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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To reform the disposition of charges and convening of courts-martial for certain offenses under the Uniform Code of Military Justice and increase the prevention of sexual assaults and other crimes in the military.

IN THE HOUSE OF REPRESENTATIVES

Ms. SPEIER introduced the following bill; which was referred to the Committee on _____

A BILL

To reform the disposition of charges and convening of courts-martial for certain offenses under the Uniform Code of Military Justice and increase the prevention of sexual assaults and other crimes in the military.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Vanessa Guillén Mili-
5 tary Justice Improvement and Increasing Prevention
6 Act”.

1 **SEC. 2. IMPROVEMENT OF DETERMINATIONS ON DISPOSI-**
2 **TION OF CHARGES FOR CERTAIN OFFENSES**
3 **UNDER UCMJ WITH AUTHORIZED MAXIMUM**
4 **SENTENCE OF CONFINEMENT OF MORE THAN**
5 **ONE YEAR.**

6 (a) IMPROVEMENT OF DETERMINATIONS.—

7 (1) MILITARY DEPARTMENTS.—With respect to
8 charges under chapter 47 of title 10, United States
9 Code (the Uniform Code of Military Justice), that
10 allege an offense specified in subsection (b) and not
11 excluded under subsection (c), the Secretary of De-
12 fense shall require the Secretaries of the military de-
13 partments to provide as described in subsection (d)
14 for the determinations as follows:

15 (A) Determinations under section 830 of
16 such chapter (article 30 of the Uniform Code of
17 Military Justice) on the preferral of charges.

18 (B) Determinations under section 830 of
19 such chapter (article 30 of the Uniform Code of
20 Military Justice) on the disposition of charges.

21 (C) Determinations under sections 822
22 and 823 of such chapter (articles 22 and 23 of
23 the Uniform Code of Military Justice) on the
24 referral of charges (as that term is defined in
25 section 834(d) of such chapter (article 34(d) of
26 the Uniform Code of Military Justice)).

1 (2) **HOMELAND SECURITY.**—With respect to
2 charges under chapter 47 of title 10, United States
3 Code (the Uniform Code of Military Justice), that
4 allege an offense specified in subsection (b) and not
5 excluded under subsection (c) against a member of
6 the Coast Guard (when it is not operating as a serv-
7 ice in the Navy), the Secretary of Homeland Secu-
8 rity shall provide as described in subsection (d) for
9 the determinations as follows:

10 (A) Determinations under section 830 of
11 such chapter (article 30 of the Uniform Code of
12 Military Justice) on the preferral of charges.

13 (B) Determinations under section 830 of
14 such chapter (article 30 of the Uniform Code of
15 Military Justice) on the disposition of charges.

16 (C) Determinations under sections 822
17 and 823 of such chapter (articles 22 and 23 of
18 the Uniform Code of Military Justice) on the
19 referral of charges (as that term is defined in
20 section 834(d) of such chapter (article 34(d) of
21 the Uniform Code of Military Justice)).

22 (3) **RULE OF CONSTRUCTION.**—This section
23 shall not be construed to terminate or otherwise
24 alter the authorities enumerated in any articles of

1 the Uniform Code of Military Justice other than ar-
2 ticles 22, 23, and 30 (10 U.S.C. 822, 823, and 830).

3 (b) COVERED OFFENSES.—An offense specified in
4 this subsection is an offense as follows:

5 (1)(A) Offenses under the following sections of
6 chapter 47 of title 10, United States Code (the Uni-
7 form Code of Military Justice), for which the max-
8 imum punishment authorized under that chapter in-
9 cludes confinement for more than one year: sections
10 893a, 917a, 918, 919, 919a, 919b, 920, 920a, 920b,
11 920c, 921, 921a, 921b, 922, 924, 924a, 924b, 925,
12 926, 927, 928(b) and (c), 928a, 928b, 930, 931,
13 931a, 931b, 931c, 931d, 931e, 931f, 931g, and 932
14 (articles 93a, 117a, 118, 119, 119a, 119b, 120,
15 120a, 120b, 120c, 121, 121a, 121b, 122, 124, 124a,
16 124b, 125, 126, 127, 128(b) and (c), 128a, 128b,
17 130, 131, 131a, 131b, 131c, 131d, 131e, 131f,
18 131g, and 132, respectively, of the Uniform Code of
19 Military Justice).

