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(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. _____

To improve protections for victims of sexual assault in the Armed Forces,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. TURNER (for himself and Mrs. DAVIS of California) introduced the fol-
lowing bill; which was referred to the Committee on

A BILL

To improve protections for victims of sexual assault in the
Armed Forces, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sexual Trauma Ongo-
5 ing Protections Act of 2019” or the “STOP Act of 2019”.

1 **SEC. 2. COMMAND INFLUENCE UNDER THE UNIFORM CODE**
2 **OF MILITARY JUSTICE.**

3 (a) ARTICLE 37.—Section 837 of title 10, United
4 States Code (article 37 of the Uniform Code of Military
5 Justice), is amended—

6 (1) in the heading, by striking “**Unlawfully**
7 **influencing action of court**” and inserting
8 “**Command influence**”;

9 (2) in subsection (a)—

10 (A) by striking “(a) No authority con-
11 vening a general, special, or summary court-
12 martial” and inserting “(a)(1) No court-martial
13 convening authority”;

14 (B) in paragraph (1) (as designated by
15 subparagraph (A) of this paragraph), by strik-
16 ing “proceeding. No person” and inserting the
17 following: “proceeding.

18 “(3) No person”;

19 (C) by inserting before paragraph (3) (as
20 designated by subparagraph (B) of this para-
21 graph) the following new paragraph:

22 “(2) No court-martial convening authority, nor
23 any other commanding officer, may deter or attempt
24 to deter a potential witness from participating in the
25 investigatory process or testifying at a court-martial.
26 The denial of a request to travel at Government ex-

1 pense or refusal to make a witness available shall
2 not by itself constitute unlawful command influ-
3 ence.”;

4 (D) in paragraph (3) (as so designated)—

5 (i) by inserting “attempt to” before
6 “influence”;

7 (ii) by striking “with respect to his ju-
8 dicial acts” and inserting “or preliminary
9 hearing officer with respect to such acts
10 taken pursuant to this chapter as pre-
11 scribed by the President”; and

12 (iii) by striking the second sentence;

13 and

14 (E) by adding at the end the following new

15 paragraphs:

16 “(4) Paragraphs (1) through (3) shall not apply
17 with respect to—

18 “(A) general instructional or informational
19 courses in military justice if such courses are
20 designed solely for the purpose of instructing
21 members of a command in the substantive and
22 procedural aspects of courts-martial;

23 “(B) statements regarding criminal activ-
24 ity or a particular criminal offense that do not

1 advocate a particular disposition, or a par-
2 ticular court-martial finding, or sentence; or

3 “(C) statements and instructions given in
4 open court by the military judge or counsel.

5 “(5)(A) Notwithstanding paragraphs (1)
6 through (3), but subject to subparagraph (B)—

7 “(i) a superior convening authority or
8 officer may generally discuss matters to
9 consider regarding the disposition of al-
10 leged violations of this chapter with a sub-
11 ordinate convening authority or officer;
12 and

13 “(ii) a subordinate convening author-
14 ity or officer may seek advice from a supe-
15 rior convening authority or officer regard-
16 ing the disposition of an alleged offense
17 under this chapter.

18 “(B) No superior convening authority or
19 officer may direct a subordinate convening au-
20 thority or officer to make a particular disposi-
21 tion in a specific case or otherwise substitute
22 the discretion of such authority or such officer
23 for that of the subordinate convening authority
24 or officer.”;

25 (3) in subsection (b)—

1 (A) by striking “to be advanced, in grade”
2 and inserting “to be advanced in grade”; and

3 (B) by striking “accused before a court-
4 martial” and inserting “person in a court-mar-
5 tial proceeding”; and

6 (4) by adding at the end the following new sub-
7 sections:

8 “(c) No finding or sentence of a court-martial may
9 be held incorrect on the ground of a violation of this sec-
10 tion, or the doctrine of apparent unlawful command influ-
11 ence, unless the violation materially prejudices the sub-
12 stantial rights of the accused.

13 “(d)(1) A superior convening authority or com-
14 manding officer may withhold the authority of a subordi-
15 nate convening authority or officer to dispose of offenses
16 in individual cases, types of cases, or generally.

17 “(2) Except as otherwise authorized by this chapter,
18 a superior convening authority or commanding officer may
19 not limit the discretion of a subordinate convening author-
20 ity or officer to act with respect to a case for which the
21 subordinate convening authority or officer has authority
22 to dispose of the offenses.”.

23 (b) ARTICLE 53A.—Section 853a(b)(5) of title 10,
24 United States Code (article 53a of the Uniform Code of
25 Military Justice), is amended by striking “the President”

1 and inserting “the President, the Secretary of Defense,
2 or the Secretary concerned.”.

3 (c) TABLE OF SECTIONS AMENDMENT.—The table of
4 sections at the beginning of subchapter VII of chapter 47
5 of title 10, United States Code, is amended by striking
6 the item relating to section 837 (article 37 of the Uniform
7 Code of Military Justice) and inserting the following new
8 item:

“837. Art. 37. Command influence.”.

