

ASSEMBLY, No. 5712

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 17, 2021

Sponsored by:

Assemblywoman AURA K. DUNN

District 25 (Morris and Somerset)

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District 28 (Essex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

Assemblywoman DiMaso

SYNOPSIS

Creates sexual assault prevention and response program and coordinator for service members.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/1/2021)

1 AN ACT concerning sexual assault prevention and response in the
2 Department of Military and Veterans Affairs, and supplementing
3 Title 38A of the New Jersey Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. The Legislature finds and declares that sexual assault remains
9 a persistent problem in the military despite numerous initiatives to
10 address it. The lack of progress stems from the complexity of the
11 problem of sexual assaults, and it is necessary to develop effective
12 prevention and response programs to increase the reporting of
13 sexual assaults as well as to increase the conviction rates of
14 perpetrators of sexual assault. This Legislature believes that a
15 sexual assault prevention and response program and a coordinator
16 to assist victims is necessary and appropriate to address military
17 sexual assault.

18
19 2. a. The Adjutant General of the Department of Military and
20 Veterans Affairs shall establish a sexual assault prevention and
21 response program and shall appoint a sexual assault response
22 coordinator. The program and coordinator shall be in, but not of,
23 the department and shall exercise the authority granted under this
24 section independently from the chain of command within the
25 department.

26 The program shall apply to alleged sexual assaults committed by
27 a service member against another service member, regardless of
28 whether or not either person was on or off duty at the time of the
29 alleged assault.

30 The coordinator shall provide victim advocacy services,
31 including ensuring that victims of sexual assault receive appropriate
32 responsive care and understand the available reporting options. The
33 coordinator shall notify the person who is a victim of sexual assault
34 of their eligibility for compensation from the Victims of Crime
35 Compensation Office established pursuant to P.L.2007, c.95
36 (C.52:4B-3.2 et al.).

37 b. The program shall permit the victim of a sexual assault as that
38 offense is defined in Title 2C of the New Jersey Statutes to file a
39 complaint with the coordinator alleging that a service member who
40 is a member of the United States Armed Forces, or a Reserve
41 component thereof, including the New Jersey National Guard,
42 committed the offense. A complaint may be filed if the alleged
43 offense took place while the accused was a service member and
44 subsequently retired or was discharged from service prior to the
45 filing of the complaint.

46 The program shall permit a victim of sexual harassment to:

47 (1) file a confidential complaint of sexual harassment with the
48 coordinator alleging that a service member committed the offense;

1 (2) participate in the United States Department of Defense Catch
2 a Serial Offender Program;

3 (3) receive notice if the accused is subsequently accused of an
4 offense of sexual assault by a service member or any other person;
5 and

6 (4) convert a confidential complaint to a formal complaint at any
7 time.

8 c. Upon the filing of a complaint with the coordinator and with
9 the consent of the victim, the coordinator shall refer the case or
10 allegation of sexual assault as defined in Title 2C of the New Jersey
11 Statutes to the Office of the Attorney General for investigation.
12 The Attorney General shall designate an employee of the
13 Department of Law and Public Safety to investigate the case or
14 allegation.

15 If the investigation demonstrates a reasonable suspicion that the
16 offense was committed by a service member, the investigator shall
17 refer the matter to the prosecutor with the appropriate jurisdiction.

18 d. (1) Notwithstanding any provision of law to the contrary, the
19 coordinator may file an application with the consent of a person
20 who is a victim for a protective order under Title 2C of the New
21 Jersey Statutes on behalf of the victim of a sexual assault alleged to
22 have been committed by a service member.

23 (2) In addition to the person having standing to file the
24 application under paragraph (1) of this subsection, the coordinator
25 may file an application with the consent of a person who is a victim
26 for a military protective order under the Uniform Code of Military
27 Justice on behalf of the victim of a sexual assault alleged to have
28 been committed by a service member.

29 e. For the purposes of this act, P.L. , c. (pending before the
30 Legislature as this bill), a protective order issued to a person
31 because the person was a reported victim of a sexual assault, as
32 defined in Title 2C of the New Jersey Statues, constitutes
33 reasonable grounds to believe that the applicant of the protective
34 order is the victim of a sexual assault.

35 f. The Adjutant General or the coordinator shall annually submit
36 a report to the Governor and the Legislature pursuant to section 2 of
37 P.L.1991, c.164 (C.52:14-19.1) on the activities of the program and
38 the activities of the department relating to sexual assault.

