

§ 1561. Complaints of sexual harassment: investigation by commanding officers

(a) ACTION ON COMPLAINTS ALLEGING SEXUAL HARASSMENT.—A commanding officer or officer in charge of a unit, vessel, facility, or area of the Army, Navy, Air Force, or Marine Corps who receives from a member of the command or a civilian employee under the supervision of the officer a complaint alleging sexual harassment by a member of the armed forces or a civilian employee of the Department of Defense shall carry out an investigation of the matter in accordance with this section.

(b) COMMENCEMENT OF INVESTIGATION.—To the extent practicable, a commanding officer or officer in charge receiving such a complaint shall, within 72 hours after receipt of the complaint—

(1) forward the complaint or a detailed description of the allegation to the next superior officer in the chain of command who is authorized to convene a general court-martial;

(2) commence, or cause the commencement of, an investigation of the complaint; and

(3) advise the complainant of the commencement of the investigation.

(c) DURATION OF INVESTIGATION.—To the extent practicable, a commanding officer or officer in charge receiving such a complaint shall ensure that the investigation of the complaint is completed not later than 14 days after the date on which the investigation is commenced.

(d) REPORT ON INVESTIGATION.—To the extent practicable, a commanding officer or officer in charge receiving such a complaint shall—

(1) submit a final report on the results of the investigation, including any action taken as a result of the investigation, to the next superior officer referred to in subsection (b)(1) within 20 days after the date on which the investigation is commenced; or

(2) submit a report on the progress made in completing the investigation to the next superior officer referred to in subsection (b)(1) within 20 days after the date on which the investigation is commenced and every 14 days thereafter until the investigation is completed and, upon completion of the investigation, then submit a final report on the results of the investigation, including any action taken as a result of the investigation, to that next superior officer.

(e) SEXUAL HARASSMENT DEFINED.—In this section, the term “sexual harassment” means any of the following:

(1) Conduct that—

(A) involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature when—

(i) submission to such conduct is made either explicitly or implicitly a term or condition of a person’s job, pay, or career;

(ii) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or

(iii) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creates an intimidating, hostile, or offensive working environment; and

(B) is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive.

(2) Any use or condonation, by any person in a supervisory or command position, of any form of sexual behavior to control, influence, or affect the career, pay, or job of a member of the armed forces or a civilian employee of the Department of Defense.

(3) Any deliberate or repeated unwelcome verbal comment or gesture of a sexual nature by any member of the armed forces or civilian employee of the Department of Defense.

(Added Pub. L. 105–85, div. A, title V, §591(a)(1), Nov. 18, 1997, 111 Stat. 1760; amended Pub. L. 114–328, div. A, title V, §548(a), Dec. 23, 2016, 130 Stat. 2129.)

PRIOR PROVISIONS

Prior sections 1571 to 1577, Pub. L. 89–690, §1, Oct. 15, 1966, 80 Stat. 1016, related to creation of Exemplary Rehabilitation Certificates to be issued by the Secretary of Labor to persons discharged or dismissed from the Armed Forces under conditions other than honorable or to persons who had received a general discharge but who had established that they had rehabilitated themselves and established the administrative and other authority in connection therewith, prior to repeal by Pub. L. 90–83, §3(2), Sept. 11, 1967, 81 Stat. 220.

AMENDMENTS

2016—Subsec. (e)(1). Pub. L. 114–328, §548(a)(1)(A), in introductory provisions, struck out “(constituting a form of sex discrimination)” after “Conduct”.

Subsec. (e)(1)(B). Pub. L. 114–328, §548(a)(1)(B), substituted “the environment” for “the work environment”.

Subsec. (e)(3). Pub. L. 114–328, §548(a)(2), struck out “in the workplace” after “of a sexual nature”.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title V, §548(b), Dec. 23, 2016, 130 Stat. 2129, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 23, 2016], and shall apply with respect to complaints described in section 1561 of title 10, United States Code, that are first received by a commanding officer or officer in charge on or after that date.”

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–311, §1, Dec. 2, 2002, 116 Stat. 2455, provided that: “This Act [enacting section 1561a of this title] may be cited as the ‘Armed Forces Domestic Security Act’.”

SEXUAL ASSAULT PREVENTION AND RESPONSE TRAINING FOR ALL INDIVIDUALS ENLISTED IN THE ARMED FORCES UNDER A DELAYED ENTRY PROGRAM

Pub. L. 115–91, div. A, title V, §535, Dec. 12, 2017, 131 Stat. 1391, provided that:

“(a) TRAINING REQUIRED.—Commencing not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], each Secretary concerned shall, insofar as practicable, provide training on sexual assault prevention and response to each individual under the jurisdiction of such Secretary who is enlisted in the Armed Forces under a delayed entry program such that each such individual completes such training before the date of commencement of basic training or initial active duty for training in the Armed Forces.

“(b) TRAINING ELEMENTS.—The training provided pursuant to subsection (a)—

“(1) shall, to the extent practicable, be uniform across the Armed Forces;

“(2) should be provided through in-person instruction, whenever possible;

“(3) should include instruction on the proper use of social media; and

“(4) shall meet such other requirements as the Secretary of Defense may establish.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘delayed entry program’ means the following:

“(A) The Future Soldiers Program of the Army.

“(B) The Delayed Entry Program of the Navy and the Marine Corps.

“(C) The program of the Air Force for the delayed entry of enlistees into the Air Force.

“(D) The program of the Coast Guard for the delayed entry of enlistees into the Coast Guard.

“(E) Any successor program to a program referred to in subparagraphs (A) through (D).

“(2) The term ‘Secretary concerned’ has the meaning given that term in section 101(a)(9) of title 10, United States Code.”

METRICS FOR EVALUATING THE EFFORTS OF THE ARMED FORCES TO PREVENT AND RESPOND TO RETALIATION IN CONNECTION WITH REPORTS OF SEXUAL ASSAULT IN THE ARMED FORCES

Pub. L. 114-328, div. A, title V, § 545, Dec. 23, 2016, 130 Stat. 2128, provided that:

“(a) METRICS REQUIRED.—The Sexual Assault Prevention and Response Office of the Department of Defense shall establish and issue to the military departments metrics to be used to evaluate the efforts of the Armed Forces to prevent and respond to retaliation in connection with reports of sexual assault in the Armed Forces.

“(b) BEST PRACTICES.—For purposes of enhancing and achieving uniformity in the efforts of the Armed Forces to prevent and respond to retaliation in connection with reports of sexual assault in the Armed Forces, the Sexual Assault Prevention and Response Office shall identify and issue to the military departments best practices to be used in the prevention of and response to retaliation in connection with such reports.”

TRAINING FOR DEPARTMENT OF DEFENSE PERSONNEL WHO INVESTIGATE CLAIMS OF RETALIATION

Pub. L. 114-328, div. A, title V, § 546, Dec. 23, 2016, 130 Stat. 2128, as amended by Pub. L. 115-91, div. A, title V, § 523(b), Dec. 12, 2017, 131 Stat. 1381, provided that:

“(a) TRAINING REGARDING NATURE AND CONSEQUENCES OF RETALIATION.—The Secretary of Defense shall ensure that the personnel of the Department of Defense specified in subsection (b) who investigate claims of retaliation receive training on the nature and consequences of retaliation, and, in cases involving reports of sexual assault, the nature and consequences of sexual assault trauma. The training shall include such elements as the Secretary shall specify for purposes of this section, including guidelines for the consideration of evidence substantiating such allegations in accordance with the requirements of section 1554b(b) of title 10, United States Code, as added by section 522 of the National Defense Authorization Act for Fiscal Year 2018 [Pub. L. 115-91].

“(b) COVERED PERSONNEL.—The personnel of the Department of Defense covered by subsection (a) are the following:

“(1) Personnel of military criminal investigation services.

“(2) Personnel of Inspectors General offices.

“(3) Personnel of any command of the Armed Forces who are assignable by the commander of such command to investigate claims of retaliation made by or against members of such command.

“(c) RETALIATION DEFINED.—In this section, the term ‘retaliation’ has the meaning given the term by the Secretary of Defense in the strategy required by section 539 of the National Defense Authorization Act of Fiscal Year 2016 [National Defense Authorization Act

for Fiscal Year 2016] (Public Law 114-92; 129 Stat. 818) or a subsequent meaning specified by the Secretary.”

NOTIFICATION TO COMPLAINANTS OF RESOLUTION OF INVESTIGATIONS INTO RETALIATION

Pub. L. 114-328, div. A, title V, § 547, Dec. 23, 2016, 130 Stat. 2128, provided that:

“(a) NOTIFICATION REQUIRED.—

“(1) MEMBERS OF THE ARMY, NAVY, AIR FORCE, AND MARINE CORPS.—Under regulations prescribed by the Secretary of Defense, upon the conclusion of an investigation by an office, element, or personnel of the Department of Defense or of the Armed Forces of a complaint by a member of the Armed Forces of retaliation, the member shall be informed in writing of the results of the investigation, including whether the complaint was substantiated, unsubstantiated, or dismissed.

“(2) MEMBERS OF COAST GUARD.—The Secretary of Homeland Security shall provide in a similar manner for notification in writing of the results of investigations by offices, elements, or personnel of the Department of Homeland Security or of the Coast Guard of complaints of retaliation made by members of the Coast Guard when it is not operating as a service in the Navy.

“(b) RETALIATION DEFINED.—In this section, the term ‘retaliation’ has the meaning given the term by the Secretary of Defense in the strategy required by section 539 of the National Defense Authorization Act of Fiscal Year 2016 [National Defense Authorization Act for Fiscal Year 2016] (Public Law 114-92; 129 Stat. 818) or a subsequent meaning specified by the Secretary.”

RETENTION OF CASE NOTES IN INVESTIGATIONS OF SEX-RELATED OFFENSES INVOLVING MEMBERS OF THE ARMY, NAVY, AIR FORCE, OR MARINE CORPS

Pub. L. 114-92, div. A, title V, § 541, Nov. 25, 2015, 129 Stat. 819, provided that:

“(a) RETENTION OF ALL INVESTIGATIVE RECORDS REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall update Department of Defense records retention policies to ensure that, for all investigations relating to an alleged sex-related offense (as defined in section 1044e(g) of title 10, United States Code) involving a member of the Army, Navy, Air Force, or Marine Corps, all elements of the case file shall be retained as part of the investigative records retained in accordance with section 586 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 10 U.S.C. 1561 note).

“(b) ELEMENTS.—In updating records retention policies as required by subsection (a), the Secretary of Defense shall address, at a minimum, the following matters:

“(1) The elements of the case file to be retained must include, at a minimum, the case activity record, case review record, investigative plans, and all case notes made by an investigating agent or agents.

“(2) All investigative records must be retained for no less than 50 years.

“(3) No element of the case file may be destroyed until the expiration of the time that investigative records must be kept.

“(4) Records may be stored digitally or in hard copy, in accordance with existing law or regulations or additionally prescribed policy considered necessary by the Secretary of the military department concerned.

“(c) CONSISTENT EDUCATION AND POLICY.—The Secretary of Defense shall ensure that existing policy, education, and training are updated to reflect policy changes in accordance with subsection (a).

