

AMENDMENT TO H.R. 1540, AS REPORTED
OFFERED BY MR. BRALEY OF IOWA

Page 258, after line 8, insert the following:

1 **SEC. 588. DEPARTMENT OF DEFENSE POLICY ON SEXUAL**
2 **ASSAULT 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;

1 “(2) develop overall policy and provide guidance
2 for domestic violence prevention and response within
3 the Department;

4 “(3) provide guidance and technical assistance
5 to the heads of the military departments in address-
6 ing matters concerning sexual assault and domestic
7 violence prevention and response;

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

13 “(5) maintain sexual assault and domestic vio-
14 lence data collected from each of the military depart-
15 ments;

16 “(6) acquire the quarterly and annual sexual
17 assault prevention and response data from each of
18 the military departments and assemble the annual
19 reports involving members of the Armed Forces;

20 “(7) ensure that the annual report required to
21 be submitted under section 577(f) of the Ronald W.
22 Reagan National Defense Authorization Act for Fis-
23 cal Year 2005 (Public Law 108–375; 10 U.S.C. 116
24 note) includes information on the commands of the

1 victim and accused in any sexual assault or domestic
2 violence case;

3 “(8) develop metrics to measure compliance and
4 the effectiveness of sexual assault and domestic vio-
5 lence prevention and response training and aware-
6 ness objectives;

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

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

13 “(11) collaborate with appropriate Federal and
14 State agencies that address sexual assault and do-
15 mestic violence prevention and response issues and
16 serve as liaison to the committees and advisory
17 groups of such agencies, as appropriate; and

18 “(12) ensure the maintenance of documents re-
19 lating to—

20 “(A) complaints of sexual assault and do-
21 mestic violence;

22 “(B) trials of members of the Armed
23 Forces for sexual assault and domestic violence;
24 and

1 “(C) any medical treatment received by an
2 alleged victim of sexual assault or domestic vio-
3 lence for complete reporting in the service
4 records of the victim.

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

7 “(1) cooperate with the oversight, investiga-
8 tions, and policy advice of the Deputy Inspector
9 General for Policy and Oversight in accordance with
10 the Inspector General Act of 1978 (Public Law 95-
11 452; 5 U.S.C. App.); and

12 “(2) acting through the General Counsel of the
13 Department of Defense, provide advice and assist-
14 ance to the Deputy Inspector General for Policy and
15 Oversight on all legal matters, including the review
16 and coordination of all proposed policies, regulations,
17 directives, instructions, and proposed exceptions to
18 policy and the review of all legislative proposals af-
19 fecting the responsibilities of the Deputy Inspector
20 General under subsection (a).

21 “(c) REPORTING REQUIREMENTS.—The Deputy In-
22 specter General for Policy and Oversight shall determine
23 the feasibility of establishing a database that would be
24 known as the ‘Military Sexual Predator Database’. Such
25 a database would include—

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

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

7 “(d) AUTHORIZATION FOR ADDITIONAL PER-
8 SONNEL.—For the purposes of completing the functions
9 of this section, the Deputy Inspector General may select,
10 appoint, and employ such officers and employees as may
11 be necessary for carrying out the duties of the Inspector
12 General, subject to the provisions of title 5, United States
13 Code, governing appointments in the competitive service,
14 and the provisions of chapter 51 and subchapter III of
15 chapter 53 of such title, relating to classification and Gen-
16 eral Schedule pay rates.”.

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

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

1 **SEC. 589. DISPOSITION OF RAPE, SEXUAL ASSAULT OR SEX-**
2 **UAL HARASSMENT AND DOMESTIC VIOLENCE**
3 **CASES WITHIN THE UNIFORM CODE OF MILI-**
4 **TARY JUSTICE.**

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

8 **“§ 940A. Art. 140A. Disposition of rape, sexual assault,**
9 **sexual harassment, and domestic violence**
10 **cases**

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

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

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

25 “(3) In a case involving an accusation of rape,
26 sexual assault, harassment, or domestic violence, the

1 facts of the case shall be given precedence over the
2 value to the service of the accused.

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

7 “(b) VICTIM’S RIGHT TO APPEAL.—A victim in a
8 case involving allegations of rape, sexual assault, harass-
9 ment, or domestic violence shall have the right to appeal
10 the decision of a general court martial in the case to the
11 appropriate Court of Criminal Appeals under section 866
12 of this title (article 66).

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

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

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

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

5 **SEC. 590. ALLOWANCE OF CLAIMS BY MEMBERS OF THE**
6 **ARMED FORCES AGAINST THE UNITED**
7 **STATES FOR CERTAIN INJURIES RELATING**
8 **TO OR ARISING OUT OF SEXUAL ASSAULT OR**
9 **DOMESTIC VIOLENCE.**

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

13 **“§ 2681. Certain claims by members of the Armed**
14 **Forces of the United States**

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

21 “(b) In this section, the term ‘covered assaultive con-
22 duct’ means sexual assault or harassment, domestic vio-
23 lence, assault and battery, intentional infliction of emo-

1 tional distress, false imprisonment, or discrimination or
2 negligent hiring, supervision, promotion, or retention.

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

6 “(1) the law that applies to the act or omission
7 shall be the law of the place where the claimant is
8 domiciled within the United States, or, if there is no
9 place where the claimant is so domiciled, the law of
10 the place the claimant has identified as the claim-
11 ant’s home of record for military purposes; and

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

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

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