20 (B) The offenses of child pornography, neg-
21 ligent homicide, indecent conduct, indecent language
22 communicated to any child under the age of 16
23 years, and pandering and prostitution, as punishable
24 under the general punitive article in 934 of such

1 title (article 134 of the Uniform Code of Military
2 Justice).

3 (2) A conspiracy to commit an offense specified
4 in paragraph (1) as punishable under section 881 of
5 title 10, United States Code (article 81 of the Uni-
6 form Code of Military Justice).

7 (3) A solicitation to commit an offense specified
8 in paragraph (1) as punishable under section 882 of
9 title 10, United States Code (article 82 of the Uni-
10 form Code of Military Justice).

11 (4) An attempt to commit an offense specified
12 in paragraph (1) as punishable under section 880 of
13 title 10, United States Code (article 80 of the Uni-
14 form Code of Military Justice).

15 (c) EXCLUDED OFFENSES.—Subsection (a) does not
16 apply to an offense as follows:

17 (1) An offense under sections 883 through 917
18 of title 10, United States Code (articles 83 through
19 117 of the Uniform Code of Military Justice), but
20 not an offense under section 893a of such title (arti-
21 cle 93a of the Uniform Code of Military Justice).

22 (2) An offense under section 922a, 923, 923a,
23 or 928(a) of title 10, United States Code (articles
24 122a, 123, 123a, and 128(a) of the Uniform Code
25 of Military Justice).

1 (3) An offense under section 933 or 934 of title
2 10, United States Code (articles 133 and 134 of the
3 Uniform Code of Military Justice), but not the of-
4 fense of child pornography, negligent homicide, inde-
5 cent conduct, indecent language communicated to
6 any child under the age of 16 years, or pandering
7 and prostitution as punishable under the general pu-
8 nitive article in section 934 of such title (article 134
9 of the Uniform Code of Military Justice).

10 (4) A conspiracy to commit an offense specified
11 in paragraphs (1) through (3) as punishable under
12 section 881 of title 10, United States Code (article
13 81 of the Uniform Code of Military Justice).

14 (5) A solicitation to commit an offense specified
15 in paragraphs (1) through (3) as punishable under
16 section 882 of title 10, United States Code (article
17 82 of the Uniform Code of Military Justice).

18 (6) An attempt to commit an offense specified
19 in paragraphs (1) through (3) as punishable under
20 section 880 of title 10, United States Code (article
21 80 of the Uniform Code of Military Justice).

22 (d) REQUIREMENTS AND LIMITATIONS.—The dis-
23 position of charges covered by subsection (a) shall be sub-
24 ject to the following:

1 (1) The determination whether to cause charges
2 to be preferred or refer such charges to a court-mar-
3 tial for trial, as applicable, shall be made by a com-
4 missioned officer of the Armed Forces designated as
5 a court-martial convening authority in accordance
6 with regulations prescribed for purposes of this sub-
7 section from among commissioned officers of the
8 Armed Forces in grade O-6 or higher who—

9 (A) are available for detail as trial counsel
10 under section 827 of title 10, United States
11 Code (article 27 of the Uniform Code of Mili-
12 tary Justice);

13 (B) have significant experience in trials by
14 general or special court-martial; and

15 (C) are outside the chain of command of
16 the member subject to such charges.

17 (2) Upon a determination under paragraph (1)
18 to refer charges to a court-martial for trial, the offi-
19 cer making that determination shall determine
20 whether to refer such charges for trial by a general
21 court-martial convened under section 822 of title 10,
22 United States Code (article 22 of the Uniform Code
23 of Military Justice), or a special court-martial con-
24 vened under section 823 of title 10, United States

1 Code (article 23 of the Uniform Code of Military
2 Justice).

3 (3) A determination under paragraph (1) to
4 cause charges to be preferred or refer charges to a
5 court-martial for trial, as applicable, shall cover all
6 known offenses, including lesser included offenses.

7 (4) The determination to cause charges to be
8 preferred or refer charges to a court-martial for
9 trial, as applicable, under paragraph (1), and the
10 type of court-martial to which to refer under para-
11 graph (2), shall be binding on any applicable con-
12 vening authority for the referral of such charges.

13 (5) The actions of an officer described in para-
14 graph (1) in determining under that paragraph
15 whether or not to cause charges to be preferred or
16 refer charges to a court-martial for trial, as applica-
17 ble, shall be free of unlawful or unauthorized influ-
18 ence or coercion.

