

112TH CONGRESS  
1ST SESSION

# H. R. 1517

To amend titles 10 and 28, United States Code, to provide for military sexual assault and domestic violence accountability, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2011

Mr. BRALEY of Iowa (for himself, Mr. POE of Texas, Ms. SLAUGHTER, Mr. FILNER, Ms. PINGREE of Maine, and Ms. SPEIER) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend titles 10 and 28, United States Code, to provide for military sexual assault and domestic violence accountability, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Holley Lynn James  
5 Act”.

1 **SEC. 2. DEPARTMENT OF DEFENSE POLICY ON SEXUAL AS-**  
2 **SAULT AND DOMESTIC VIOLENCE.**

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

6 **“§ 130e. Policy on sexual assault and domestic vio-**  
7 **lence**

8 “(a) OFFICE OF THE DEPUTY INSPECTOR GENERAL  
9 FOR POLICY AND OVERSIGHT.—The Deputy Inspector  
10 General for Policy and Oversight of the Department of  
11 Defense shall develop and maintain a Department-wide  
12 sexual assault prevention and response policy and domes-  
13 tic violence policy and shall provide oversight within the  
14 Department with respect to such policies. The Deputy In-  
15 spector General shall—

16 “(1) develop overall policy and provide guidance  
17 for the Sexual Assault Prevention and Response  
18 Program of the Department;

19 “(2) develop overall policy and provide guidance  
20 for domestic violence prevention and response within  
21 the Department;

22 “(3) provide guidance and technical assistance  
23 to the heads of the military departments in address-  
24 ing matters concerning sexual assault and domestic  
25 violence prevention and response;

1           “(4) develop strategic program guidance, joint  
2           planning objectives, and identify legislative changes  
3           needed to ensure the future availability of resources  
4           in support of Department sexual assault and domes-  
5           tic violence prevention and response policies;

6           “(5) maintain sexual assault and domestic vio-  
7           lence data collected from each of the military depart-  
8           ments;

9           “(6) acquire the quarterly and annual sexual  
10          assault prevention and response data from each of  
11          the military departments and assemble the annual  
12          reports involving members of the Armed Forces;

13          “(7) ensure that the annual report required to  
14          be submitted under section 577(f) of the Ronald W.  
15          Reagan National Defense Authorization Act for Fis-  
16          cal Year 2005 (Public Law 108–375; 10 U.S.C. 116  
17          note) includes information on the commands of the  
18          victim and accused in any sexual assault or domestic  
19          violence case;

20          “(8) develop metrics to measure compliance and  
21          the effectiveness of sexual assault and domestic vio-  
22          lence prevention and response training and aware-  
23          ness objectives;

24          “(9) review and analyze data collected by the  
25          head of each of the military departments;

1           “(10) establish reporting categories and mon-  
2           itor specific goals for use in producing the Sec-  
3           retary’s annual assessment of each military depart-  
4           ment required under section 577(f)(3) of such Act;

5           “(11) collaborate with appropriate Federal and  
6           State agencies that address sexual assault and do-  
7           mestic violence prevention and response issues and  
8           serve as liaison to the committees and advisory  
9           groups of such agencies, as appropriate; and

10           “(12) ensure the maintenance of documents re-  
11           lating to—

12                   “(A) complaints of sexual assault and do-  
13                   mestic violence;

14                   “(B) trials of members of the Armed  
15                   Forces for sexual assault and domestic violence;  
16                   and

17                   “(C) any medical treatment received by an  
18                   alleged victim of sexual assault or domestic vio-  
19                   lence for complete reporting in the service  
20                   records of the victim.

21           “(b) RESPONSIBILITIES OF THE SECRETARY OF DE-  
22           FENSE.—The Secretary of Defense shall—

23                   “(1) cooperate with the oversight, investiga-  
24                   tions, and policy advice of the Deputy Inspector  
25                   General for Policy and Oversight in accordance with

1 the Inspector General Act of 1978 (Public Law 95–  
2 452; 5 U.S.C. App.); and

3 “(2) acting through the General Counsel of the  
4 Department of Defense, provide advice and assist-  
5 ance to the Deputy Inspector General for Policy and  
6 Oversight on all legal matters, including the review  
7 and coordination of all proposed policies, regulations,  
8 directives, instructions, and proposed exceptions to  
9 policy and the review of all legislative proposals af-  
10 fecting the responsibilities of the Deputy Inspector  
11 General under subsection (a).

12 “(c) REPORTING REQUIREMENTS.—The Deputy In-  
13 spector General for Policy and Oversight shall determine  
14 the feasibility of establishing a database that would be  
15 known as the ‘Military Sexual Predator Database’. Such  
16 a database would include—

17 “(1) the capability to report and register sex of-  
18 fenders who are members of the Armed Forces; and

19 “(2) the capability to effectively coordinate with  
20 the National Sex Offender Registry established  
21 under section 119 of the Adam Walsh Child Protec-  
22 tion and Safety Act of 2006 (42 U.S.C. 16919).

23 “(d) AUTHORIZATION FOR ADDITIONAL PER-  
24 SONNEL.—For the purposes of completing the functions  
25 of this section, the Deputy Inspector General may select,

1 appoint, and employ such officers and employees as may  
 2 be necessary for carrying out the duties of the Inspector  
 3 General, subject to the provisions of title 5, United States  
 4 Code, governing appointments in the competitive service,  
 5 and the provisions of chapter 51 and subchapter III of  
 6 chapter 53 of such title, relating to classification and Gen-  
 7 eral Schedule pay rates.”.

