 5 stereotypes about individuals in the pro-
 6 tected class involved.”.

7 (2) CLERICAL AMENDMENT.—The table of sec-
 8 tions at the beginning of such subchapter is amend-
 9 ed by inserting after the item relating to section
 10 920c (article 120c) the following new item:

“920d. 120d. Sexual harassment.”.

11 (b) INVESTIGATIONS OF SEXUAL HARASSMENT.—

12 (1) IN GENERAL.—Section 1561 of title 10,
 13 United States Code, is amended to read as follows:

14 **“§ 1561. Complaints of sexual harassment: inde-**
 15 **pendent investigation**

16 “(a) ACTION ON COMPLAINTS ALLEGING SEXUAL
 17 HARASSMENT.—A commanding officer or officer in charge
 18 of a unit, vessel, facility, or area of an armed force under
 19 the jurisdiction of the Secretary of a military department,
 20 who receives, from a member of the command or a mem-
 21 ber under the supervision of the officer, a formal com-
 22 plaint alleging sexual harassment by a member of the
 23 armed forces shall, as soon as practicable after such re-
 24 ceipt, forward the complaint to an independent investi-
 25 gator.

1 “(b) COMMENCEMENT OF INVESTIGATION.—To the
2 extent practicable, an independent investigator shall com-
3 mence an investigation of a formal complaint of sexual
4 harassment not later than 72 hours after—

5 “(1) receiving a formal complaint of sexual har-
6 assment forwarded by a commanding officer or offi-
7 cer in charge under subsection (a); or

8 “(2) receiving a formal complaint of sexual har-
9 assment directly from a member of the armed forces.

10 “(c) DURATION OF INVESTIGATION.—To the extent
11 practicable, an investigation under subsection (b) shall be
12 completed not later than 14 days after the date on which
13 the investigation commences.

14 “(d) REPORT ON COMMAND INVESTIGATION.—To the
15 extent practicable, an independent investigator who com-
16 mences an investigation under subsection (b) shall—

17 “(1) submit a final report on the results of the
18 investigation, including any action taken as a result
19 of the investigation, to the officer described in sub-
20 section (a) not later than 20 days after the date on
21 which the investigation commenced; or

22 “(2) submit a report on the progress made in
23 completing the investigation to the officer described
24 in subsection (a) not later than 20 days after the
25 date on which the investigation commenced and

1 every 14 days thereafter until the investigation is
 2 completed and, upon completion of the investigation,
 3 then submit a final report on the results of the in-
 4 vestigation, including any action taken as a result of
 5 the investigation, to that officer.

6 “(e) DEFINITIONS.—In this section:

7 “(1) The term ‘formal complaint’ means a com-
 8 plaint that an individual files in writing and attests
 9 to the accuracy of the information contained in the
 10 complaint.

11 “(2) The term ‘independent investigator’ means
 12 a member of the armed forces or employee of the
 13 Department of Defense—

14 “(A) who is outside the chain of command
 15 of the complainant; and

16 “(B) whom the Secretary concerned deter-
 17 mines is trained in the investigation of sexual
 18 harassment.

19 “(3) The term ‘sexual harassment’ has the
 20 meaning given that term in section 920d(b) of this
 21 title (article 120d of the Uniform Code of Military
 22 Justice).”.

23 (2) CLERICAL AMENDMENT.—The table of sec-
 24 tions at the beginning of chapter 80 of such title is

1 amended by striking the item relating to section
2 1561 and inserting the following new item:

“1561. Complaints of sexual harassment: independent investigation.”.

3 (3) EFFECTIVE DATE.—The amendment to sec-
4 tion 1561 of such title made by this subsection
5 shall—

6 (A) take effect on the day that is two years
7 after the date of the enactment of this Act; and

8 (B) apply to any investigation of a formal
9 complaint of sexual harassment (as those terms
10 are defined in such section, as amended) made
11 on or after that date.

12 (4) REPORT ON IMPLEMENTATION.—Not later
13 than nine months after the date of the enactment of
14 this Act, each Secretary of a military department
15 shall submit to Congress a report on preparation of
16 that Secretary to implement the amendment to sec-
17 tion 1561 of such title made by this subsection.