19 (6) The determination under paragraph (1) not
20 to refer charges to a general or special court-martial
21 for trial shall not operate to terminate or otherwise
22 alter the authority of commanding officers to refer
23 charges for trial by special court-martial under sec-
24 tion 823 of title 10, United States Code (article 23
25 of the Uniform Code of Military Justice) or sum-

1 mary court-martial convened under section 824 of
2 title 10, United States Code (article 24 of the Uni-
3 form Code of Military Justice), or to impose non-ju-
4 dicial punishment in connection with the conduct
5 covered by such charges as authorized by section
6 815 of title 10, United States Code (article 15 of the
7 Uniform Code of Military Justice).

8 (7) The determination under paragraph (1) to
9 refer charges to a general or special court-martial
10 shall not be subject to section 834 of title 10, United
11 States Code (article 34 of the Uniform Code of Mili-
12 tary Justice), provided that the officer making the
13 determination determines that—

14 (A) the specification alleges an offense
15 under the Uniform Code of Military Justice;

16 (B) there is probable cause to believe that
17 the accused committed the offense charged; and

18 (C) a court-martial would have jurisdiction
19 over the accused and the offense.

20 (e) CONSTRUCTION WITH CHARGES ON OTHER OF-
21 FENSES.—Nothing in this section shall be construed to
22 alter or affect the preferral, disposition, or referral author-
23 ity of charges under chapter 47 of title 10, United States
24 Code (the Uniform Code of Military Justice), that allege
25 an offense for which the maximum punishment authorized

1 under that chapter includes confinement for one year or
2 less, except for the offenses of child pornography, neg-
3 ligent homicide, indecent conduct, indecent language com-
4 municated to any child under the age of 16 years, and
5 pandering and prostitution as punishable under the gen-
6 eral punitive article in section 934 of such title (article
7 134 of the Uniform Code of Military Justice).

8 (f) POLICIES AND PROCEDURES.—

9 (1) IN GENERAL.—The Secretaries of the mili-
10 tary departments and the Secretary of Homeland
11 Security (with respect to the Coast Guard when it
12 is not operating as a service in the Navy) shall re-
13 vise policies and procedures as necessary to comply
14 with this section.

15 (2) UNIFORMITY.—The General Counsel of the
16 Department of Defense and the General Counsel of
17 the Department of Homeland Security shall jointly
18 review the policies and procedures revised under this
19 subsection in order to ensure that any lack of uni-
20 formity in policies and procedures, as so revised,
21 among the military departments and the Depart-
22 ment of Homeland Security does not render uncon-
23 stitutional any policy or procedure, as so revised.

24 (g) MANUAL FOR COURTS-MARTIAL.—The Secretary
25 of Defense shall recommend such changes to the Manual

1 for Courts-Martial as are necessary to ensure compliance
2 with this section.

3 (h) IMPROVED SPECIALIZATION OF CRIMINAL INVES-
4 TIGATORS.—The Secretary of Defense shall revise policies
5 and procedures as necessary to improve specialization of
6 criminal investigators to help increase the efficiency and
7 effectiveness of sexual assault and domestic violence inves-
8 tigations.

9 **SEC. 3. MODIFICATION OF OFFICERS AUTHORIZED TO CON-**
10 **VENE GENERAL AND SPECIAL COURTS-MAR-**
11 **TIAL FOR CERTAIN OFFENSES UNDER UCMJ**
12 **WITH AUTHORIZED MAXIMUM SENTENCE OF**
13 **CONFINEMENT OF MORE THAN ONE YEAR.**

14 (a) IN GENERAL.—Subsection (a) of section 822 of
15 title 10, United States Code (article 22 of the Uniform
16 Code of Military Justice), is amended—

17 (1) by redesignating paragraphs (8) and (9) as
18 paragraphs (9) and (10), respectively; and

19 (2) by inserting after paragraph (7) the fol-
20 lowing new paragraph (8):

21 “(8) with respect to offenses to which section
22 2(a) of the Military Justice Improvement and In-
23 creasing Prevention Act of 2021 applies, the officers
24 in the offices established pursuant to section 3(e) of
25 that Act or officers in the grade of O–6 or higher

1 who are assigned such responsibility by the Chief of
2 Staff of the Army, the Chief of Naval Operations,
3 the Chief of Staff of the Air Force, the Com-
4 mandant of the Marine Corps, or the Commandant
5 of the Coast Guard;”.

6 (b) NO EXERCISE BY OFFICERS IN CHAIN OF COM-
7 MAND OF ACCUSED OR VICTIM.—Such section (article) is
8 further amended by adding at the end the following new
9 subsection:

10 “(c) An officer specified in subsection (a)(8) may not
11 convene a court-martial under this section if the officer
12 is in the chain of command of the accused or the victim.”.

