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

Page 258, after line 8, insert the following:

SEC. 588. DEPARTMENT OF DEFENSE POLICY ON SEXUAL ASSAULT AND DOMESTIC VIOLENCE.

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

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

“(a) OFFICE OF THE DEPUTY INSPECTOR GENERAL FOR POLICY AND OVERSIGHT.—The Deputy Inspector General for Policy and Oversight of the Department of Defense shall develop and maintain a Department-wide sexual assault prevention and response policy and domestic violence policy and shall provide oversight within the Department with respect to such policies. The Deputy Inspector General shall—

“(1) develop overall policy and provide guidance for the Sexual Assault Prevention and Response Program of the Department;
“(2) develop overall policy and provide guidance for domestic violence prevention and response within the Department;

“(3) provide guidance and technical assistance to the heads of the military departments in addressing matters concerning sexual assault and domestic violence prevention and response;

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

“(5) maintain sexual assault and domestic violence data collected from each of the military departments;

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

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

“(8) develop metrics to measure compliance and the effectiveness of sexual assault and domestic violence prevention and response training and awareness objectives;

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

“(10) establish reporting categories and monitor specific goals for use in producing the Secretary’s annual assessment of each military department required under section 577(f)(3) of such Act;

“(11) collaborate with appropriate Federal and State agencies that address sexual assault and domestic violence prevention and response issues and serve as liaison to the committees and advisory groups of such agencies, as appropriate; and

“(12) ensure the maintenance of documents relating to—

“(A) complaints of sexual assault and domestic violence;

“(B) trials of members of the Armed Forces for sexual assault and domestic violence; and
“(C) any medical treatment received by an alleged victim of sexual assault or domestic violence for complete reporting in the service records of the victim.

“(b) Responsibilities of the Secretary of Defense.—The Secretary of Defense shall—

“(1) cooperate with the oversight, investigations, and policy advice of the Deputy Inspector General for Policy and Oversight in accordance with the Inspector General Act of 1978 (Public Law 95–452; 5 U.S.C. App.); and

“(2) acting through the General Counsel of the Department of Defense, provide advice and assistance to the Deputy Inspector General for Policy and Oversight on all legal matters, including the review and coordination of all proposed policies, regulations, directives, instructions, and proposed exceptions to policy and the review of all legislative proposals affecting the responsibilities of the Deputy Inspector General under subsection (a).

“(c) Reporting Requirements.—The Deputy Inspector General for Policy and Oversight shall determine the feasibility of establishing a database that would be known as the ‘Military Sexual Predator Database’. Such a database would include—
“(1) the capability to report and register sex offenders who are members of the Armed Forces; and

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

“(d) AUTHORIZATION FOR ADDITIONAL PERSONNEL.—For the purposes of completing the functions of this section, the Deputy Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.”.

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

“130e. Policy on sexual assault and domestic violence.”.
SEC. 589. DISPOSITION OF RAPE, SEXUAL ASSAULT OR SEXUAL HARASSMENT AND DOMESTIC VIOLENCE CASES WITHIN THE UNIFORM CODE OF MILITARY JUSTICE.

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

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

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

“(1) A case involving such charges shall automatically be referred to a general court-martial convening authority, as described in section 818 of this title (article 18).

“(2) The staff judge advocate shall provide detailed billets for prosecutors in cases involving allegations of rape or sexual assault, to be filled by a field-grade officer of the Judge Advocate General’s Corps with a rank of O–4 or higher.

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

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

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

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

“(d) PURPOSE.—The purpose of this section is to as-
sure proper treatment of sexual assault cases in military
judicial system, remove cases from chain of command that
may contain both victim and accused, prevent non-judicial
punishment and determination being decided in case by
unqualified personnel without legal experience, considers
the rights of the victim.”.
(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of such chapter is amended by adding at the end of the items relating to subchapter XI the following new item:

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

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

(a) IN GENERAL.—Chapter 171 of title 28, United States Code, is amended by adding at the end the following:

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

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

“(b) In this section, the term ‘covered assaultive conduct’ means sexual assault or harassment, domestic violence, assault and battery, intentional infliction of emo-
tional distress, false imprisonment, or discrimination or negligent hiring, supervision, promotion, or retention.

“(c) For purposes of claims brought under this section, in the case of an act or omission occurring outside the United States—

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

“(2) any choice-of-law rules which would require the application of foreign or international law shall be disregarded.”.

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

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