“(d) UNIFORM APPLICATION TO MILITARY DEPARTMENTS.—The Secretary of Defense shall ensure that, to the maximum extent practicable, the policy developed

under subsections (a) is implemented uniformly by the military departments.”

REQUIRED CONSIDERATION OF CERTAIN ELEMENTS OF COMMAND CLIMATE IN PERFORMANCE APPRAISALS OF COMMANDING OFFICERS

Pub. L. 113–291, div. A, title V, § 508, Dec. 19, 2014, 128 Stat. 3357, provided that: “The Secretary of a military department shall ensure that the performance appraisal of a commanding officer in an Armed Force under the jurisdiction of that Secretary indicates the extent to which the commanding officer has or has not established a command climate in which—

- “(1) allegations of sexual assault are properly managed and fairly evaluated; and
- “(2) a victim of criminal activity, including sexual assault, can report the criminal activity without fear of retaliation, including ostracism and group pressure from other members of the command.”

REQUIREMENTS RELATING TO SEXUAL ASSAULT FORENSIC EXAMINERS FOR THE ARMED FORCES

Pub. L. 113–291, div. A, title V, § 539(a), (b), Dec. 19, 2014, 128 Stat. 3370, provided that:

“(a) PERSONNEL ELIGIBLE FOR ASSIGNMENT.—

“(1) SPECIFIED PERSONNEL.—Except as provided in paragraph (2), an individual who may be assigned to duty as a Sexual Assault Forensic Examiner (SAFE) for the Armed Forces is limited to members of the Armed Forces and civilian employees of the Department of Defense who are also one of the following:

- “(A) A physician.
- “(B) A nurse practitioner.
- “(C) A nurse midwife.
- “(D) A physician assistant.
- “(E) A registered nurse.

“(2) INDEPENDENT DUTY CORPSMEN.—An independent duty corpsman or equivalent may be assigned to duty as a Sexual Assault Forensic Examiner for the Armed Forces if the assignment of an individual specified in paragraph (1) is impracticable.

“(b) TRAINING AND CERTIFICATION.—

“(1) IN GENERAL.—The Secretary of Defense shall establish and maintain, and update when appropriate, a training and certification program for Sexual Assault Forensic Examiners. The training and certification programs shall apply uniformly to all Sexual Assault Forensic Examiners under the jurisdiction of the Secretaries of the military departments.

“(2) ELEMENTS.—Each training and certification program under this subsection shall include training in sexual assault forensic examinations by qualified personnel who possess—

- “(A) a Sexual Assault Nurse Examiner—Adult/Adolescent (SANE–A) certification or equivalent certification; or
- “(B) training and clinical or forensic experience in sexual assault forensic examinations similar to that required for a certification described in subparagraph (A).

“(3) NATURE OF TRAINING.—The training provided under each training and certification program under this subsection shall incorporate and reflect current best practices and standards on sexual assault forensic examinations.

“(4) APPLICABILITY OF TRAINING REQUIREMENTS.—Effective beginning one year after the date of the enactment of this Act [Dec. 19, 2014], an individual may not be assigned to duty as a Sexual Assault Forensic Examiner for the Armed Forces unless the individual has completed, by the date of such assignment, all training required under the training and certification program under this subsection.”

DEFENSE ADVISORY COMMITTEE ON INVESTIGATION, PROSECUTION, AND DEFENSE OF SEXUAL ASSAULT IN THE ARMED FORCES

Pub. L. 113–291, div. A, title V, § 546(a)–(e), Dec. 19, 2014, 128 Stat. 3374, 3375, as amended by Pub. L. 114–92,

div. A, title V, § 537, Nov. 25, 2015, 129 Stat. 817, provided that:

“(a) ESTABLISHMENT REQUIRED.—

“(1) IN GENERAL.—The Secretary of Defense shall establish and maintain within the Department of Defense an advisory committee to be known as the ‘Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces’ (in this section referred to as the ‘Advisory Committee’).

“(2) DEADLINE FOR ESTABLISHMENT.—The Secretary shall establish the Advisory Committee not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2016 [Nov. 25, 2015].

“(b) MEMBERSHIP.—The Advisory Committee shall consist of not more than 20 members, to be appointed by the Secretary of Defense, who have experience with the investigation, prosecution, and defense of allegations of sexual assault offenses. Members of the Advisory Committee may include Federal and State prosecutors, judges, law professors, and private attorneys. Members of the Armed Forces serving on active duty may not serve as a member of the Advisory Committee.

“(c) DUTIES.—

“(1) IN GENERAL.—The Advisory Committee shall advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces.

“(2) BASIS FOR PROVISION OF ADVICE.—For purposes of providing advice to the Secretary pursuant to this subsection, the Advisory Committee shall review, on an ongoing basis, cases involving allegations of sexual misconduct described in paragraph (1).

“(d) ANNUAL REPORTS.—Not later than March 30 each year, the Advisory Committee shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report describing the results of the activities of the Advisory Committee pursuant to this section during the preceding year.

“(e) TERMINATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Advisory Committee shall terminate on the date that is five years after the date of the establishment of the Advisory Committee pursuant to subsection (a).

“(2) CONTINUATION.—The Secretary of Defense may continue the Advisory Committee after the termination date applicable under paragraph (1) if the Secretary determines that continuation of the Advisory Committee after that date is advisable and appropriate. If the Secretary determines to continue the Advisory Committee after that date, the Secretary shall submit to the President and the congressional committees specified in subsection (d) a report describing the reasons for that determination and specifying the new termination date for the Advisory Committee.”

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 546(d) of Pub. L. 113–291, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

IMPROVED CLIMATE ASSESSMENTS AND DISSEMINATION OF RESULTS

Pub. L. 113–66, div. A, title V, § 587, Dec. 26, 2013, 127 Stat. 778, provided that:

“(a) IMPROVED DISSEMINATION OF RESULTS IN CHAIN OF COMMAND.—The Secretary of Defense shall ensure that the results of command climate assessments are provided to the relevant individual commander and to the next higher level of command.

“(b) EVIDENCE OF COMPLIANCE.—The Secretary of each military department shall require in the performance evaluations and assessments used by each Armed Force under the jurisdiction of the Secretary a statement by the commander regarding whether the commander has conducted the required command climate assessments.

“(c) EFFECT OF FAILURE TO CONDUCT ASSESSMENT.—The failure of a commander to conduct the required command climate assessments shall be noted in the commander’s performance evaluation.”

AVAILABILITY OF SEXUAL ASSAULT FORENSIC EXAMINERS AT MILITARY MEDICAL TREATMENT FACILITIES

Pub. L. 113-66, div. A, title XVII, §1725(b), Dec. 26, 2013, 127 Stat. 971, as amended by Pub. L. 113-291, div. A, title V, §539(d)(1), Dec. 19, 2014, 128 Stat. 3371, provided that:

“(1) FACILITIES WITH FULL-TIME EMERGENCY DEPARTMENT.—The Secretary of a military department shall require the assignment of at least one full-time Sexual Assault Forensic Examiner to each military medical treatment facility under the jurisdiction of that Secretary in which an emergency department operates 24 hours per day. The Secretary may assign additional Sexual Assault Forensic Examiners based on the demographics of the patients who utilize the military medical treatment facility.

“(2) OTHER FACILITIES.—In the case of a military medical treatment facility not covered by paragraph (1), the Secretary of the military department concerned shall require that a Sexual Assault Forensic Examiner be made available to a patient of the facility, consistent with the Department of Justice National Protocol for Sexual Assault Medical Forensic Examinations, Adult/Adolescent, when a determination is made regarding the patient’s need for the services of a Sexual Assault Forensic Examiner.”

COMMANDING OFFICER ACTION ON REPORTS ON SEXUAL OFFENSES INVOLVING MEMBERS OF THE ARMED FORCES

Pub. L. 113-66, div. A, title XVII, §1742, Dec. 26, 2013, 127 Stat. 979, provided that:

“(a) IMMEDIATE ACTION REQUIRED.—A commanding officer who receives a report of a sex-related offense involving a member of the Armed Forces in the chain of command of such officer shall act upon the report in accordance with subsection (b) immediately after receipt of the report by the commanding officer.

“(b) ACTION REQUIRED.—The action required by this subsection with respect to a report described in subsection (a) is the referral of the report to the military criminal investigation organization with responsibility for investigating that offense of the military department concerned or such other investigation service of the military department concerned as the Secretary of the military department concerned may specify for purposes of this section.”

EIGHT-DAY INCIDENT REPORTING REQUIREMENT IN RESPONSE TO UNRESTRICTED REPORT OF SEXUAL ASSAULT IN WHICH THE VICTIM IS A MEMBER OF THE ARMED FORCES

Pub. L. 113-66, div. A, title XVII, §1743, Dec. 26, 2013, 127 Stat. 979, provided that:

“(a) INCIDENT REPORTING POLICY REQUIREMENT.—The Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating shall establish and maintain a policy to require the submission by a designated person of a written incident report not later than eight days after an unrestricted report of sexual assault has been made in which a member of the Armed Forces is the victim. At a minimum, this incident report shall be provided to the following:

“(1) The installation commander, if such incident occurred on or in the vicinity of a military installation.

“(2) The first officer in the grade of O-6, and the first general officer or flag officer, in the chain of command of the victim.

“(3) The first officer in the grade of O-6, and the first general officer or flag officer, in the chain of command of the alleged offender if the alleged offender is a member of the Armed Forces.

“(b) PURPOSE OF REPORT.—The purpose of the required incident report under subsection (a) is to detail

the actions taken or in progress to provide the necessary care and support to the victim of the assault, to refer the allegation of sexual assault to the appropriate investigatory agency, and to provide initial notification of the serious incident when that notification has not already taken place.

“(c) ELEMENTS OF REPORT.—

“(1) IN GENERAL.—The report of an incident under subsection (a) shall include, at a minimum, the following:

“(A) Time/Date/Location of the alleged incident.

“(B) Type of offense alleged.

“(C) Service affiliation, assigned unit, and location of the victim.

“(D) Service affiliation, assigned unit, and location of the alleged offender, including information regarding whether the alleged offender has been temporarily transferred or removed from an assigned billet or ordered to pretrial confinement or otherwise restricted, if applicable.

“(E) Post-incident actions taken in connection with the incident, including the following:

“(i) Referral of the victim to a Sexual Assault Response Coordinator for referral to services available to members of the Armed Forces who are victims of sexual assault, including the date of each such referral.

“(ii) Notification of incident to appropriate military criminal investigative organization, including the organization notified and date of such notification.

“(iii) Receipt and processing status of a request for expedited victim transfer, if applicable.

“(iv) Issuance of any military protective orders in connection with the incident.

“(2) MODIFICATION.—

“(A) IN GENERAL.—The Secretary of Defense may modify the elements required in a report under this section regarding an incident involving a member of the Armed Forces (including the Coast Guard when it is operating as service in the Department of the Navy) if the Secretary determines that such modification will facilitate compliance with best practices for such reporting as identified by the Sexual Assault Prevention and Response Office of the Department of Defense.

