

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

Page 258, after line 8, insert the following:

1 **SEC. 588. PRESERVATION OF DOCUMENTARY EVIDENCE OF**  
2 **DEPARTMENT OF DEFENSE ON INCIDENTS**  
3 **OF SEXUAL ASSAULT AND SEXUAL HARASS-**  
4 **MENT IN THE MILITARY.**

5 (a) IDENTIFICATION OF MEANS OF PRESERVA-  
6 TION.—

7 (1) IN GENERAL.—The Secretary of Defense  
8 shall, in consultation with the Secretary of Veterans  
9 Affairs, identify the most appropriate and effective  
10 means for the preservation by the Department of  
11 Defense of documentary evidence of the Department  
12 on covered incidents of sexual assault and sexual  
13 harassment during the life of the victims of such in-  
14 cidents. The means so identified shall be a single  
15 means that is used uniformly by all the military de-  
16 partments.

17 (2) DOCUMENTARY EVIDENCE.—For purposes  
18 of this section, documentary evidence on covered in-  
19 cidents of sexual assault and sexual harassment  
20 means the following:

1 (A) All forms, reports, or other documents,  
2 whether in paper or electronic form, currently  
3 generated by the Department of Defense at the  
4 time of, or otherwise in connection with, a re-  
5 port or allegation regarding a covered incident  
6 of sexual assault or sexual harassment.

7 (B) Such other form, report, or document  
8 as may be established by the Secretary of De-  
9 fense, in consultation with the Secretary of Vet-  
10 erans Affairs, for purposes of compliance with  
11 the requirements of this section as a result of  
12 the work of the joint task force under para-  
13 graph (6).

14 (3) REQUIREMENTS FOR MEANS IDENTIFIED.—  
15 The means for the preservation of documentary evi-  
16 dence identified under this subsection shall ensure  
17 the following:

18 (A) The preservation by the Department of  
19 Defense of documentary evidence of the Depart-  
20 ment on covered incidents of sexual assault and  
21 sexual harassment during the life of the victims  
22 of such incidents.

23 (B) The full protection of the privacy of  
24 the victims, including, where applicable, the

1 preservation of the nature of the documentary  
2 evidence as restricted or unrestricted.

3 (C) Lifetime access of the victim to the  
4 documentary evidence, whether or not while a  
5 member of the Armed Forces, including for  
6 purposes of the submittal or development of a  
7 claim for benefits from the Department of Vet-  
8 erans Affairs and for use in a criminal or civil  
9 proceeding in connection with a covered inci-  
10 dent of sexual assault or sexual harassment.

11 (D) On-going access by the Department of  
12 Defense to the documentary evidence (with per-  
13 sonal identifying information redacted in the  
14 case of restricted reports) for purposes of re-  
15 search, reporting, and training by the Depart-  
16 ment regarding incidents of sexual assault and  
17 sexual harassment and for such other purposes  
18 as the Secretary of Defense considers appro-  
19 priate.

20 (E) On-going access by the Department of  
21 Veterans Affairs to the documentary evidence  
22 for purposes of assisting an individual in the  
23 submittal or development of a claim for benefits  
24 from the Department, but only if the individual

1           expressly authorizes such access by the Depart-  
2           ment for such purposes.

3           (4) METHOD OF PRESERVATION.—The means  
4           for the preservation of documentary evidence identi-  
5           fied under this subsection shall provide for the pres-  
6           ervation of such evidence in digitized, electronic  
7           form.

8           (5) UTILIZATION OF CURRENT MEANS OF PRES-  
9           ERVATION.—The means for the preservation of doc-  
10          umentary evidence identified under this subsection  
11          may utilize or incorporate elements of databases or  
12          other means of document preservation currently em-  
13          ployed by the Department of Defense, subject to the  
14          requirements of this subsection.

15          (6) JOINT TASK FORCE ON SUPERSEDING  
16          FORM.—

17                 (A) IN GENERAL.—The Secretary of De-  
18                 fense and the Secretary of Veterans Affairs  
19                 shall establish a joint task force for purposes of  
20                 recommending to the Secretary of Defense  
21                 whether or not to establish under paragraph  
22                 (2)(B) a form, report, or document to be gen-  
23                 erated by the Department of Defense in lieu of  
24                 the forms, reports, and documents described in  
25                 paragraph (2)(A). The task force shall be com-

1           posed of officers and employees of the Depart-  
2           ment of Defense and the Department of Vet-  
3           erans Affairs appointed to the task force by the  
4           Secretary of Defense and the Secretary of Vet-  
5           erans Affairs, as applicable.

6           (B) REPORT.—The joint task force shall  
7           submit to the Secretary of Defense and the Sec-  
8           retary of Veterans Affairs a report setting forth  
9           the recommendation of the task force under  
10          subparagraph (A). If the recommendation is to  
11          establish a form, report, or document, the re-  
12          port shall include a proposal for such form, re-  
13          port, or document.