18 **SEC. 4. CONFIDENTIAL REPORTING OF SEXUAL HARASS-**
19 **MENT.**

20 (a) ESTABLISHMENT.—Chapter 80 of title 10,
21 United States Code, is amended by inserting after section
22 1561a the following new section:

23 **“§ 1561b. Confidential reporting of sexual harassment**

24 “(a) ESTABLISHMENT.—Notwithstanding section
25 1561 of this title, the Secretary of Defense shall prescribe

1 regulations establishing a process by which a member of
2 an armed force under the jurisdiction of the Secretary of
3 a military department may confidentially allege a com-
4 plaint of sexual harassment to an individual outside the
5 immediate chain of command of that member.

6 “(b) RECEIPT OF COMPLAINT.—An individual des-
7 ignated to receive complaints under subsection (a)—

8 “(1) shall maintain the confidentiality of the
9 member alleging the complaint;

10 “(2) shall provide to the member alleging the
11 complaint the option—

12 “(A) to file a formal or informal report of
13 sexual harassment; and

14 “(B) to include reports related to such
15 complaint in the Catch a Serial Offender Pro-
16 gram; and

17 “(3) shall provide to the commander of the
18 complainant a report—

19 “(A) regarding the complaint; and

20 “(B) that does not contain any personally
21 identifiable information regarding the complain-
22 ant.

23 “(c) EDUCATION AND TRACKING.—The Secretary of
24 Defense shall—

1 “(1) educate members under the jurisdiction of
2 the Secretary of a military department regarding the
3 process established under this section; and

4 “(2) track complaints alleged pursuant to the
5 process.

6 “(d) ANNUAL REPORTS.—The Secretary of Defense
7 shall submit to the Committees on Armed Services of the
8 Senate and the House of Representatives on an annual
9 basis a report containing data (that does not contain any
10 personally identifiable information) relating to complaints
11 alleged pursuant to the process established under this sec-
12 tion during the preceding year.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of chapter of 80 such title is amended
15 by inserting after the item relating to section 1561a the
16 following new item:

 “1561b. Confidential reporting of sexual harassment.”.

17 (c) IMPLEMENTATION.—The Secretary shall carry
18 out section 1561b of title 10, United States Code, as
19 added by subsection (a), not later than one year after the
20 date of the enactment of this Act.

1 **SEC. 5. AUTHORIZATION OF CLAIMS BY MEMBERS OF THE**
 2 **ARMED FORCES AND EMPLOYEES OF THE DE-**
 3 **PARTMENT OF DEFENSE AGAINST THE**
 4 **UNITED STATES THAT ARISE FROM SEXUAL**
 5 **MISCONDUCT.**

6 (a) CLAIMS ARISING FROM SEXUAL HARASSMENT.—

7 (1) IN GENERAL.—Chapter 163 of title 10,
 8 United States Code, is amended by inserting after
 9 section 2733a the following new section:

10 **“§ 2733b. Claims arising from sex-related offenses**

11 “(a) IN GENERAL.—Consistent with this section and
 12 under such regulations as the Secretary of Defense shall
 13 prescribe under subsection (d), the Secretary may allow,
 14 settle, and pay a claim against the United States for per-
 15 sonal injury or death of a claimant arising from—

16 “(1) a sex-related offense;

17 “(2) the negligent failure to prevent a sex-re-
 18 lated offense; or

19 “(3) the negligent failure to investigate a sex-
 20 related offense.

21 “(b) REQUIREMENT FOR CLAIMS.—A claim may be
 22 allowed, settled, and paid under subsection (a) only if—

23 “(1) the claim is filed by the claimant who is
 24 the victim of the sex-related offense, or by an au-
 25 thorized representative on behalf of such claimant

1 who is deceased or otherwise unable to file the claim
2 due to incapacitation;

3 “(2) the claim is presented to the Department
4 in writing within two years after the claim accrues;

5 “(3) the claim is not allowed to be settled and
6 paid under any other provision of law; and

7 “(4) the claim is substantiated as prescribed in
8 regulations prescribed by the Secretary of Defense
9 under subsection (d).

10 “(c) PAYMENT OF CLAIMS.—(1) If the Secretary of
11 Defense determines, pursuant to regulations prescribed by
12 the Secretary under subsection (d), that a claim under this
13 section in excess of \$100,000 is meritorious, and the claim
14 is otherwise payable under this section, the Secretary may
15 pay the claimant \$100,000 and report any meritorious
16 amount in excess of \$100,000 to the Secretary of the
17 Treasury for payment under section 1304 of title 31.