“(B) COAST GUARD.—The Secretary of the Department in which the Coast Guard is operating may modify the elements required in a report under this section regarding an incident involving a member of the Coast Guard if the Secretary determines that such modification will facilitate compliance with best practices for such reporting as identified by the Coast Guard Office of Work-Life Programs.

“(d) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating shall prescribe regulations to carry out this section.”

INCLUSION AND COMMAND REVIEW OF INFORMATION ON SEX-RELATED OFFENSES IN PERSONNEL SERVICE RECORDS OF MEMBERS OF THE ARMED FORCES

Pub. L. 113-66, div. A, title XVII, §1745, Dec. 26, 2013, 127 Stat. 982, provided that:

“(a) INFORMATION ON REPORTS ON SEX-RELATED OFFENSES.—

“(1) IN GENERAL.—If a complaint of a sex-related offense is made against a member of the Armed Forces and the member is convicted by court-martial or receives non-judicial punishment or punitive administrative action for such sex-related offense, a notation to that effect shall be placed in the personnel service record of the member, regardless of the member’s grade.

“(2) PURPOSE.—The purpose of the inclusion of information in personnel service records under paragraph (1) is to alert commanders to the members of their command who have received courts-martial conviction, non-judicial punishment, or punitive ad-

ministrative action for sex-related offenses in order to reduce the likelihood that repeat offenses will escape the notice of commanders.

“(b) LIMITATION ON PLACEMENT.—A notation under subsection (a) may not be placed in the restricted section of the personnel service record of a member.

“(c) CONSTRUCTION.—Nothing in subsection (a) or (b) may be construed to prohibit or limit the capacity of a member of the Armed Forces to challenge or appeal the placement of a notation, or location of placement of a notation, in the member’s personnel service record in accordance with procedures otherwise applicable to such challenges or appeals.

“(d) COMMAND REVIEW OF HISTORY OF SEX-RELATED OFFENSES OF MEMBERS UPON ASSIGNMENT OR TRANSFER TO NEW UNIT.—

“(1) REVIEW REQUIRED.—Under uniform regulations prescribed by the Secretary of Defense, the commanding officer of a facility, installation, or unit to which a member of the Armed Forces described in paragraph (2) is permanently assigned or transferred shall review the history of sex-related offenses as documented in the personnel service record of the member in order to familiarize such officer with such history of the member.

“(2) COVERED MEMBERS.—A member of the Armed Forces described in this paragraph is a member of the Armed Forces who, at the time of assignment or transfer as described in paragraph (1), has a history of one or more sex-related offenses as documented in the personnel service record of such member or such other records or files as the Secretary shall specify in the regulations prescribed under paragraph (1).”

ESTABLISHMENT OF SPECIAL VICTIM CAPABILITIES WITHIN THE MILITARY DEPARTMENTS TO RESPOND TO ALLEGATIONS OF CERTAIN SPECIAL VICTIM OFFENSES

Pub. L. 112-239, div. A, title V, §573, Jan. 2, 2013, 126 Stat. 1755, provided that:

“(a) ESTABLISHMENT REQUIRED.—Under regulations prescribed by the Secretary of Defense, the Secretary of each military department shall establish special victim capabilities for the purposes of—

“(1) investigating and prosecuting allegations of child abuse, serious domestic violence, or sexual offenses; and

“(2) providing support for the victims of such offenses.

“(b) PERSONNEL.—The special victim capabilities developed under subsection (a) shall include specially trained and selected—

“(1) investigators from the Army Criminal Investigative Command, Naval Criminal Investigative Service, or Air Force Office of Special Investigations;

“(2) judge advocates;

“(3) victim witness assistance personnel; and

“(4) administrative paralegal support personnel.

“(c) TRAINING, SELECTION, AND CERTIFICATION STANDARDS.—The Secretary of Defense shall prescribe standards for the training, selection, and certification of personnel who will provide special victim capabilities for a military department.

“(d) DISCRETION REGARDING EXTENT OF CAPABILITIES.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary of a military department shall determine the extent to which special victim capabilities will be established within the military department and prescribe regulations for the management and use of the special victim capabilities.

“(2) REQUIRED ELEMENTS.—At a minimum, the special victim capabilities established within a military department must provide effective, timely, and responsive world-wide support for the purposes described in subsection (a).

“(e) TIME FOR ESTABLISHMENT.—

“(1) IMPLEMENTATION PLAN.—Not later than 270 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing—

“(A) the plans and time lines of the Secretaries of the military departments for the establishment of the special victims capabilities; and

“(B) an assessment by the Secretary of Defense of the plans and time lines.

“(2) INITIAL CAPABILITIES.—Not later than one year after the date of the enactment of this Act, the Secretary of each military department shall have available an initial special victim capability consisting of the personnel specified in subsection (b).

“(f) EVALUATION OF EFFECTIVENESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall—

“(1) prescribe the common criteria to be used by the Secretaries of the military departments to measure the effectiveness and impact of the special victim capabilities from the investigative, prosecutorial, and victim’s perspectives; and

“(2) require the Secretaries of the military departments to collect and report the data used to measure such effectiveness and impact.

“(g) SPECIAL VICTIM CAPABILITIES DEFINED.—In this section, the term ‘special victim capabilities’ means a distinct, recognizable group of appropriately skilled professionals who work collaboratively to achieve the purposes described in subsection (a). This section does not require that the special victim capabilities be created as separate military unit or have a separate chain of command.”

RETENTION OF CERTAIN FORMS IN CONNECTION WITH RESTRICTED REPORTS AND UNRESTRICTED REPORTS ON SEXUAL ASSAULT INVOLVING MEMBERS OF THE ARMED FORCES

Pub. L. 112-239, div. A, title V, §577, Jan. 2, 2013, 126 Stat. 1762, as amended by Pub. L. 113-66, div. A, title XVII, §1723, Dec. 26, 2013, 127 Stat. 970, provided that:

“(a) PERIOD OF RETENTION.—The Secretary of Defense shall ensure that all copies of Department of Defense Form 2910 and Department of Defense Form 2911 filed in connection with a Restricted Report or Unrestricted Report on an incident of sexual assault involving a member of the Armed Forces be retained for the longer of—

“(1) 50 years commencing on the date of signature of the member on Department of Defense Form 2910; or

“(2) the time provided for the retention of such forms in connection with Unrestricted Reports on incidents of sexual assault involving members of the Armed Forces under Department of Defense Directive-Type Memorandum (DTM) 11-062, entitled ‘Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault’, or any successor directive or policy.

“(b) PROTECTION OF CONFIDENTIALITY.—Any Department of Defense form retained under subsection (a) shall be retained in a manner that protects the confidentiality of the member of the Armed Forces concerned in accordance with procedures for the protection of confidentiality of information in Restricted Reports under Department of Defense memorandum JTF-SAPR-009, relating to the Department of Defense policy on confidentiality for victims of sexual assault, or any successor policy or directive.”

GENERAL OR FLAG OFFICER REVIEW OF AND CONCURRENCE IN SEPARATION OF MEMBERS OF THE ARMED FORCES MAKING AN UNRESTRICTED REPORT OF SEXUAL ASSAULT

Pub. L. 112-239, div. A, title V, §578, Jan. 2, 2013, 126 Stat. 1763, provided that:

“(a) REVIEW REQUIRED.—The Secretary of Defense shall develop a policy to require a general officer or flag officer of the Armed Forces to review the circumstances of, and grounds for, the proposed involuntary separation of any member of the Armed Forces who—

“(1) made an Unrestricted Report of a sexual assault;

“(2) within one year after making the Unrestricted Report of a sexual assault, is recommended for involuntary separation from the Armed Forces; and

“(3) requests the review on the grounds that the member believes the recommendation for involuntary separation from the Armed Forces was initiated in retaliation for making the report.

“(b) CONCURRENCE REQUIRED.—If a review is requested by a member of the Armed Forces as authorized by subsection (a), the concurrence of the general officer or flag officer conducting the review of the proposed involuntary separation of the member is required in order to separate the member.

“(c) SUBMISSION OF POLICY.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the policy developed under subsection (a).

“(d) APPLICATION OF POLICY.—The policy developed under subsection (a) shall take effect on the date of the submission of the policy to Congress under subsection (c) and apply to members of the Armed Forces described in subsection (a) who are proposed to be involuntarily separated from the Armed Forces on or after that date.”

DEPARTMENT OF DEFENSE POLICY AND PLAN FOR PREVENTION AND RESPONSE TO SEXUAL HARASSMENT IN THE ARMED FORCES

Pub. L. 112-239, div. A, title V, § 579, Jan. 2, 2013, 126 Stat. 1763, provided that:

“(a) COMPREHENSIVE PREVENTION AND RESPONSE POLICY.—

“(1) POLICY REQUIRED.—The Secretary of Defense shall develop a comprehensive policy to prevent and respond to sexual harassment in the Armed Forces. The policy shall provide for the following:

“(A) Training for members of the Armed Forces on the prevention of sexual harassment.

“(B) Mechanisms for reporting incidents of sexual harassment in the Armed Forces, including procedures for reporting anonymously.

“(C) Mechanisms for responding to and resolving incidents of alleged sexual harassment incidences involving members of the Armed Forces, including through the prosecution of offenders.

“(2) REPORT.—Not later than one year after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the policy required by paragraph (1).

“(3) CONSULTATION.—The Secretary of Defense shall prepare the policy and report required by this subsection in consultation with the Secretaries of the military departments and the Equal Opportunity Office of the Department of Defense.

“(b) DATA COLLECTION AND REPORTING REGARDING SUBSTANTIATED INCIDENTS OF SEXUAL HARASSMENT.—

“(1) PLAN REQUIRED.—The Secretary of Defense shall develop a plan to collect information and data regarding substantiated incidents of sexual harassment involving members of the Armed Forces. The plan shall specifically deal with the need to identify cases in which a member is accused of multiple incidents of sexual harassment.

“(2) SUBMISSION OF PLAN.—Not later than June 1, 2013, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives the plan developed under paragraph (1).

“(3) REPORTING REQUIREMENT.—As part of the reports required to be submitted in 2014 under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4433; 10 U.S.C. 1561 note), the Secretary of Defense shall include information and data collected under the plan during the preceding year regarding substantiated incidents of sexual harassment involving members of the Armed Forces.”

SEXUAL ASSAULT RESPONSE COORDINATORS AND SEXUAL ASSAULT VICTIM ADVOCATES

Pub. L. 112-81, div. A, title V, § 584, Dec. 31, 2011, 125 Stat. 1432, as amended by Pub. L. 113-66, div. A, title XVII, § 1724, Dec. 26, 2013, 127 Stat. 970, provided that:

“(a) ASSIGNMENT OF COORDINATORS.—

“(1) ASSIGNMENT REQUIREMENTS.—At least one full-time Sexual Assault Response Coordinator shall be assigned to each brigade or equivalent unit level of the armed forces. The Secretary of the military department concerned may assign additional Sexual Assault Response Coordinators as necessary based on the demographics or needs of the unit. An additional Sexual Assault Response Coordinator may serve on a full-time or part-time basis at the discretion of the Secretary.