39 The report shall include:

40 (1) the policies and procedures implemented by the coordinator
41 and the Adjutant General in response to incidents of sexual assault;

42 (2) an assessment of the implementation and effectiveness of the
43 program and the policies and procedures on the prevention and
44 oversight of and response to sexual assaults within the department,
45 including an assessment of the department's efforts to execute the
46 priorities of the United States Department of Defense Sexual
47 Assault Prevention and Response Office and the department's
48 sexual assault prevention program;

1 (3) an analysis of the number of sexual assaults involving
2 members of the New Jersey National Guard;

3 (4) deficiencies in the department's sexual assault prevention
4 training; and

5 (5) the department's plans for preventing and responding to
6 sexual assault, including plans relating to: advocacy for sexual
7 assault victims; health care provider and medical response; mental
8 health and counseling response; investigative and legal services;
9 and chaplain response.

10 g. The information provided in the report required pursuant to
11 subsection f. of this section for restricted cases, as determined by
12 the coordinator, is limited to aggregated statistical data to protect
13 victim privacy and for unrestricted cases, as determined by the
14 coordinator, is limited to aggregated statistical data that at a
15 minimum includes:

16 (1) statistics relating to the types of offenses investigated under
17 this act;

18 (2) statistics relating to victims and accused persons;

19 (3) status of investigations under this act, P.L. , c. (pending
20 before the Legislature as this bill);

21 (4) status of prosecutions under this act, P.L. , c. (pending
22 before the Legislature as this bill); and

23 (5) status of administrative actions taken by the Department of
24 Military and Veterans Affairs.

25 h. If any subsection, clause, sentence, paragraph, or part of this
26 act or the application thereof to any person or circumstance, shall,
27 for any reason, be adjudged by a court of competent jurisdiction to
28 be invalid, such judgment shall not affect, impair, or invalidate the
29 remainder of this act.

30

31 3. This act shall take effect on the first day of the ninth month
32 next following enactment, except the Department of Military and
33 Veterans Affairs and the Department of Law and Public Safety may
34 take any anticipatory administrative action in advance as shall be
35 necessary for the implementation of this act.

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STATEMENT

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40 This bill establishes in the Department of Military and Veterans
41 Affairs a sexual assault prevention and response program.

42 The Adjutant General of the Department of Military and
43 Veterans Affairs will appoint an individual to serve as the sexual
44 assault prevention coordinator. The coordinator will provide victim
45 advocacy services, including ensuring that victims of sexual assault
46 receive appropriate responsive care, understand available reporting
47 options, and are notified of eligibility for compensation from the
48 Victims of Crime Compensation Office. The coordinator may also

1 file an application with the consent of the victim for a protective
2 order on behalf of the victim. The protective order may be filed at
3 the State level and with the military authorities.

4 The program will permit a victim of sexual harassment to:

5 (1) file a confidential complaint of sexual harassment with the
6 coordinator alleging that a service member committed the offense;

7 (2) participate in the United States Department of Defense Catch
8 a Serial Offender Program;

9 (3) receive notice if the accused service member is subsequently
10 accused of an offense of sexual assault by a service member or
11 another person; and

12 (4) convert a confidential complaint to a formal complaint at any
13 time.

14 An annual report will be submitted to the Legislature and the
15 Governor on the activities of the program and the activities of the
16 Department of Military and Veterans Affairs relating to the
17 prevention of sexual assault. The report will include: (1) the
18 policies and procedures implemented by the coordinator and the
19 Adjutant General in response to incidents of sexual assault; (2) an
20 assessment of the implementation and effectiveness of the program
21 and the policies and procedures on the prevention and oversight of
22 and response to sexual assaults; (3) an analysis of the number of
23 sexual assaults involving members of the New Jersey National
24 Guard; (4) deficiencies in the department's sexual assault prevention
25 training; and (5) the department's plans for preventing and
26 responding to sexual assault.

27 The program will apply to alleged sexual assaults committed by
28 a service member against another service member, regardless of
29 whether or not either person was on or off duty at the time of the
30 alleged assault. A complaint may be filed if the alleged offense
31 took place while the accused was a service member and retires or is
32 discharged from service prior to the filing of the complaint. Under
33 the bill, "service member" means a member of the United States
34 Armed Forces, or a Reserve component thereof, including the New
35 Jersey National Guard.