14          (7) REPORT.—Not later than 180 days after  
15          the date of the enactment of this Act, the Secretary  
16          of Defense shall submit to Congress a report on the  
17          means for the preservation of documentary evidence  
18          in covered incidents of sexual assault and sexual  
19          harassment identified under this subsection. The re-  
20          port shall set forth the following:

21                  (A) A comprehensive description of the  
22                  means for the preservation of documentary evi-  
23                  dence identified under this subsection.

24                  (B) A description of the work of the joint  
25                  task force under paragraph (6), including the

1 form, report, or document, if any, to be estab-  
2 lished under paragraph (2)(A) as a result of  
3 such work.

4 (C) A plan for the implementation of the  
5 means so identified by the Department of De-  
6 fense.

7 (D) Such recommendations for additional  
8 legislative or administrative action as the Sec-  
9 retary considers appropriate.

10 (b) IMPLEMENTATION OF IDENTIFIED MEANS OF  
11 PRESERVATION.—

12 (1) IN GENERAL.—The Secretary of Defense  
13 shall provide for the implementation by the military  
14 departments of the means for the preservation of  
15 documentary evidence on covered incidents of sexual  
16 assault and sexual harassment identified under sub-  
17 section (a) by not later than 18 months after the  
18 date of the enactment of this Act. If the Secretary  
19 establishes a form, report, or document under sub-  
20 section (a)(2)(B), the means so implemented shall  
21 provide for the preservation of such evidence uti-  
22 lizing such form, report, or document.

23 (2) INTERIM MEANS.—If the means for the  
24 preservation of documentary evidence identified  
25 under subsection (a) is not fully implementable by

1 the deadline specified in paragraph (1), the Sec-  
2 retary shall implement such means to the extent  
3 practicable, but may utilize additional appropriate  
4 means for the preservation of such evidence (includ-  
5 ing the preservation of such evidence in paper form)  
6 on an interim basis pending the full implementation  
7 of such means.

8 (3) REPORTS.—Not later than one year after  
9 the completion of the implementation of the means  
10 for the preservation of documentary evidence by the  
11 military departments under paragraph (1), and  
12 every year thereafter for the next two years, the Sec-  
13 retary of Defense shall submit to Congress a report  
14 on the implementation of the means for the preser-  
15 vation of documentary evidence. Each report shall  
16 set forth the following:

17 (A) A current description and assessment  
18 of the implementation by the military depart-  
19 ments of the means for the preservation of docu-  
20 mentary evidence.

21 (B) For the one-year period ending on the  
22 date of such report, the following:

23 (i) In consultation with the Secretary  
24 of Veterans Affairs, a statement of the  
25 number of individuals who sought docu-

1           mentary evidence preserved by such means  
2           for the submittal or development of a claim  
3           for benefits from the Department of Vet-  
4           erans Affairs.

5                   (ii) A description and assessment of  
6           efforts to inform members of the Armed  
7           Forces regarding the preservation of docu-  
8           mentary evidence on covered incidents of  
9           sexual assault and sexual harassment and  
10          of means for accessing evidence so pre-  
11          served.

12                   (C) Such recommendations for additional  
13          legislative or administrative action as the Sec-  
14          retary of Defense considers appropriate.

15          (e) DEFINITIONS.—In this section:

16                   (1) The term “covered incident of sexual as-  
17          sault or sexual harassment” means an incident of  
18          sexual assault or sexual harassment in which a  
19          member of the Armed Forces is the victim.

20                   (2) The term “sexual assault” means the fol-  
21          lowing:

22                           (A) Rape.

23                           (B) Sexual assault.

24                           (C) Any other sexual misconduct covered  
25          by section 920 of title 10, United States Code



1 (article 120 of the Uniform Code of Military  
2 Justice).

3 (D) Sodomy.

4 (E) Any other intentional sexual contact,  
5 characterized by use of force, threats, intimidat-  
6 tion, abuse of authority, or when the victim  
7 does not or cannot consent.

8 (F) Any other unwanted sexual contact  
9 that is aggravated, abusive, or wrongful, includ-  
10 ing unwanted and inappropriate sexual contact.

11 (G) Any attempt to commit an act speci-  
12 fied in subparagraphs (A) through (F).

13 (3) The term “sexual harassment” means sex-  
14 ual discrimination that involves unwelcome sexual  
15 advances, requests for sexual favors, or other verbal  
16 or physical conduct of a sexual nature when—

17 (A) submission to or rejection of such con-  
18 duct is made either explicitly or implicitly a  
19 term or condition of a person’s service, pay, or  
20 retention or promotion in the Armed Forces;

21 (B) submission to or rejection of such con-  
22 duct by a person is used as a basis for decisions  
23 affecting the person’s service, pay, or retention  
24 or promotion in the Armed Forces; or

1                   (C) such conduct interferes with a person's  
2                   performance of duty in the Armed Forces or  
3                   creates an intimidating, hostile, or offensive en-  
4                   vironment for the performance of such duty.