“(2) AVAILABILITY FOR RESERVE COMPONENT MEMBERS.—The Secretary of the military department concerned shall ensure the timely access to a Sexual Assault Response Coordinator by any member of the National Guard or Reserve who—

“(A) is the victim of a sexual assault during the performance of duties as a member of the National Guard or Reserves; or

“(B) is the victim of a sexual assault committed by a member of the National Guard or Reserves.

“(3) ELIGIBLE PERSONS.—On and after October 1, 2013, only members of the armed forces and civilian employees of the Department of Defense may be assigned to duty as a Sexual Assault Response Coordinator.

“(b) ASSIGNMENT OF VICTIM ADVOCATES.—

“(1) ASSIGNMENT REQUIREMENTS.—At least one full-time Sexual Assault Victim Advocate shall be assigned to each brigade or equivalent unit level of the armed forces. The Secretary of the military department concerned may assign additional Victim Advocates as necessary based on the demographics or needs of the unit. An additional Victim Advocate may serve on a full-time or part-time basis at the discretion of the Secretary.

“(2) ELIGIBLE PERSONS.—On and after October 1, 2013, only members of the armed forces and civilian employees of the Department of Defense may be assigned to duty as a Victim Advocate.

“(c) TRAINING AND CERTIFICATION.—

“(1) TRAINING AND CERTIFICATION PROGRAM.—As part of the sexual assault prevention and response program, the Secretary of Defense shall establish a professional and uniform training and certification program for Sexual Assault Response Coordinators assigned under subsection (a) and Sexual Assault Victim Advocates assigned under subsection (b). The program shall be structured and administered in a manner similar to the professional training available for Equal Opportunity Advisors through the Defense Equal Opportunity Management Institute.

“(2) CONSULTATION.—In developing the curriculum and other components of the program, the Secretary of Defense shall work with experts outside of the Department of Defense who are experts in victim advocacy and sexual assault prevention and response training.

“(3) EFFECTIVE DATE.—On and after October 1, 2013, before a member or civilian employee may be assigned to duty as a Sexual Assault Response Coordinator under subsection (a) or Victim Advocate under subsection (b), the member or employee must have completed the training program required by paragraph (1) and obtained the certification.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘armed forces’ means the Army, Navy, Air Force, and Marine Corps.

“(2) The term ‘sexual assault prevention and response program’ has the meaning given such term in section 1601(a) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 10 U.S.C. 1561 note).”

TRAINING AND EDUCATION PROGRAMS FOR SEXUAL
ASSAULT PREVENTION AND RESPONSE PROGRAM

Pub. L. 113-66, div. A, title XVII, §1713(c), Dec. 26, 2013, 127 Stat. 964, provided that: “The Secretary of Defense shall provide for the inclusion of information and discussion regarding the availability and use of the authority described by section 674 of title 10, United States Code, as added by subsection (a), as part of the training for new and prospective commanders at all levels of command required by section 585(b) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 10 U.S.C. 1561 note).”

Pub. L. 112-81, div. A, title V, §585, Dec. 31, 2011, 125 Stat. 1434, as amended by Pub. L. 112-239, div. A, title V, §574, Jan. 2, 2013, 126 Stat. 1756; Pub. L. 113-66, div. A, title X, §1091(c)(2), Dec. 26, 2013, 127 Stat. 876, provided that:

“(a) SEXUAL ASSAULT PREVENTION AND RESPONSE
TRAINING AND EDUCATION.—

“(1) DEVELOPMENT OF CURRICULUM.—Not later than one year after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of each military department shall develop a curriculum to provide sexual assault prevention and response training and education for members of the Armed Forces under the jurisdiction of the Secretary and civilian employees of the military department to strengthen individual knowledge, skills, and capacity to prevent and respond to sexual assault. In developing the curriculum, the Secretary shall work with experts outside of the Department of Defense who are experts in sexual assault prevention and response training.

“(2) SCOPE OF TRAINING AND EDUCATION.—The sexual assault prevention and response training and education shall encompass initial entry and accession programs, annual refresher training, professional military education, peer education, and specialized leadership training. Training shall be tailored for specific leadership levels and local area requirements.

“(3) CONSISTENT TRAINING.—The Secretary of Defense shall ensure that the sexual assault prevention and response training provided to members of the Armed Forces and Department of Defense civilian employees is consistent throughout the military departments.

“(b) INCLUSION IN PROFESSIONAL MILITARY EDUCATION.—The Secretary of Defense shall provide for the inclusion of a sexual assault prevention and response training module at each level of professional military education. The training shall be tailored to the new responsibilities and leadership requirements of members of the Armed Forces as they are promoted.

“(c) INCLUSION IN FIRST RESPONDER TRAINING.—

“(1) IN GENERAL.—The Secretary of Defense shall direct that managers of specialty skills associated with first responders described in paragraph (2) integrate sexual assault response training in initial and recurring training courses.

“(2) COVERED FIRST RESPONDERS.—First responders referred to in paragraph (1) include firefighters, emergency medical technicians, law enforcement officers, military criminal investigators, healthcare personnel, judge advocates, and chaplains.

“(d) COMMANDERS’ TRAINING.—The Secretary of Defense shall provide for the inclusion of a sexual assault prevention and response training module in the training for new or prospective commanders at all levels of command. The training shall be tailored to the responsibilities and leadership requirements of members of the Armed Forces as they are assigned to command positions. Such training shall include the following:

“(1) Fostering a command climate that does not tolerate sexual assault.

“(2) Fostering a command climate in which persons assigned to the command are encouraged to intervene to prevent potential incidents of sexual assault.

“(3) Fostering a command climate that encourages victims of sexual assault to report any incident of sexual assault.

“(4) Understanding the needs of, and the resources available to, the victim after an incident of sexual assault.

“(5) Use of military criminal investigative organizations for the investigation of alleged incidents of sexual assault.

“(6) Available disciplinary options, including court-martial, non-judicial punishment, administrative action, and deferral of discipline for collateral misconduct, as appropriate.

“(e) EXPLANATION TO BE INCLUDED IN INITIAL ENTRY
AND ACCESSION TRAINING.—

“(1) REQUIREMENT.—The Secretary of Defense shall require that the matters specified in paragraph (2) be carefully explained to each member of the Army, Navy, Air Force, and Marine Corps at the time of (or within fourteen duty days after)—

“(A) the member’s initial entrance on active duty; or

“(B) the member’s initial entrance into a duty status with a reserve component.

“(2) MATTERS TO BE EXPLAINED.—This subsection applies with respect to the following:

“(A) Department of Defense policy with respect to sexual assault.

“(B) The resources available with respect to sexual assault reporting and prevention and the procedures to be followed by a member seeking to access those resources.”

[Pub. L. 113-66, div. A, title X, §1091(c), Dec. 26, 2013, 127 Stat. 876, provided in part that the amendment made by section 1091(c)(2) to section 585 of Pub. L. 112-81, set out above, is effective as of Dec. 31, 2011, and as if included in Pub. L. 112-81 as enacted.]

DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON
RETENTION AND ACCESS TO EVIDENCE AND RECORDS
RELATING TO SEXUAL ASSAULTS INVOLVING MEMBERS
OF THE ARMED FORCES

Pub. L. 112-81, div. A, title V, §586(a)-(d), (f), Dec. 31, 2011, 125 Stat. 1434, 1435, as amended by Pub. L. 113-291, div. A, title V, §538, Dec. 19, 2014, 128 Stat. 3369, provided that:

“(a) COMPREHENSIVE POLICY ON RETENTION AND ACCESS TO RECORDS.—Not later than October 1, 2012, the Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, develop a comprehensive policy for the Department of Defense on the retention of and access to evidence and records relating to sexual assaults involving members of the Armed Forces.

“(b) OBJECTIVES.—The comprehensive policy required by subsection (a) shall include policies and procedures (including systems of records) necessary to ensure preservation of records and evidence for periods of time that ensure that members of the Armed Forces and veterans of military service who were the victims of sexual assault during military service are able to substantiate claims for veterans benefits, to support criminal or civil prosecutions by military or civil authorities, and for such purposes relating to the documentation of the incidence of sexual assault in the Armed Forces as the Secretary of Defense considers appropriate.

“(c) ELEMENTS.—In developing the comprehensive policy required by subsection (a), the Secretary of Defense shall consider, at a minimum, the following matters:

“(1) Identification of records, including non-Department of Defense records, relating to an incident of sexual assault, that must be retained.

“(2) Criteria for collection and retention of records.

“(3) Identification of physical evidence and non-documentary forms of evidence relating to sexual assaults that must be retained.

“(4) Length of time records, including Department of Defense Forms 2910 and 2911, and evidence must be retained, except that—

“(A) the length of time physical evidence and forensic evidence must be retained shall be not less than five years; and

“(B) the length of time documentary evidence relating to sexual assaults must be retained shall be

not less than the length of time investigative records relating to reports of sexual assaults of that type (restricted or unrestricted reports) must be retained.

“(5) Locations where records must be stored.

“(6) Media which may be used to preserve records and assure access, including an electronic systems [sic] of records.

“(7) Protection of privacy of individuals named in records and status of records under section 552 of title 5, United States Code (commonly referred to as the ‘Freedom of Information Act’), section 552a of title 5, United States Code (commonly referred to as the ‘Privacy Act’), restricted reporting cases, and laws related to privilege.

“(8) Access to records by victims of sexual assault, the Department of Veterans Affairs, and others, including alleged assailants and law enforcement authorities.

“(9) Responsibilities for record retention by the military departments.

“(10) Education and training on record retention requirements.

“(11) Uniform collection of data on the incidence of sexual assaults and on disciplinary actions taken in substantiated cases of sexual assault.

“(d) UNIFORM APPLICATION TO MILITARY DEPARTMENTS.—The Secretary of Defense shall ensure that, to the maximum extent practicable, the policy developed under subsection (a) is implemented uniformly by the military departments.

“(f) RETURN OF PERSONAL PROPERTY UPON COMPLETION OF RELATED PROCEEDINGS.—Notwithstanding subsection (c)(4)(A), personal property retained as evidence in connection with an incident of sexual assault involving a member of the Armed Forces may be returned to the rightful owner of such property after the conclusion of all legal, adverse action, and administrative proceedings related to such incident.”

IMPROVED SEXUAL ASSAULT PREVENTION AND RESPONSE IN THE ARMED FORCES

Pub. L. 115–91, div. A, title V, § 538, Dec. 12, 2017, 131 Stat. 1393, provided that: “Beginning with the reports required to be submitted by March 1, 2019, under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 1561 note), information regarding a sexual assault committed by a member of the Armed Forces against the spouse or intimate partner of the member or another dependent of the member shall be included in such reports in addition to the annual Family Advocacy Program report. The information may be included as an annex to such reports.”

