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

Page 258, after line 8, insert the following:

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

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

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

(2) DOCUMENTARY EVIDENCE.—For purposes
of this section, documentary evidence on covered in-
cidents of sexual assault and sexual harassment
means the following:
(A) All forms, reports, or other documents, whether in paper or electronic form, currently generated by the Department of Defense at the time of, or otherwise in connection with, a report or allegation regarding a covered incident of sexual assault or sexual harassment.

(B) Such other form, report, or document as may be established by the Secretary of Defense, in consultation with the Secretary of Veterans Affairs, for purposes of compliance with the requirements of this section as a result of the work of the joint task force under paragraph (6).

(3) REQUIREMENTS FOR MEANS IDENTIFIED.—The means for the preservation of documentary evidence identified under this subsection shall ensure the following:

(A) The preservation by the Department of Defense of documentary evidence of the Department on covered incidents of sexual assault and sexual harassment during the life of the victims of such incidents.

(B) The full protection of the privacy of the victims, including, where applicable, the
preservation of the nature of the documentary
evidence as restricted or unrestricted.

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

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

(E) On-going access by the Department of
Veterans Affairs to the documentary evidence
for purposes of assisting an individual in the
submittal or development of a claim for benefits
from the Department, but only if the individual
expressly authorizes such access by the Department for such purposes.

(4) Method of Preservation.—The means for the preservation of documentary evidence identified under this subsection shall provide for the preservation of such evidence in digitized, electronic form.

(5) Utilization of Current Means of Preservation.—The means for the preservation of documentary evidence identified under this subsection may utilize or incorporate elements of databases or other means of document preservation currently employed by the Department of Defense, subject to the requirements of this subsection.

(6) Joint Task Force on Superseding Form.—

(A) In General.—The Secretary of Defense and the Secretary of Veterans Affairs shall establish a joint task force for purposes of recommending to the Secretary of Defense whether or not to establish under paragraph (2)(B) a form, report, or document to be generated by the Department of Defense in lieu of the forms, reports, and documents described in paragraph (2)(A). The task force shall be com-
posed of officers and employees of the Department of Defense and the Department of Veterans Affairs appointed to the task force by the Secretary of Defense and the Secretary of Veterans Affairs, as applicable.

(B) REPORT.—The joint task force shall submit to the Secretary of Defense and the Secretary of Veterans Affairs a report setting forth the recommendation of the task force under subparagraph (A). If the recommendation is to establish a form, report, or document, the report shall include a proposal for such form, report, or document.

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

(A) A comprehensive description of the means for the preservation of documentary evidence identified under this subsection.

(B) A description of the work of the joint task force under paragraph (6), including the
form, report, or document, if any, to be established under paragraph (2)(A) as a result of such work.

(C) A plan for the implementation of the means so identified by the Department of Defense.

(D) Such recommendations for additional legislative or administrative action as the Secretary considers appropriate.

(b) Implementation of Identified Means of Preservation.—

(1) In general.—The Secretary of Defense shall provide for the implementation by the military departments of the means for the preservation of documentary evidence on covered incidents of sexual assault and sexual harassment identified under subsection (a) by not later than 18 months after the date of the enactment of this Act. If the Secretary establishes a form, report, or document under subsection (a)(2)(B), the means so implemented shall provide for the preservation of such evidence utilizing such form, report, or document.

(2) Interim means.—If the means for the preservation of documentary evidence identified under subsection (a) is not fully implementable by
the deadline specified in paragraph (1), the Secretary shall implement such means to the extent practicable, but may utilize additional appropriate means for the preservation of such evidence (including the preservation of such evidence in paper form) on an interim basis pending the full implementation of such means.

(3) REPORTS.—Not later than one year after the completion of the implementation of the means for the preservation of documentary evidence by the military departments under paragraph (1), and every year thereafter for the next two years, the Secretary of Defense shall submit to Congress a report on the implementation of the means for the preservation of documentary evidence. Each report shall set forth the following:

(A) A current description and assessment of the implementation by the military departments of the means for the preservation of documentary evidence.

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

(i) In consultation with the Secretary of Veterans Affairs, a statement of the number of individuals who sought docu-
mentary evidence preserved by such means for the submittal or development of a claim for benefits from the Department of Veterans Affairs.

(ii) A description and assessment of efforts to inform members of the Armed Forces regarding the preservation of documentary evidence on covered incidents of sexual assault and sexual harassment and of means for accessing evidence so preserved.

(C) Such recommendations for additional legislative or administrative action as the Secretary of Defense considers appropriate.

(c) DEFINITIONS.—In this section:

(1) The term “covered incident of sexual assault or sexual harassment” means an incident of sexual assault or sexual harassment in which a member of the Armed Forces is the victim.

(2) The term “sexual assault” means the following:

(A) Rape.

(B) Sexual assault.

(C) Any other sexual misconduct covered by section 920 of title 10, United States Code
(article 120 of the Uniform Code of Military Justice).

(D) Sodomy.

(E) Any other intentional sexual contact, characterized by use of force, threats, intimidation, abuse of authority, or when the victim does not or cannot consent.

(F) Any other unwanted sexual contact that is aggravated, abusive, or wrongful, including unwanted and inappropriate sexual contact.

(G) Any attempt to commit an act specified in subparagraphs (A) through (F).

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

(A) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person’s service, pay, or retention or promotion in the Armed Forces;

(B) submission to or rejection of such conduct by a person is used as a basis for decisions affecting the person’s service, pay, or retention or promotion in the Armed Forces; or
(C) such conduct interferes with a person’s performance of duty in the Armed Forces or creates an intimidating, hostile, or offensive environment for the performance of such duty.