

ASSEMBLY, No. 5784

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 1, 2021

Sponsored by:

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

Assemblywoman DIANNE C. GOVE

District 9 (Atlantic, Burlington and Ocean)

Assemblywoman ANNETTE CHAPARRO

District 33 (Hudson)

Co-Sponsored by:

Assemblywoman Dunn

SYNOPSIS

Creates sexual assault prevention and response program and coordinator in DMVA.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/9/2021)

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

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

8
9 1. a. The Adjutant General of the Department of Military and
10 Veterans Affairs shall establish a sexual assault prevention and
11 response program and shall appoint a sexual assault response
12 coordinator. The program and coordinator shall be in, but not of, the
13 department and shall exercise the authority granted under this section
14 independently from the chain of command within the department.

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

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

26 b. The program shall permit the victim of a sexual assault as that
27 offense is defined in Title 2C of the New Jersey Statutes to file a
28 complaint with the coordinator alleging that a service member who
29 is a member of the United States Armed Forces, or a Reserve
30 component thereof, including the New Jersey National Guard,
31 committed the offense. A complaint may be filed if the alleged
32 offense took place while the accused was a service member and
33 subsequently retired or was discharged from service prior to the filing
34 of the complaint.

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

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

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

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

43 (4) convert a confidential complaint to a formal complaint at any
44 time.

45 c. Upon the filing of a complaint with the coordinator and with
46 the consent of the victim, the coordinator shall refer the case or
47 allegation of sexual assault as defined in Title 2C of the New Jersey
48 Statutes to the Office of the Attorney General for investigation. The

1 Attorney General shall designate an employee of the Department of
2 Law and Public Safety to investigate the case or allegation.

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

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

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

17 e. For the purposes of this act, P.L. , c. (pending before the
18 Legislature as this bill), a protective order issued to a person because
19 the person was a reported victim of a sexual assault, as defined in
20 Title 2C of the New Jersey Statutes, constitutes reasonable grounds to
21 believe that the applicant of the protective order is the victim of a
22 sexual assault.

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

27 The report shall include:

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

30 (2) an assessment of the implementation and effectiveness of the
31 program and the policies and procedures on the prevention and
32 oversight of and response to sexual assaults within the department,
33 including an assessment of the department's efforts to execute the
34 priorities of the United States Department of Defense Sexual Assault
35 Prevention and Response Office and the department's sexual assault
36 prevention program;

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

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

41 (5) the department's plans for preventing and responding to sexual
42 assault, including plans relating to: advocacy for sexual assault
43 victims; health care provider and medical response; mental health
44 and counseling response; investigative and legal services; and
45 chaplain response.

46 g. The information provided in the report required pursuant to
47 subsection f. of this section for restricted cases, as determined by the
48 coordinator, is limited to aggregated statistical data to protect victim

1 privacy and for unrestricted cases, as determined by the coordinator,
2 is limited to aggregated statistical data that at a minimum includes:

3 (1) statistics relating to the types of offenses investigated under
4 this act;

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

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

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

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

12 h. If any subsection, clause, sentence, paragraph, or part of this
13 act or the application thereof to any person or circumstance, shall, for
14 any reason, be adjudged by a court of competent jurisdiction to be
15 invalid, such judgment shall not affect, impair, or invalidate the
16 remainder of this act.

17

18 2. This act shall take effect on the first day of the ninth month
19 next following enactment, except the Department of Military and
20 Veterans Affairs and the Department of Law and Public Safety may
21 take any anticipatory administrative action in advance as shall be
22 necessary for the implementation of this act.

23

24

25 STATEMENT

26

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

29 The Adjutant General of the Department of Military and Veterans
30 Affairs will appoint an individual to serve as the sexual assault
31 prevention coordinator. The coordinator will provide victim
32 advocacy services, including ensuring that victims of sexual assault
33 receive appropriate responsive care, understand available reporting
34 options, and are notified of eligibility for compensation from the
35 Victims of Crime Compensation Office. The coordinator may also
36 file an application with the consent of the victim for a protective
37 order on behalf of the victim. The protective order may be filed at
38 the State level and with the military authorities.

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

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

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

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

47 (4) convert a confidential complaint to a formal complaint at any
48 time.

1 An annual report will be submitted to the Legislature and the
2 Governor on the activities of the program and the activities of the
3 Department of Military and Veterans Affairs relating to the
4 prevention of sexual assault. The report will include: (1) the policies
5 and procedures implemented by the coordinator and the Adjutant
6 General in response to incidents of sexual assault; (2) an assessment
7 of the implementation and effectiveness of the program and the
8 policies and procedures on the prevention and oversight of and
9 response to sexual assaults; (3) an analysis of the number of sexual
10 assaults involving members of the New Jersey National Guard; (4)
11 deficiencies in the department's sexual assault prevention training;
12 and (5) the department's plans for preventing and responding to
13 sexual assault.

14 The program will apply to alleged sexual assaults committed by a
15 service member against another service member, regardless of
16 whether or not either person was on or off duty at the time of the
17 alleged assault. A complaint may be filed if the alleged offense took
18 place while the accused was a service member and retires or is
19 discharged from service prior to the filing of the complaint. Under
20 the bill, "service member" means a member of the United States
21 Armed Forces, or a Reserve component thereof, including the New
22 Jersey National Guard.