18 “(2) Except as provided in paragraph (1), no claim
19 may be paid under this section unless the amount tendered
20 is accepted by the claimant in full satisfaction.

21 “(d) REGULATIONS.—(1) The Secretary of Defense
22 shall prescribe regulations to implement this section.

23 “(2) Regulations prescribed by the Secretary under
24 paragraph (1) shall include the following:

1 “(A) Policies and procedures to ensure the
2 timely, efficient, and effective processing and admin-
3 istration of claims under this section, including—

4 “(i) the filing, receipt, investigation, and
5 evaluation of a claim;

6 “(ii) the negotiation, settlement, and pay-
7 ment of a claim; and

8 “(iii) such other matters relating to the
9 processing and administration of a claim, in-
10 cluding an administrative appeals process, as
11 the Secretary considers appropriate.

12 “(B) Uniform standards consistent with gen-
13 erally accepted standards used in a majority of
14 States in adjudicating claims under chapter 171 of
15 title 28 (commonly known as the ‘Federal Tort
16 Claims Act’) to be applied to the evaluation, settle-
17 ment, and payment of claims under this section
18 without regard to the place of occurrence of the sex-
19 related offense giving rise to the claim or the mili-
20 tary department of the covered individual, and with-
21 out regard to foreign law in the case of claims aris-
22 ing in foreign countries, including uniform standards
23 to be applied to determinations with respect to—

1 “(i) whether an act or omission by a cov-
2 ered individual was negligent or wrongful, con-
3 sidering the specific facts and circumstances;

4 “(ii) whether the personal injury or death
5 of the claimant was caused by a negligent or
6 wrongful act or omission of a covered indi-
7 vidual;

8 “(iii) requirements relating to proof of
9 duty, breach of duty, and causation resulting in
10 compensable injury or loss, subject to such ex-
11 clusions as may be established by the Secretary;
12 and

13 “(iv) calculation of damages.

14 “(C) Such other matters as the Secretary con-
15 siders appropriate.

16 “(3) In order to implement expeditiously the provi-
17 sions of this section, the Secretary may prescribe the regu-
18 lations under this subsection—

19 “(A) by prescribing an interim final rule; and

20 “(B) not later than one year after prescribing
21 such interim final rule and considering public com-
22 ments with respect to such interim final rule, by pre-
23 scribing a final rule.

24 “(e) LIMITATION ON ATTORNEY FEES.—(1) No at-
25 torney shall charge, demand, receive, or collect for services

1 rendered, fees in excess of 20 percent of any claim paid
2 pursuant to this section.

3 “(2) Any attorney who charges, demands, receives,
4 or collects for services rendered in connection with a claim
5 under this section any amount in excess of the amount
6 allowed under paragraph (1), if recovery be had, shall be
7 fined not more than \$2,000, imprisoned not more than
8 one year, or both.

9 “(f) ANNUAL REPORT.—Not less frequently than an-
10 nually until 2026, the Secretary of Defense shall submit
11 to the Committees on Armed Services of the Senate and
12 the House of Representatives a report—

13 “(1) indicating the number of claims processed
14 under this section;

15 “(2) indicating the resolution of each such
16 claim; and

17 “(3) describing any other information that may
18 enhance the effectiveness of the claims process under
19 this section.

20 “(g) DEFINITIONS.—In this section:

21 “(1) The term ‘covered individual’ means a
22 member of the armed forces or an employee of the
23 Department of Defense.

24 “(2) The term ‘sex-related offense’ has the
25 meaning given that term in section 834(d)(2) of this

1 title (article 34(d)(2) of the Uniform Code of Mili-
2 tary Justice).”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions at the beginning of chapter 163 of such title
5 is amended by inserting after the item relating to
6 section 2733a the following new item:

“2733b. Claims arising from sex-related offenses.”.

7 (b) INTERIM BRIEFING ON DEVELOPMENT OF REGU-
8 LATIONS.—Not later than 180 days after the date of the
9 enactment of this Act, the Secretary of Defense shall pro-
10 vide to the Committees on Armed Services of the Senate
11 and the House of Representatives a briefing on the devel-
12 opment of regulations under section 2733b(d) of title 10,
13 United States Code, as added by subsection (a)(1).

14 (c) CONFORMING AMENDMENTS.—

15 (1) Section 2735 of such title is amended by in-
16 serting “2733b,” after “2733a,”.