Pub. L. 112–239, div. A, title V, § 572, Jan. 2, 2013, 126 Stat. 1753, as amended by Pub. L. 113–66, div. A, title XVII, § 1721, Dec. 26, 2013, 127 Stat. 970, provided that:

“(a) POLICY MODIFICATIONS.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall modify the revised comprehensive policy for the Department of Defense sexual assault prevention and response program required by section 1602 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4430; 10 U.S.C. 1561 note) to include in the policy the following new requirements:

“(1) Subject to subsection (b), a requirement that the Secretary of each military department establish a record on the disposition of any Unrestricted Report of sexual assault involving a member of the Armed Forces, whether such disposition is court martial, nonjudicial punishment, or other administrative action.

“(2) A requirement that the Secretary of each military department establish policies to require the processing for administrative separation of any member of the Armed Forces under the jurisdiction of such Secretary whose conviction for a covered offense is final and who is not punitively discharged from the Armed Forces in connection with such conviction. Such requirement—

“(A) shall ensure that any separation decision is based on the full facts of the case and that due process procedures are provided under regulations prescribed by the Secretary of Defense; and

“(B) shall not be interpreted to limit or alter the authority of the Secretary of the military department concerned to process members of the Armed Forces for administrative separation for other offenses or under other provisions of law.

“(3) A requirement that the commander of each military command and other units specified by the Secretary of Defense for purposes of the policy shall conduct, within 120 days after the commander assumes command and at least annually thereafter while retaining command, a climate assessment of the command or unit for purposes of preventing and responding to sexual assaults. The climate assessment shall include an opportunity for members of the Armed Forces to express their opinions regarding the manner and extent to which their leaders, including commanders, respond to allegations of sexual assault and complaints of sexual harassment and the effectiveness of such response.

“(4) A requirement to post and widely disseminate information about resources available to report and respond to sexual assaults, including the establishment of hotline phone numbers and Internet websites available to all members of the Armed Forces.

“(5) A requirement for a general education campaign to notify members of the Armed Forces regarding the authorities available under chapter 79 of title 10, United States Code, for the correction of military records when a member experiences any retaliatory personnel action for making a report of sexual assault or sexual harassment.

“(b) ADDITIONAL REQUIREMENTS REGARDING DISPOSITION RECORDS OF SEXUAL ASSAULT REPORTS.—

“(1) ELEMENTS.—The record of the disposition of an Unrestricted Report of sexual assault established under subsection (a)(1) shall include information regarding the following, as appropriate:

“(A) Documentary information collected about the incident, other than investigator case notes.

“(B) Punishment imposed, including the sentencing by judicial or non-judicial means, including incarceration, fines, restriction, and extra duty as a result of military court-martial, Federal or local court and other sentencing, or any other punishment imposed.

“(C) Adverse administrative actions taken against the subject of the investigation, if any.

“(D) Any pertinent referrals made for the subject of the investigation, offered as a result of the incident, such as drug and alcohol counseling and other types of counseling or intervention.

“(2) RETENTION OF RECORDS.—The Secretary of Defense shall require that—

“(A) the disposition records established pursuant to subsection (a)(1) be retained for a period of not less than 20 years; and

“(B) information from the records that satisfies the reporting requirements established in section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 1561 note) be incorporated into the Defense Sexual Assault Incident Database and maintained for the same period as applies to retention of the records under subparagraph (A).

“(c) COVERED OFFENSE DEFINED.—For purposes of subsection (a)(2), the term ‘covered offense’ means the following:

“(1) Rape or sexual assault under subsection (a) or (b) of section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice).

“(2) Forcible sodomy under section 925 of title 10, United States Code (article 125 of the Uniform Code of Military Justice).

“(3) An attempt to commit an offense specified in paragraph (1) or (2) under section 880 of title 10, United States Code (article 80 of the Uniform Code of Military Justice).

“(d) TRACKING OF ORGANIZATIONAL CLIMATE ASSESSMENT COMPLIANCE.—The Secretary of Defense shall direct the Secretaries of the military departments to verify and track the compliance of commanding officers in conducting organizational climate assessments, as required by subsection (a)(3).”

Pub. L. 111-383, div. A, title XVI, Jan. 7, 2011, 124 Stat. 4429, as amended by Pub. L. 112-81, div. A, title V, § 583, Dec. 31, 2011, 125 Stat. 1432; Pub. L. 112-239, div. A, title V, § 575(a), (b), Jan. 2, 2013, 126 Stat. 1757, 1758; Pub. L. 113-66, div. A, title XVII, §§ 1725(a), 1726, Dec. 26, 2013, 127 Stat. 971, 972; Pub. L. 113-291, div. A, title V, § 542(a), (b), title X, § 1071(i), Dec. 19, 2014, 128 Stat. 3372, 3373, 3512; Pub. L. 114-328, div. A, title V, §§ 543, 544, Dec. 23, 2016, 130 Stat. 2127; Pub. L. 115-91, div. A, title V, § 537(a), Dec. 12, 2017, 131 Stat. 1392, provided that:

“SEC. 1601. DEFINITION OF DEPARTMENT OF DEFENSE SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM AND OTHER DEFINITIONS.

“(a) SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM DEFINED.—In this title, the term ‘sexual assault prevention and response program’ refers to Department of Defense policies and programs, including policies and programs of a specific military department or Armed Force, that, as modified as required by this title—

“(1) are intended to reduce the number of sexual assaults involving members of the Armed Forces, whether members are the victim, alleged assailant, or both; and

“(2) improve the response of the Department of Defense, the military departments, and the Armed Forces to reports of sexual assaults involving members of the Armed Forces, whether members are the victim, alleged assailant, or both, and to reports of sexual assaults when a covered beneficiary under chapter 55 of title 10, United States Code, is the victim.

“(b) OTHER DEFINITIONS.—In this title:

“(1) The term ‘Armed Forces’ means the Army, Navy, Air Force, and Marine Corps.

“(2) The terms ‘covered beneficiary’ and ‘dependent’ have the meanings given those terms in section 1072 of title 10, United States Code.

“(3) The term ‘department’ has the meaning given that term in section 101(a)(6) of title 10, United States Code.

“(4) The term ‘military installation’ has the meaning given that term by the Secretary concerned.

“(5) The term ‘Secretary concerned’ means—

“(A) the Secretary of the Army, with respect to matters concerning the Army;

“(B) the Secretary of the Navy, with respect to matters concerning the Navy and the Marine Corps; and

“(C) the Secretary of the Air Force, with respect to matters concerning the Air Force.

“(6) The term ‘sexual assault’ has the definition developed for that term by the Secretary of Defense pursuant to subsection (a)(3) of section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 113 note) [now set out below], subject to such modifications as the Secretary considers appropriate.

“SEC. 1602. COMPREHENSIVE DEPARTMENT OF DEFENSE POLICY ON SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM.

“(a) COMPREHENSIVE POLICY REQUIRED.—Not later than March 30, 2012, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a revised comprehensive policy for the Department of Defense sexual assault prevention and response program that—

“(1) builds upon the comprehensive sexual assault prevention and response policy developed under subsections (a) and (b) of section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 113 note) [now set out below];

“(2) incorporates into the sexual assault prevention and response program the new requirements identified by this title; and

“(3) ensures that the policies and procedures of the military departments regarding sexual assault prevention and response are consistent with the revised comprehensive policy.

“(b) CONSIDERATION OF TASK FORCE FINDINGS, RECOMMENDATIONS, AND PRACTICES.—In developing the comprehensive policy required by subsection (a), the Secretary of Defense shall take into account the findings and recommendations found in the report of the Defense Task Force on Sexual Assault in the Military Services issued in December 2009.

“(c) SEXUAL ASSAULT PREVENTION AND RESPONSE EVALUATION PLAN.—

“(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement an evaluation plan for assessing the effectiveness of the comprehensive policy prepared under subsection (a) in achieving its intended outcomes at the department and individual Armed Force levels.

“(2) ROLE OF SERVICE SECRETARIES.—As a component of the evaluation plan, the Secretary of each military department shall assess the adequacy of measures undertaken at military installations and by units of the Armed Forces under the jurisdiction of the Secretary to ensure the safest and most secure living and working environments with regard to preventing sexual assault.

“(d) PROGRESS REPORT.—Not later than October 1, 2011, the Secretary of Defense shall submit to the congressional defense committees a report—

“(1) describing the process by which the comprehensive policy required by subsection (a) is being revised;

“(2) describing the extent to which revisions of the comprehensive policy and the evaluation plan required by subsection (c) have already been implemented; and

“(3) containing a determination by the Secretary regarding whether the Secretary will be able to comply with the revision deadline specified in subsection (a).

“(e) CONSISTENCY OF TERMINOLOGY, POSITION DESCRIPTIONS, PROGRAM STANDARDS, AND ORGANIZATIONAL STRUCTURES.—

“(1) IN GENERAL.—The Secretary of Defense shall require the use of consistent terminology, position descriptions, minimum program standards, and organizational structures throughout the Armed Forces in implementing the sexual assault prevention and response program.

“(2) MINIMUM STANDARDS.—The Secretary of Defense shall establish minimum standards for—

“(A) the qualifications necessary for a member of the Armed Forces or a civilian employee of the Department of Defense to be selected for assignment to duty as a Sexual Assault Response and Prevention Program Manager, Sexual Assault Response Coordinator, or Sexual Assault Victim Advocate, whether assigned to such duty on a full-time or part-time basis;

“(B) consistent with section 584(c) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 10 U.S.C. 1561 note; 125 Stat. 1433), the training, certification, and status of members of the Armed Forces and civilian employees of the department assigned to duty as Sexual Assault Response and Prevention Program Managers, Sexual Assault Response Coordinators, and Sexual Assault Victim Advocates for the Armed Forces; and

“(C) the curricula to be used to provide sexual assault prevention and response training and education for members of the Armed Forces and civilian employees of the department to strengthen individual knowledge, skills, and capacity to prevent and respond to sexual assault.

“(3) RECOGNIZING OPERATIONAL DIFFERENCES.—In complying with this subsection, the Secretary of De-

fense shall take into account the responsibilities of the Secretary concerned and operational needs of the Armed Force involved.

“SUBTITLE A—ORGANIZATIONAL STRUCTURE AND APPLICATION OF SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM ELEMENTS

“SEC. 1611. SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE.

“(a) APPOINTMENT OF DIRECTOR.—There shall be a Director of the Sexual Assault Prevention and Response Office, who shall be appointed from among general or flag officers of the Armed Forces or employees of the Department of Defense in a comparable Senior Executive Service position. During the development and implementation of the comprehensive policy for the Department of Defense sexual assault prevention and response program, the Director shall operate under the oversight of the Advisory Working Group of the Deputy Secretary of Defense.

“(b) DUTIES OF DIRECTOR.—The Director of the Sexual Assault Prevention and Response Office shall—

“(1) oversee implementation of the comprehensive policy for the Department of Defense sexual assault prevention and response program;

“(2) serve as the single point of authority, accountability, and oversight for the sexual assault prevention and response program;

“(3) provide oversight to ensure that the military departments comply with the sexual assault prevention and response program;

“(4) collect and maintain data of the military departments on sexual assault in accordance with subsection (e);

“(5) act as liaison between the Department of Defense and other Federal and State agencies on programs and efforts relating to sexual assault prevention and response; and

“(6) oversee development of strategic program guidance and joint planning objectives for resources in support of the sexual assault prevention and response program, and make recommendations on modifications to policy, law, and regulations needed to ensure the continuing availability of such resources.