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

“130e. Policy on sexual assault and domestic violence.”.

11 **SEC. 3. DISPOSITION OF RAPE, SEXUAL ASSAULT OR SEX-**  
 12 **UAL HARASSMENT AND DOMESTIC VIOLENCE**  
 13 **CASES WITHIN THE UNIFORM CODE OF MILI-**  
 14 **TARY JUSTICE.**

15 (a) AMENDMENT TO TITLE 10.—Subchapter XI of  
 16 chapter 47 of title 10, United States Code, is amended  
 17 by adding at the end the following new section:

18 **“§ 940A. Art. 140A. Disposition of rape, sexual assault,**  
 19 **sexual harassment, and domestic violence**  
 20 **cases**

21 “(a) SPECIAL DISPOSITION.—Notwithstanding any  
 22 other provision of law, there shall be special disposition  
 23 for charges stemming from a sexual-related offense and  
 24 charges involving an allegation of domestic violence com-  
 25 mitted by a member of the Armed Forces as follows:

1           “(1) A case involving such charges shall auto-  
2           matically be referred to a general court-martial con-  
3           vening authority, as described in section 818 of this  
4           title (article 18).

5           “(2) The staff judge advocate shall provide de-  
6           tailed billets for prosecutors in cases involving alle-  
7           gations of rape or sexual assault, to be filled by a  
8           field-grade officer of the Judge Advocate General’s  
9           Corps with a rank of O-4 or higher.

10          “(3) In a case involving an accusation of rape,  
11          sexual assault, harassment, or domestic violence, the  
12          facts of the case shall be given precedence over the  
13          value to the service of the accused.

14          “(4) In a case involving an accusation of rape,  
15          sexual assault, or harassment, the accused will not  
16          be eligible for non-judicial punishment or adminis-  
17          trative punishment if found guilty.

18          “(b) VICTIM’S RIGHTS.—A victim in a case involving  
19          allegations of rape, sexual assault, harassment, or domes-  
20          tic violence shall have rights as follows:

21                 “(1) The Secretary concerned shall provide  
22                 counsel for the victim, in the same manner as coun-  
23                 sel is provided for an accused under section 827(b)  
24                 of this title (article 27), for any investigation or  
25                 courts-martial proceeding relating to the case.

1           “(2) All communications between a victim and  
2 a victim’s advocates or the victim’s counsel shall be  
3 considered privileged communications for purposes  
4 of the case and any proceedings relating to the case.

5           “(3) A victim may appeal the decision of a gen-  
6 eral court martial in the case to the appropriate  
7 Court of Criminal Appeals under section 866 of this  
8 title (article 66).

9           “(c) REVISION OF MANUAL FOR COURTS-MAR-  
10 TIAL.—The Joint Service Committee on Military Justice  
11 shall amend the Manual for Courts-Martial to reflect this  
12 section, with especially section 306 of such manual con-  
13 cerning disposition.

14           “(d) PURPOSE.—The purpose of this section is to as-  
15 sure proper treatment of sexual assault cases in military  
16 judicial system, remove cases from chain of command that  
17 may contain both victim and accused, prevent non-judicial  
18 punishment and determination being decided in case by  
19 unqualified personnel without legal experience, considers  
20 the rights of the victim.”.

21           (b) CLERICAL AMENDMENT.—The table of chapters  
22 at the beginning of such chapter is amended by adding  
23 at the end of the items relating to subchapter XI the fol-  
24 lowing new item:

“940A. Art. 140A. Disposition of rape, sexual assault, sexual harassment, and  
domestic violence cases.”.

1 **SEC. 4. ALLOWANCE OF CLAIMS BY MEMBERS OF THE**  
2 **ARMED FORCES AGAINST THE UNITED**  
3 **STATES FOR CERTAIN INJURIES RELATING**  
4 **TO OR ARISING OUT OF SEXUAL ASSAULT OR**  
5 **DOMESTIC VIOLENCE.**

6 (a) IN GENERAL.—Chapter 171 of title 28, United  
7 States Code, is amended by adding at the end the fol-  
8 lowing:

9 **“§ 2681. Certain claims by members of the Armed**  
10 **Forces of the United States**

11 “(a) Notwithstanding section 2680, a claim may be  
12 brought against the United States under this chapter for  
13 damages or other appropriate relief for any act or omis-  
14 sion related to or arising out of covered assaultive conduct  
15 or failure to prevent or properly investigate or prosecute  
16 covered assaultive conduct.

17 “(b) In this section, the term ‘covered assaultive con-  
18 duct’ means sexual assault or harassment, domestic vio-  
19 lence, assault and battery, intentional infliction of emo-  
20 tional distress, false imprisonment, or discrimination or  
21 negligent hiring, supervision, promotion, or retention.

22 “(c) For purposes of claims brought under this sec-  
23 tion, in the case of an act or omission occurring outside  
24 the United States—

25 “(1) the law that applies to the act or omission  
26 shall be the law of the place where the claimant is

1 domiciled within the United States, or, if there is no  
2 place where the claimant is so domiciled, the law of  
3 the place the claimant has identified as the claim-  
4 ant’s home of record for military purposes; and

5 “(2) any choice-of-law rules which would re-  
6 quire the application of foreign or international law  
7 shall be disregarded.”.

8 (b) CLERICAL AMENDMENT.—The table of sections  
9 at the beginning of chapter 171 of title 28, United States  
10 Code, is amended by adding at the end the following:

“2681. Certain claims by members of the Armed Forces of the United States.”.