17 (2) Section 1304(a)(3)(D) of title 31, United
18 States Code, is amended by inserting “2733b,” after
19 “2733a,”.

20 (d) EFFECTIVE DATE AND TRANSITION PROVI-
21 SION.—

22 (1) EFFECTIVE DATE.—The amendments made
23 by this section shall apply to any claim filed under
24 section 2733b of such title, as added by subsection
25 (a)(1), on or after January 1, 2021.

1 (2) TRANSITION.—Any claim filed in calendar
 2 year 2020 shall be deemed to be filed within the
 3 time period specified in section 2733b(b)(2) of such
 4 title, as so added, if it is filed within three years
 5 after it accrues.

6 **SEC. 6. REPORTS ON SEXUAL HARASSMENT/ASSAULT RE-**
 7 **SPONSE PROGRAMS OF THE MILITARY DE-**
 8 **PARTMENTS.**

9 (a) SECRETARY OF DEFENSE REPORT.—

10 (1) IN GENERAL.—Not later than 180 days
 11 after the date of the enactment of this Act, the Sec-
 12 retary of Defense shall submit to Congress a report
 13 on the Sexual Harassment/Assault Response Pro-
 14 grams (SHARP) of the military departments.

15 (2) ELEMENTS.—The report required by para-
 16 graph (1) shall include the following:

17 (A) A description and assessment of the
 18 Sexual Harassment/Assault Response Program
 19 of each military department, including the
 20 funding for such program, the manner in which
 21 such funding is allocated, and the elements of
 22 such program that receive funding.

23 (B) A comparative assessment of the feasi-
 24 bility and advisability of carrying out the Sex-

ual Harassment/Assault Response Programs
through each structure as follows:

(i) The current structure.

(ii) A structure involving discharge
through civilian personnel.

(iii) A structure involving discharge
though substantial numbers of contractors.

(iv) A structure involving the estab-
lishment of a military occupational spe-
cialty to permit members of the Armed
Forces to extend their time in a Sexual
Harassment/Assault Response Program
and professionalize their services (including
proper education and training as well as
continuing education).

(v) Any other structure the Secretary
considers appropriate.

(b) COMPTROLLER GENERAL OF THE UNITED
STATES REPORT.—

(1) IN GENERAL.—Not later than one year
after the date of the enactment of this Act, the
Comptroller General of the United States shall sub-
mit to Congress a report on the Sexual Harassment/
Assault Response Programs of the military depart-
ments.

1 (2) ELEMENTS.—The report required by para-
2 graph (1) shall include the following:

3 (A) An assessment by the Comptroller
4 General of the efficacy and impacts of the Sex-
5 ual Harassment/Assault Response Programs of
6 the Armed Forces.

7 (B) Such recommendations as the Comp-
8 troller General considers appropriate for im-
9 provements to the Sexual Harassment/Assault
10 Response Programs.

11 **SEC. 7. GAO STUDY OF MEMBERS ABSENT WITHOUT LEAVE**
12 **OR ON UNAUTHORIZED ABSENCE.**

13 (a) STUDY; REPORT.—Not later than September 30,
14 2021, the Comptroller General of the United States shall
15 submit to the Committees on Armed Services of the Sen-
16 ate and the House of Representatives a report containing
17 the results of a study regarding how the Armed Forces
18 handle cases of members of the Armed Forces absent
19 without leave or on unauthorized absence.

20 (b) ELEMENTS.—The study under this section shall
21 include the following:

22 (1) The procedures and guidelines established
23 by each Armed Force for the investigation of such
24 a case.

25 (2) The guidelines for distinguishing between—

1 (A) common cases;

2 (B) cases that may involve foul play or ac-
3 cident; and

4 (C) cases wherein the member may be in
5 danger.

6 (3) The current guidelines for cooperation and
7 coordination between military investigative organiza-
8 tions and—

9 (A) local law enforcement agencies; and

10 (B) Federal law enforcement agencies.

11 (4) The current guidelines for use of traditional
12 and social media in conjunction with such cases.

13 (5) Military resources available for such cases
14 and any apparent shortfalls in such resources.

15 (6) How the procedures for such cases vary be-
16 tween Armed Forces.

17 (7) How the procedures described in paragraph
18 (6) vary from procedures used by local and Federal
19 law enforcement.

20 (8) Best practices for responding to and inves-
21 tigating such cases.

22 (9) Any other matter the Comptroller General
23 determines appropriate.

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