“(c) ROLE OF INSPECTORS GENERAL.—

“(1) IN GENERAL.—The Inspector General of the Department of Defense, the Inspector General of the Army, the Naval Inspector General, and the Inspector General of the Air Force shall treat the sexual assault prevention and response program as an item of special interest when conducting inspections of organizations and activities with responsibilities regarding the prevention and response to sexual assault.

“(2) COMPOSITION OF INVESTIGATION TEAMS.—The Inspector General inspection teams shall include at least one member with expertise and knowledge of sexual assault prevention and response policies related to a specific Armed Force.

“(d) STAFF.—

“(1) ASSIGNMENT.—Not later than 18 months after the date of the enactment of this Act [Jan. 7, 2011], an officer from each of the Armed Forces in the grade of O-4 or above shall be assigned to the Sexual Assault Prevention and Response Office for a minimum tour length of at least 18 months.

“(2) HIGHER GRADE.—Notwithstanding paragraph (1), of the four officers assigned to the Sexual Assault Prevention and Response Office under this subsection at any time, one officer shall be in the grade of O-6 or above.

“(e) DATA COLLECTION AND MAINTENANCE METRICS.—In carrying out the requirements of subsection (b)(4), the Director of the Sexual Assault Prevention and Response Office shall develop metrics to measure the effectiveness of, and compliance with, training and awareness objectives of the military departments on sexual assault prevention and response.

“SEC. 1612. OVERSIGHT AND EVALUATION STANDARDS.

“(a) ISSUANCE OF STANDARDS.—The Secretary of Defense shall issue standards to assess and evaluate the

effectiveness of the sexual assault prevention and response program of each Armed Force in reducing the number of sexual assaults involving members of the Armed Forces and in improving the response of the department to reports of sexual assaults involving members of the Armed Forces, whether members of the Armed Forces are the victim, alleged assailant, or both.

“(b) SEXUAL ASSAULT PREVENTION EVALUATION PLAN.—The Secretary of Defense shall use the sexual assault prevention and response evaluation plan developed under section 1602(c) to ensure that the Armed Forces implement and comply with assessment and evaluation standards issued under subsection (a).

“SEC. 1613. REPORT AND PLAN FOR COMPLETION OF ACQUISITION OF CENTRALIZED DEPARTMENT OF DEFENSE SEXUAL ASSAULT DATABASE.

“(a) REPORT AND PLAN REQUIRED.—Not later than April 1, 2011, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

“(1) describing the status of development and implementation of the centralized Department of Defense sexual assault database required by section 563 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4470; 10 U.S.C. 113 note) [now set out below];

“(2) containing a revised implementation plan under subsection (c) of such section for completing implementation of the database; and

“(3) indicating the date by which the database will be operational.

“(b) CONTENT OF IMPLEMENTATION PLAN.—The plan referred to in subsection (a)(2) shall address acquisition best practices associated with successfully acquiring and deploying information technology systems related to the centralized sexual assault database, such as economically justifying the proposed system solution and effectively developing and managing requirements.

“SEC. 1614. RESTRICTED REPORTING OF SEXUAL ASSAULTS.

“The Secretary of Defense shall clarify the limitations on the ability of a member of the Armed Forces to make a restricted report regarding the occurrence of a sexual assault and the circumstances under which information contained in a restricted report may no longer be confidential.

“SUBTITLE B—IMPROVED AND EXPANDED AVAILABILITY OF SERVICES

“SEC. 1621. IMPROVED PROTOCOLS FOR PROVIDING MEDICAL CARE FOR VICTIMS OF SEXUAL ASSAULT.

“The Secretary of Defense shall establish comprehensive and consistent protocols for providing and documenting medical care to a member of the Armed Forces or covered beneficiary who is a victim of a sexual assault, including protocols with respect to the appropriate screening, prevention, and mitigation of diseases. In establishing the protocols, the Secretary shall take into consideration the gender of the victim.

“SEC. 1622. SEXUAL ASSAULT VICTIMS ACCESS TO VICTIM ADVOCATE SERVICES.

“(a) AVAILABILITY OF VICTIM ADVOCATE SERVICES.—

“(1) AVAILABILITY.—A member of the Armed Forces or a dependent, as described in paragraph (2), who is the victim of a sexual assault is entitled to assistance provided by a qualified Sexual Assault Victim Advocate.

“(2) COVERED DEPENDENTS.—The assistance described in paragraph (1) is available to a dependent of a member of the Armed Forces who is the victim of a sexual assault and who resides on or in the vicinity of a military installation. The Secretary concerned shall define the term “vicinity” for purposes of this paragraph.

“(b) NOTICE OF AVAILABILITY OF ASSISTANCE; OPT OUT.—The member or dependent shall be informed of

the availability of assistance under subsection (a) as soon as the member or dependent seeks assistance from a Sexual Assault Response Coordinator. The victim shall also be informed that the services of a Sexual Assault Response Coordinator and Sexual Assault Victim Advocate are optional and that these services may be declined, in whole or in part, at any time.

“(c) NATURE OF REPORTING IMMATERIAL.—In the case of a member of the Armed Forces, Victim Advocate services are available regardless of whether the member elects unrestricted or restricted (confidential) reporting of the sexual assault.

“SUBTITLE C—REPORTING REQUIREMENTS

“SEC. 1631. ANNUAL REPORT REGARDING SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES AND IMPROVEMENT TO SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM.

“(a) ANNUAL REPORTS ON SEXUAL ASSAULTS.—Not later than March 1, 2012, and each March 1 thereafter through March 1, 2021, the Secretary of each military department shall submit to the Secretary of Defense a report on the sexual assaults involving members of the Armed Forces under the jurisdiction of that Secretary during the preceding year. In the case of the Secretary of the Navy, separate reports shall be prepared for the Navy and for the Marine Corps.

“(b) CONTENTS.—The report of a Secretary of a military department for an Armed Force under subsection (a) shall contain the following:

“(1) The number of sexual assaults committed against members of the Armed Force that were reported to military officials during the year covered by the report, and the number of the cases so reported that were substantiated.

“(2) The number of sexual assaults committed by members of the Armed Force that were reported to military officials during the year covered by the report, and the number of the cases so reported that were substantiated. The information required by this paragraph may not be combined with the information required by paragraph (1).

“(3) A synopsis of each such substantiated case, organized by offense, and, for each such case, the action taken in the case, including the type of disciplinary or administrative sanction imposed, if any, including courts-martial sentences, non-judicial punishments administered by commanding officers pursuant to section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice), and administrative separations.

“(4) The policies, procedures, and processes implemented by the Secretary concerned during the year covered by the report in response to incidents of sexual assault involving members of the Armed Force concerned.

“(5) The number of substantiated sexual assault cases in which the victim is a deployed member of the Armed Forces and the assailant is a foreign national, and the policies, procedures, and processes implemented by the Secretary concerned to monitor the investigative processes and disposition of such cases and any actions taken to eliminate any gaps in investigating and adjudicating such cases.

“(6) A description of the implementation of the accessibility plan implemented pursuant to section 596(b) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 10 U.S.C. 1561 note), including a description of the steps taken during that year to ensure that trained personnel, appropriate supplies, and transportation resources are accessible to deployed units in order to provide an appropriate and timely response in any case of reported sexual assault in a deployed unit, location, or environment.

“(7) The number of applications submitted under section 673 of title 10, United States Code, during the year covered by the report for a permanent change of

station or unit transfer for members of the Armed Forces on active duty who are the victim of a sexual assault or related offense, the number of applications denied, and, for each application denied, a description of the reasons why the application was denied.

“(8) An analysis and assessment of trends in the incidence, disposition, and prosecution of sexual assaults by units, commands, and installations during the year covered by the report, including trends relating to prevalence of incidents, prosecution of incidents, and avoidance of incidents.

“(9) An assessment of the adequacy of sexual assault prevention and response activities carried out by training commands during the year covered by the report.

“(10) An analysis of the specific factors that may have contributed to sexual assault during the year covered by the report, an assessment of the role of such factors in contributing to sexual assaults during that year, and recommendations for mechanisms to eliminate or reduce the incidence of such factors or their contributions to sexual assaults.

“(11) An analysis of the disposition of the most serious offenses occurring during sexual assaults committed by members of the Armed Force during the year covered by the report, as identified in unrestricted reports of sexual assault by any members of the Armed Forces, including the numbers of reports identifying offenses that were disposed of by each of the following:

“(A) Conviction by court-martial, including a separate statement of the most serious charge preferred and the most serious charge for which convicted.

“(B) Acquittal of all charges at court-martial.

“(C) Non-judicial punishment under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice).

“(D) Administrative action, including by each type of administrative action imposed.

“(E) Dismissal of all charges, including by reason for dismissal and by stage of proceedings in which dismissal occurred.

“(12) Information on each claim of retaliation in connection with a report of sexual assault in the Armed Force made by or against a member of such Armed Force as follows:

“(A) A narrative description of each complaint.

“(B) The nature of such complaint, including whether the complainant claims professional or social retaliation.

“(C) The gender of the complainant.

“(D) The gender of the individual claimed to have committed the retaliation.

“(E) The nature of the relationship between the complainant and the individual claimed to have committed the retaliation.

“(F) The nature of the relationship, if any, between the individual alleged to have committed the sexual assault concerned and the individual claimed to have committed the retaliation.

“(G) The official or office that received the complaint.

“(H) The organization that investigated or is investigating the complaint.

“(I) The current status of the investigation.

“(J) If the investigation is complete, a description of the results of the investigation, including whether the results of the investigation were provided to the complainant.

“(K) If the investigation determined that retaliation occurred, whether the retaliation was an offense under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

“(13) Information and data collected through formal and informal reports of sexual harassment involving members of the Armed Forces during the year covered by the report, as follows:

“(A) The number of substantiated and unsubstantiated reports.

“(B) A synopsis of each substantiated report.

“(C) The action taken in the case of each substantiated report, including the type of disciplinary or administrative sanction imposed, if any, such as—

“(i) conviction and sentence by court-martial;

“(ii) imposition of non-judicial punishment under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice); or

“(iii) administrative separation or other type of administrative action imposed.

“(14) Information and data collected during the year covered by the report on each reported incident involving the nonconsensual distribution by a person subject to chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), of a private sexual image of another person, including the following:

“(A) The number of substantiated and unsubstantiated reports.

“(B) A synopsis of each substantiated report.

“(C) The action taken in the case of each substantiated report, including the type of disciplinary or administrative sanction imposed, if any, such as—

“(i) conviction and sentence by court-martial;

“(ii) imposition of non-judicial punishment under section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice); or

“(iii) administrative separation or other type of administrative action imposed.

“(c) CONSISTENT DEFINITION OF SUBSTANTIATED.—Not later than December 31, 2011, the Secretary of Defense shall establish a consistent definition of ‘substantiated’ for purposes of paragraphs (1), (2), (3), and (5) of subsection (b) and provide synopses for those cases for the preparation of reports under this section.