9 **SEC. 3. ANNUAL REPORT ON MILITARY PROTECTIVE OR-**
10 **DERS.**

11 (a) REPORT REQUIRED.—Chapter 80 of title 10,
12 United States Code, is amended by adding at the end the
13 following new section:

14 **“§ 1567b. Annual report on military protective orders**

15 “Not later than March 1, 2020, and each year there-
16 after through 2024, the Secretary of Defense shall submit
17 to the congressional defense committees a report that
18 identifies—

19 “(1) the number of military protective orders
20 issued in the calendar year preceding the year in
21 which the report is submitted; and

22 “(2) the number of such orders that were re-
23 ported to appropriate civilian authorities in accord-
24 ance with section 1567a(a).”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of such chapter is amended by adding
3 after the item relating to section 1567a the following new
4 item:

“1567b. Annual report on military protective orders.”.

5 **SEC. 4. CONSIDERATION OF APPLICATION FOR TRANSFER**
6 **FOR A STUDENT OF A MILITARY SERVICE**
7 **ACADEMY WHO IS THE VICTIM OF A SEXUAL**
8 **ASSAULT OR RELATED OFFENSE.**

9 (a) MILITARY ACADEMY.—Section 7461 of title 10,
10 United States Code, is amended by adding at the end the
11 following new subsection (e):

12 “(e) CONSIDERATION OF APPLICATION FOR TRANS-
13 FER FOR A CADET WHO IS THE VICTIM OF A SEXUAL
14 ASSAULT OR RELATED OFFENSE.—(1) The Secretary of
15 the Army shall provide for timely determination and action
16 on an application for consideration of a transfer to an-
17 other military service academy submitted by a cadet who
18 was a victim of a sexual assault or other offense covered
19 by section 920, 920a, or 920c of this title (article 120,
20 120a, or 120c of the Uniform Code of Military Justice)
21 so as to reduce the possibility of retaliation against the
22 cadet for reporting the sexual assault or other offense.

23 “(2) The Secretary of the Army shall prescribe regu-
24 lations to carry out this subsection, within guidelines pro-
25 vided by the Secretary of Defense that direct the Super-

1 intendent of the Military Academy, in coordination with
2 the Superintendent of the military service academy to
3 which the cadet wishes to transfer, to approve or deny an
4 application under this subsection not later than 72 hours
5 after the submission of the application. If the Super-
6 intendent denies such an application, the cadet may re-
7 quest review of the denial by the Secretary of the Army,
8 who shall grant or deny review not later than 72 hours
9 after submission of the request for review. The Secretary
10 of the Army shall ensure that all records of any request,
11 determination, or action under this subsection remain con-
12 fidential.”.

13 (b) NAVAL ACADEMY.—Section 8480 of title 10,
14 United States Code, is amended by adding at the end the
15 following new subsection (e):

16 “(e) CONSIDERATION OF APPLICATION FOR TRANS-
17 FER FOR A MIDSHIPMAN WHO IS THE VICTIM OF A SEX-
18 UAL ASSAULT OR RELATED OFFENSE.—(1) The Sec-
19 retary of the Navy shall provide for timely determination
20 and action on an application for consideration of a trans-
21 fer to another military service academy submitted by a
22 midshipman who was a victim of a sexual assault or other
23 offense covered by section 920, 920a, or 920c of this title
24 (article 120, 120a, or 120c of the Uniform Code of Mili-
25 tary Justice) so as to reduce the possibility of retaliation

1 against the midshipman for reporting the sexual assault
2 or other offense.

3 “(2) The Secretary of the Navy shall prescribe regu-
4 lations to carry out this subsection, within guidelines pro-
5 vided by the Secretary of Defense that direct the Super-
6 intendent of the Naval Academy, in coordination with the
7 Superintendent of the military service academy to which
8 the midshipman wishes to transfer, to approve or deny an
9 application under this subsection not later than 72 hours
10 after the submission of the application. If the Super-
11 intendent denies such an application, the midshipman may
12 request review of the denial by the Secretary of the Navy,
13 who shall grant or deny review not later than 72 hours
14 after submission of the request for review. The Secretary
15 of the Navy shall ensure that all records of any request,
16 determination, or action under this subsection remain con-
17 fidential.”.

18 (c) AIR FORCE ACADEMY.—Section 9461 of title 10,
19 United States Code, is amended by adding at the end the
20 following new subsection (e):

21 “(e) CONSIDERATION OF APPLICATION FOR TRANS-
22 FER FOR A CADET WHO IS THE VICTIM OF A SEXUAL
23 ASSAULT OR RELATED OFFENSE.—(1) The Secretary of
24 the Air Force shall provide for timely determination and
25 action on an application for consideration of a transfer

1 to another military service academy submitted by a cadet
2 who was a victim of a sexual assault or other offense cov-
3 ered by section 920, 920a, or 920c of this title (article
4 120, 120a, or 120c of the Uniform Code of Military Jus-
5 tice) so as to reduce the possibility of retaliation against
6 the cadet for reporting the sexual assault or other offense.

7 “(2) The Secretary of the Air Force shall prescribe
8 regulations to carry out this subsection, within guidelines
9 provided by the Secretary of Defense that direct the Su-
10 perintendent of the Air Force Academy, in coordination
11 with the Superintendent of the military service academy
12 to which the cadet wishes to transfer, to approve or deny
13 an application under this subsection not later than 72
14 hours after the submission of the application. If the Su-
15 perintendent denies such an application, the cadet may re-
16 quest review of the denial by the Secretary of the Air
17 Force, who shall grant or deny review not later than 72
18 hours after submission of the request for review. The Sec-
19 retary of the Air Force shall ensure that all records of
20 any request, determination, or action under this sub-
21 section remain confidential.”.

22 **SEC. 5. TIMELY DISPOSITION OF NONPROSECUTABLE SEX-**
23 **RELATED OFFENSES.**

24 (a) **POLICY REQUIRED.**—Not later than 180 days
25 after the date of the enactment of this Act, the Secretary

1 of Defense shall develop and implement a policy to ensure
2 the timely disposition of nonprosecutable sex-related of-
3 fenses in accordance with subsection (b).

4 (b) ELEMENTS.—The policy developed under sub-
5 section (a) shall require the following:

6 (1) Not later than seven days after the date on
7 which a court-martial convening authority declines
8 to refer a nonprosecutable sex-related offense for
9 trial by general or special court-martial under chap-
10 ter 47 of title 10, United States Code (the Uniform
11 Code of Military Justice), the convening authority
12 will forward the investigation to the commander of
13 the accused.

14 (2) Not later than 90 days after the date on
15 which the commander of the accused receives the in-
16 vestigation under paragraph (1)—

17 (A) the commander will determine whether
18 or not to take other judicial, nonjudicial, or ad-
19 ministrative action in connection with the con-
20 duct covered by the investigation, including any
21 lesser included offenses, as authorized under
22 section 815 of title 10, United States Code (ar-
23 ticle 15 of the Uniform Code of Military Jus-
24 tice); and

1 (B) in a case in which the commander of
2 the accused decides to take additional action
3 under subparagraph (A), the commander take
4 such actions as appropriate.

5 (c) **NONPROSECUTABLE SEX-RELATED OFFENSE**
6 **DEFINED.**—In this section, the term “nonprosecutable
7 sex-related offense” means an alleged sex-related offense
8 (as that term is defined in section 1044e(g) of title 10,
9 United States Code) that a court-martial convening au-
10 thority has declined to refer for trial by a general or spe-
11 cial court-martial under chapter 47 of title 10, United
12 States Code (the Uniform Code of Military Justice) due
13 to a determination that there is insufficient evidence to
14 support prosecution of the sex-related offense.

15 **SEC. 6. VICTIM PREFERENCE IN RESTRICTED REPORTING**
16 **OF SEXUAL ASSAULT.**

17 (a) **POLICY REQUIRED.**—Not later than 180 days
18 after the date of the enactment of this Act, the Secretary
19 of Defense shall develop and implement a policy to ensure
20 that a member of the Armed Forces, or an adult depend-
21 ent of a member, who is the victim of a sexual assault
22 may elect to file a restricted report of the assault, without
23 regard to whether the allegation was disclosed, directly or
24 indirectly, to a third party.

1 (b) **SEXUAL ASSAULT DEFINED.**—In this section, the
2 term “sexual assault” includes the offenses of rape, sexual
3 assault, forcible sodomy, aggravated sexual contact, abu-
4 sive sexual contact, and attempts to commit such offenses,
5 as punishable under applicable Federal or State law.

6 **SEC. 7. EXTENSION OF DEFENSE ADVISORY COMMITTEE ON**
7 **INVESTIGATION, PROSECUTION, AND DE-**
8 **FENSE OF SEXUAL ASSAULT IN THE ARMED**
9 **FORCES.**

10 Section 546 of the Carl Levin and Howard P.
11 “Buck” McKeon National Defense Authorization Act for
12 Fiscal Year 2015 (Public Law 113–291; 10 U.S.C. 1561
13 note) is amended—

14 (1) by redesignating the second subsection (f)
15 as subsection (g); and

16 (2) in subsection (f)(1), by striking “five years”
17 and inserting “10 years”.

18 **SEC. 8. REPORT ON GUARDIAN AD LITEM FOR CHILD VIC-**
19 **TIMS OF SEXUAL ASSAULT.**

20 Not later than 180 days after the date of the enact-
21 ment of this Act, the Defense Advisory Committee on In-
22 vestigation, Prosecution, and Defense of Sexual Assault
23 in the Armed Forces shall submit to the Committees on
24 Armed Services of the Senate and the House of Represent-
25 atives a report that evaluates the need for, and the

1 feasibility of, establishing a process under which a guard-
2 ian ad litem may be appointed to represent the interests
3 of a victim of an alleged sex-related offense (as that term
4 is defined in section 1044e(g) of title 10, United States
5 Code) who has not attained the age of 18 years.