“(d) SUBMISSION TO CONGRESS.—Not later than April 30 of each year in which the Secretary of Defense receives reports under subsection (a), the Secretary of Defense shall forward the reports to the Committees on Armed Services of the Senate and House of Representatives, together with—

“(1) the results of assessments conducted under the evaluation plan required by section 1602(c);

“(2) an assessment of the information submitted to the Secretary pursuant to subsection (b)(11); and

“(3) such other assessments on the reports as the Secretary of Defense considers appropriate.

“(e) REPEAL OF SUPERSEDED REPORTING REQUIREMENT.—

“(1) [Amended section 577 of Pub. L. 108-375, set out below.]

“(2) SUBMISSION OF 2010 REPORT.—The reports required by subsection (f) of section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 113 note) [now set out below] covering calendar year 2010 are still required to be submitted to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives pursuant to the terms of such subsection, as in effect before the date of the enactment of this Act [Jan. 7, 2011].

“(f) ADDITIONAL DETAILS FOR CASE SYNOPSIS PORTION OF REPORT.—The Secretary of each military department shall include in the case synopses portion of each report described in subsection (b)(3) the following additional information:

“(1) If charges are dismissed following an investigation conducted under section 832 of title 10, United States Code (article 32 of the Uniform Code of Military Justice), the case synopsis shall include the reason for the dismissal of the charges.

“(2) If the case synopsis states that a member of the Armed Forces accused of committing a sexual assault was administratively separated or, in the case of an officer, allowed to resign in lieu of facing a court-martial, the case synopsis shall include the characterization (honorable, general, or other than honorable) given the service of the member upon separation.

“(3) The case synopsis shall indicate whether a member of the Armed Forces accused of committing a sexual assault was ever previously accused of a substantiated sexual assault or was admitted to the Armed Forces under a moral waiver granted with respect to prior sexual misconduct.

“(4) The case synopsis shall indicate the branch of the Armed Forces of each member accused of committing a sexual assault and the branch of the Armed Forces of each member who is a victim of a sexual assault.

“(5) If the case disposition includes non-judicial punishment, the case synopsis shall explicitly state the nature of the punishment.

“(6) The case synopsis shall indicate whether alcohol was involved in any way in a substantiated sexual assault incident.

“(g) COORDINATION OF RELEASE DATE BETWEEN ANNUAL REPORTS REGARDING SEXUAL ASSAULTS AND FAMILY ADVOCACY REPORT.—The Secretary of Defense shall ensure that the reports required under subsection (a) for a given year are delivered to the Committees on Armed Services of the Senate and House of Representatives simultaneously with the Family Advocacy Program report for that year regarding child abuse and domestic violence, as required by section 574 of the National Defense Authorization Act for Fiscal Year 2017 [Pub. L. 114-328, 130 Stat. 2141].

“SEC. 1632. ADDITIONAL REPORTS.

“(a) EXTENSION OF SEXUAL ASSAULT PREVENTION AND RESPONSE SERVICES TO ADDITIONAL PERSONS.—The Secretary of Defense shall evaluate the feasibility of extending department sexual assault prevention and response services to Department of Defense civilian employees and employees of defense contractors who—

“(1) are victims of a sexual assault; and

“(2) work on or in the vicinity of a military installation or with members of the Armed Forces.

“(b) EXTENSION OF SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM TO RESERVE COMPONENTS.—The Secretary of Defense shall evaluate the application of the sexual assault prevention and response program to members of the reserve components, including, at a minimum, the following:

“(1) The ability of members of the reserve components to access the services available under the sexual assault prevention and response program, including policies and programs of a specific military department or Armed Force.

“(2) The quality of training provided to Sexual Assault Response Coordinators and Sexual Assault Victim Advocates in the reserve components.

“(3) The degree to which the services available for regular and reserve members under the sexual assault prevention and response program are integrated.

“(4) Such recommendations as the Secretary of Defense considers appropriate on how to improve the services available for reserve members under the sexual assault prevention and response program and their access to the services.

“(c) COPY OF RECORD OF COURT-MARTIAL TO VICTIM OF SEXUAL ASSAULT.—The Secretary of Defense shall evaluate the feasibility of requiring that a copy of the prepared record of the proceedings of a general or special court-martial involving a sexual assault be given to the victim in cases in which the victim testified during the proceedings.

“(d) ACCESS TO LEGAL ASSISTANCE.—The Secretary of Defense shall evaluate the feasibility of authorizing members of the Armed Forces who are victims of a sexual assault and dependents of members who are victims of a sexual assault to receive legal assistance provided by a military legal assistance counsel certified as competent to provide legal assistance related to responding to sexual assault.

“(e) USE OF FORENSIC MEDICAL EXAMINERS.—The Secretary of Defense shall evaluate the feasibility of utilizing, when sexual assaults involving members of the Armed Forces occur in a military environment where

civilian resources are limited or unavailable, forensic medical examiners who are specially trained regarding the collection and preservation of evidence in cases involving sexual assault.

“(f) SUBMISSION OF RESULTS.—The Secretary of Defense shall submit the results of the evaluations required by this section to the Committees on Armed Services of the Senate and House of Representatives.”

[Pub. L. 115–91, div. A, title V, § 537(b), Dec. 12, 2017, 131 Stat. 1393, provided that: “The amendment made by this section [amending section 1631 of Pub. L. 111–383, set out above] shall take effect on the date of the enactment of this Act [Dec. 12, 2017] and apply beginning with the reports required to be submitted by March 1, 2020, under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 1561 note).”]

[Pub. L. 113–291, div. A, title V, § 542(c), Dec. 19, 2014, 128 Stat. 3373, provided that: “The amendments made by this section [amending section 1631 of Pub. L. 111–383, set out above] shall take effect on the date of the enactment of this Act [Dec. 19, 2014] and apply beginning with the report regarding sexual assaults involving members of the Armed Forces required to be submitted by March 1, 2015, under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 [Pub. L. 111–383].”]

[Pub. L. 112–239, div. A, title V, § 575(c), Jan. 2, 2013, 126 Stat. 1758, provided that: “The amendments made by this section [amending section 1631 of Pub. L. 111–383, set out above] shall apply beginning with the report regarding sexual assaults involving members of the Armed Forces required to be submitted by March 1, 2014, under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 [Pub. L. 111–383].”]

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1631(d) of Pub. L. 111–383, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

DEFENSE INCIDENT-BASED REPORTING SYSTEM AND DEFENSE SEXUAL ASSAULT INCIDENT DATABASE

Pub. L. 111–84, div. A, title V, § 598, Oct. 28, 2009, 123 Stat. 2345, provided that: “Not later than 120 days after the date of the enactment of this Act [Oct. 28, 2009], and every six months thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report detailing the progress of the Secretary with respect to the completion of the following:

“(1) The Defense Incident-Based Reporting System.

“(2) The Defense Sexual Assault Incident Database.”

Pub. L. 110–417, [div. A], title V, § 563(a)–(d), Oct. 14, 2008, 122 Stat. 4470, 4471, provided that:

“(a) DATABASE REQUIRED.—The Secretary of Defense shall implement a centralized, case-level database for the collection, in a manner consistent with Department of Defense regulations for restricted reporting, and maintenance of information regarding sexual assaults involving a member of the Armed Forces, including information, if available, about the nature of the assault, the victim, the offender, and the outcome of any legal proceedings in connection with the assault.

“(b) AVAILABILITY OF DATABASE.—The database required by subsection (a) shall be available to personnel of the Sexual Assault Prevention and Response Office of the Department of Defense.

“(c) IMPLEMENTATION.—

“(1) PLAN FOR IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to provide for the implementation of the database required by subsection (a).

“(2) RELATION TO DEFENSE INCIDENT-BASED REPORTING SYSTEM.—Not later than 180 days after the date of

enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing—

“(A) a description of the current status of the Defense Incident-Based Reporting System; and

“(B) an explanation of how the Defense Incident-Based Reporting System will relate to the database required by subsection (a).

“(3) COMPLETION.—Not later than 15 months after the date of enactment of this Act, the Secretary shall complete implementation of the database required by subsection (a).

“(d) REPORTS.—The database required by subsection (a) shall be used to develop and implement congressional reports, as required by—

“(1) section 577(f) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) [set out below];

“(2) section 596(c) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) [amending Pub. L. 108–375, § 577, set out below];

“(3) section 532 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364) [enacting sections 4361, 6980, and 9361 of this title and provisions set out as a note under section 4361 of this title and repealing provisions set out as a note under section 4331 of this title]; and

“(4) sections 4361, 6980, and 9361 of title 10, United States Code.”

IMPROVEMENT TO DEPARTMENT OF DEFENSE CAPACITY TO RESPOND TO SEXUAL ASSAULT AFFECTING MEMBERS OF THE ARMED FORCES

Pub. L. 109–163, div. A, title V, § 596(a), (b), Jan. 6, 2006, 119 Stat. 3282, provided that:

“(a) PLAN FOR SYSTEM TO TRACK CASES IN WHICH CARE OR PROSECUTION HINDERED BY LACK OF AVAILABILITY.—

“(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement a system to track cases under the jurisdiction of the Department of Defense in which care to a victim of rape or sexual assault, or the investigation or prosecution of an alleged perpetrator of rape or sexual assault, is hindered by the lack of availability of a rape kit or other needed supplies or by the lack of timely access to appropriate laboratory testing resources.

“(2) SUBMITTAL TO CONGRESSIONAL COMMITTEES.—The Secretary shall submit the plan developed under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 120 days after the date of the enactment of this Act [Jan. 6, 2006].

“(b) ACCESSIBILITY PLAN FOR DEPLOYED UNITS.—

“(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement a plan for ensuring accessibility and availability of supplies, trained personnel, and transportation resources for responding to sexual assaults occurring in deployed units. The plan shall include the following:

“(A) A plan for the training of personnel who are considered to be ‘first responders’ to sexual assaults (including criminal investigators, medical personnel responsible for rape kit evidence collection, and victims advocates), such training to include current techniques on the processing of evidence, including rape kits, and on conducting investigations.

“(B) A plan for ensuring the availability at military hospitals of supplies needed for the treatment of victims of sexual assault who present at a military hospital, including rape kits, equipment for processing rape kits, and supplies for testing and treatment for sexually transmitted infections and diseases, including HIV, and for testing for pregnancy.

“(2) SUBMITTAL TO CONGRESSIONAL COMMITTEES.—The Secretary shall submit the plan developed under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of

the House of Representatives not later than 120 days after the date of the enactment of this Act [Jan. 6, 2006].”

DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES

Pub. L. 111-84, div. A, title V, §567(c), Oct. 28, 2009, 123 Stat. 2314, provided that:

“(1) REQUIREMENT FOR DATA COLLECTION.—

“(A) IN GENERAL.—Pursuant to regulations prescribed by the Secretary of Defense, information shall be collected on—

“(i) whether a military protective order was issued that involved either the victim or alleged perpetrator of a sexual assault; and

“(ii) whether military protective orders involving members of the Armed Forces were violated in the course of substantiated incidents of sexual assaults against members of the Armed Forces.

“(B) SUBMISSION OF DATA.—The data required to be collected under this subsection shall be included in the annual report submitted to Congress on sexual assaults involving members of the Armed Forces.

“(2) INFORMATION TO MEMBERS.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report explaining the measures being taken to ensure that, when a military protective order has been issued, the member of the Armed Forces who is protected by the order is informed, in a timely manner, of the member’s option to request transfer from the command to which the member is assigned.”

Pub. L. 108-375, div. A, title V, §577, Oct. 28, 2004, 118 Stat. 1926, as amended by Pub. L. 109-163, div. A, title V, §596(c), Jan. 6, 2006, 119 Stat. 3283; Pub. L. 109-364, div. A, title V, §583, Oct. 17, 2006, 120 Stat. 2230; Pub. L. 110-417, [div. A], title V, §563(e), Oct. 14, 2008, 122 Stat. 4471; Pub. L. 111-383, div. A, title X, §1075(i)(1), title XVI, §1631(e)(1), Jan. 7, 2011, 124 Stat. 4377, 4435, provided that:

“(a) COMPREHENSIVE POLICY ON PREVENTION AND RESPONSE TO SEXUAL ASSAULTS.—(1) Not later than January 1, 2005, the Secretary of Defense shall develop a comprehensive policy for the Department of Defense on the prevention of and response to sexual assaults involving members of the Armed Forces.

“(2) The policy shall be based on the recommendations of the Department of Defense Task Force on Care for Victims of Sexual Assaults and on such other matters as the Secretary considers appropriate.

“(3) Before developing the comprehensive policy required by paragraph (1), the Secretary of Defense shall develop a definition of sexual assault. The definition so developed shall be used in the comprehensive policy under paragraph (1) and otherwise within the Department of Defense and Coast Guard in matters involving members of the Armed Forces. The definition shall be uniform for all the Armed Forces and shall be developed in consultation with the Secretaries of the military departments and the Secretary of Homeland Security with respect to the Coast Guard.

“(b) ELEMENTS OF COMPREHENSIVE POLICY.—The comprehensive policy developed under subsection (a) shall, at a minimum, address the following matters:

“(1) Prevention measures.

“(2) Education and training on prevention and response.

“(3) Investigation of complaints by command and law enforcement personnel.

“(4) Medical treatment of victims.

“(5) Confidential reporting of incidents.

“(6) Victim advocacy and intervention.

“(7) Oversight by commanders of administrative and disciplinary actions in response to substantiated incidents of sexual assault.

“(8) Disposition of victims of sexual assault, including review by appropriate authority of administrative

separation actions involving victims of sexual assault.

“(9) Disposition of members of the Armed Forces accused of sexual assault.

“(10) Liaison and collaboration with civilian agencies on the provision of services to victims of sexual assault.

“(11) Uniform collection of data on the incidence of sexual assaults and on disciplinary actions taken in substantiated cases of sexual assault.

“(12) Implementation of clear, consistent, and streamlined sexual assault terminology for use throughout the Department of Defense.

“(c) REPORT ON IMPROVEMENT OF CAPABILITY TO RESPOND TO SEXUAL ASSAULTS.—Not later than March 1, 2005, the Secretary of Defense shall submit to Congress a proposal for such legislation as the Secretary considers necessary to enhance the capability of the Department of Defense to address matters relating to sexual assaults involving members of the Armed Forces.

“(d) APPLICATION OF COMPREHENSIVE POLICY TO MILITARY DEPARTMENTS.—The Secretary of Defense shall ensure that, to the maximum extent practicable, the policy developed under subsection (a) is implemented uniformly by the military departments.

“(e) POLICIES AND PROCEDURES OF MILITARY DEPARTMENTS.—(1) Not later than March 1, 2005, the Secretaries of the military departments shall prescribe regulations, or modify current regulations, on the policies and procedures of the military departments on the prevention of and response to sexual assaults involving members of the Armed Forces in order—

“(A) to conform such policies and procedures to the policy developed under subsection (a); and

“(B) to ensure that such policies and procedures include the elements specified in paragraph (2).

“(2) The elements specified in this paragraph are as follows:

“(A) A program to promote awareness of the incidence of sexual assaults involving members of the Armed Forces.

“(B) A program to provide victim advocacy and intervention for members of the Armed Force concerned who are victims of sexual assault, which program shall make available, at home stations and in deployed locations, trained advocates who are readily available to intervene on behalf of such victims.

“(C) Procedures for members of the Armed Force concerned to follow in the case of an incident of sexual assault involving a member of such Armed Force, including—

“(i) specification of the person or persons to whom the alleged offense should be reported;

“(ii) specification of any other person whom the victim should contact;

“(iii) procedures for the preservation of evidence; and

“(iv) procedures for confidential reporting and for contacting victim advocates.

“(D) Procedures for disciplinary action in cases of sexual assault by members of the Armed Force concerned.

“(E) Other sanctions authorized to be imposed in substantiated cases of sexual assault, whether forcible or nonforcible, by members of the Armed Force concerned.

“(F) Training on the policies and procedures for all members of the Armed Force concerned, including specific training for members of the Armed Force concerned who process allegations of sexual assault against members of such Armed Force.

“(G) Any other matters that the Secretary of Defense considers appropriate.”

REPORTS

Pub. L. 105-85, div. A, title V, §591(b), Nov. 18, 1997, 111 Stat. 1762, required each officer receiving a complaint forwarded in accordance with subsec. (b) of this section during 1997 and 1998 to submit to the Secretary of the military department concerned a report on all such

complaints and the investigations of such complaints not later than Jan. 1 of each of 1998 and 1999, required each Secretary receiving a report for a year to submit to the Secretary of Defense a report on all reports received not later than Mar. 1 of each of 1998 and 1999, and required the Secretary of Defense to transmit to Congress all reports received for the year together with the Secretary's assessment of each report not later than Apr. 1 following receipt of a report for a year.

DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES
ON DISCRIMINATION AND SEXUAL HARASSMENT

Pub. L. 103-337, div. A, title V, §532, Oct. 5, 1994, 108 Stat. 2759, provided that:

“(a) REPORT OF TASK FORCE.—(1) The Department of Defense Task Force on Discrimination and Sexual Harassment, constituted by the Secretary of Defense on March 15, 1994, shall transmit a report of its findings and recommendations to the Secretary of Defense not later than October 1, 1994.

“(2) The Secretary shall transmit to Congress the report of the task force not later than October 10, 1994.

“(b) SECRETARIAL REVIEW.—Not later than 45 days after receiving the report under subsection (a), the Secretary shall—

“(1) review the recommendations for action contained in the report;

“(2) determine which recommendations the Secretary approves for implementation and which recommendations the Secretary disapproves; and

“(3) submit to Congress a report that—

“(A) identifies the approved recommendations and the disapproved recommendations; and

“(B) explains the reasons for each such approval and disapproval.

“(c) COMPREHENSIVE DOD POLICY.—(1) Based on the approved recommendations of the task force and such other factors as the Secretary considers appropriate, the Secretary shall develop a comprehensive Department of Defense policy for processing complaints of sexual harassment and discrimination involving members of the Armed Forces under the jurisdiction of the Secretary.

“(2) The Secretary shall issue policy guidance for the implementation of the comprehensive policy and shall require the Secretaries of the military departments to prescribe regulations to implement that policy not later than March 1, 1995.

“(3) The Secretary shall ensure that the policy is implemented uniformly by the military departments insofar as practicable.

“(4) Not later than March 31, 1995, the Secretary of Defense shall submit to Congress a proposal for any legislation necessary to enhance the capability of the Department of Defense to address the issues of unlawful discrimination and sexual harassment.

“(d) MILITARY DEPARTMENT POLICIES.—(1) The Secretary of the Navy and the Secretary of the Air Force shall review and revise the regulations of the Department of the Navy and the Department of the Air Force, respectively, relating to equal opportunity policy and procedures in that Department for the making of, and responding to, complaints of unlawful discrimination and sexual harassment in order to ensure that those regulations are substantially equivalent to the regulations of the Department of the Army on such matters.

“(2) In revising regulations pursuant to paragraph (1), the Secretary of the Navy and the Secretary of the Air Force may make such additions and modifications as the Secretary of Defense determines appropriate to strengthen those regulations beyond the substantial equivalent of the Army regulations in accordance with—

“(A) the approved recommendations of the Department of Defense Task Force on Discrimination and Sexual Harassment; and

“(B) the experience of the Army, Navy, Air Force, and Marine Corps regarding equal opportunity cases.

“(3) The Secretary of the Army shall review the regulations of the Department of the Army relating to

equal opportunity policy and complaint procedures and revise the regulations as the Secretary of Defense considers appropriate to strengthen the regulations in accordance with the recommendations and experience described in subparagraphs (A) and (B) of paragraph (2).

“(e) REPORT OF ADVISORY BOARD.—(1) The Secretary of Defense shall direct the Advisory Board on the Investigative Capability of the Department of Defense, established by the Secretary of Defense in November 1993, to include in its report to the Secretary (scheduled to be transmitted to the Secretary during December 1994)—

“(A) the recommendations of the Advisory Board as to whether the current Department of Defense organizational structure is adequate to oversee all investigative matters related to unlawful discrimination, sexual harassment, and other misconduct related to the gender of the victim; and

“(B) recommendations as to whether additional data collection and reporting procedures are needed to enhance the ability of the Department of Defense to respond to unlawful discrimination, sexual harassment, and other misconduct related to the gender of the victim.

“(2) The Secretary shall transmit to Congress the report of the Advisory Board not later than 15 days after receiving the report.

“(f) PERFORMANCE EVALUATION STANDARDS FOR MEMBERS OF THE ARMED FORCES.—The Secretary of Defense shall ensure that Department of Defense regulations governing consideration of equal opportunity matters in evaluations of the performance of members of the Armed Forces include provisions requiring as a factor in such evaluations consideration of a member's commitment to elimination of unlawful discrimination or of sexual harassment in the Armed Forces.”

§ 1561a. Civilian orders of protection: force and effect on military installations

(a) FORCE AND EFFECT.—A civilian order of protection shall have the same force and effect on a military installation as such order has within the jurisdiction of the court that issued such order.

(b) CIVILIAN ORDER OF PROTECTION DEFINED.—In this section, the term “civilian order of protection” has the meaning given the term “protection order” in section 2266(5) of title 18.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. The regulations shall be designed to further good order and discipline by members of the armed forces and civilians present on military installations.

(Added Pub. L. 107-311, §2(a), Dec. 2, 2002, 116 Stat. 2455.)

§ 1562. Database on domestic violence incidents

(a) DATABASE ON DOMESTIC VIOLENCE INCIDENT.—The Secretary of Defense shall establish a central database of information on the incidents of domestic violence involving members of the armed forces.

(b) REPORTING OF INFORMATION FOR THE DATABASE.—The Secretary shall require that the Secretaries of the military departments maintain and report annually to the administrator of the database established under subsection (a) any information received on the following matters:

(1) Each domestic violence incident reported to a commander, a law enforcement authority of the armed forces, or a family advocacy program of the Department of Defense.

(2) The number of those incidents that involve evidence determined sufficient for sup-