13 (c) OFFICES OF CHIEFS OF STAFF ON COURTS-MAR-
14 TIAL.—

15 (1) OFFICES REQUIRED.—Each Chief of Staff
16 of the Armed Forces or Commandant specified in
17 paragraph (8) of section 822(a) of title 10, United
18 States Code (article 22(a) of the Uniform Code of
19 Military Justice), as amended by subsection (a),
20 shall establish an office to do the following:

21 (A) To convene general and special courts-
22 martial under sections 822 and 823 of title 10,
23 United States Code (articles 22 and 23 of the
24 Uniform Code of Military Justice), pursuant to
25 paragraph (8) of section 822(a) of title 10,

1 United States Code (article 22(a) of the Uni-
2 form Code of Military Justice), as so amended,
3 with respect to offenses to which section 2(a)
4 applies.

5 (B) To detail under section 825 of title 10,
6 United States Code (article 25 of the Uniform
7 Code of Military Justice), members of courts-
8 martial convened as described in subparagraph
9 (A).

10 (2) PERSONNEL.—The personnel of each office
11 established under paragraph (1) shall consist of such
12 members of the Armed Forces and civilian personnel
13 of the Department of Defense, or such members of
14 the Coast Guard or civilian personnel of the Depart-
15 ment of Homeland Security, as may be detailed or
16 assigned to the office by the Chief of Staff or Com-
17 mandant concerned. The members and personnel so
18 detailed or assigned, as the case may be, shall be de-
19 tailed or assigned from personnel billets in existence
20 as of the effective date for this Act specified in sec-
21 tion 10.

22 **SEC. 4. DISCHARGE USING OTHERWISE AUTHORIZED PER-**
23 **SONNEL AND RESOURCES.**

24 (a) IN GENERAL.—The Secretaries of the military
25 departments and the Secretary of Homeland Security

1 (with respect to the Coast Guard when it is not operating
2 as a service in the Navy) shall carry out sections 2 and
3 3 using personnel, funds, and resources otherwise author-
4 ized by law.

5 (b) NO AUTHORIZATION OF ADDITIONAL PER-
6 SONNEL OR RESOURCES.—Sections 2 and 3 shall not be
7 construed as authorizations for personnel, personnel bil-
8 lets, or funds for the discharge of the requirements in such
9 sections.

10 **SEC. 5. MONITORING AND ASSESSMENT OF MODIFICATION**
11 **OF AUTHORITIES BY DEFENSE ADVISORY**
12 **COMMITTEE ON INVESTIGATION, PROSECU-**
13 **TION, AND DEFENSE OF SEXUAL ASSAULT IN**
14 **THE ARMED FORCES.**

15 Section 546(c) of the Carl Levin and Howard P.
16 “Buck” McKeon National Defense Authorization Act for
17 Fiscal Year 2015 (10 U.S.C. 1561 note) is amended—

18 (1) in paragraph (1)—

19 (A) by striking “on the investigation” and
20 inserting “on the following:

21 “(A) The investigation”; and

22 (B) by adding at the end the following new
23 subparagraph:

24 “(B) The implementation and efficacy of
25 sections 2 through 4 of the Military Justice Im-

1 provement and Increasing Prevention Act of
2 2021 and the amendments made by such sec-
3 tions.”; and

4 (2) in paragraph (2), by striking “paragraph
5 (1)” and inserting “paragraph (1)(A)”.

6 **SEC. 6. LIMITATION ON MODIFICATIONS TO SEXUAL AS-**
7 **SAULT REPORTING PROCEDURES.**

8 (a) IN GENERAL.—The Secretary of Defense may not
9 amend section 4 of enclosure 4 of Department of Defense
10 Instruction (DoDI) 6495.02, relating to Sexual Assault
11 Prevention and Response (SAPR) Program Procedures, or
12 otherwise prescribe any regulations or guidance relating
13 to the treatment and handling of unrestricted and re-
14 stricted reports of sexual assault, until 30 days after noti-
15 fying the congressional defense committees of the pro-
16 posed amendment or modification.

17 (b) CONGRESSIONAL DEFENSE COMMITTEES DE-
18 FINED.—In this section, the term “congressional defense
19 committees” has the meaning given the term in section
20 101(a) of title 10, United States Code.

21 **SEC. 7. PROFESSIONALIZATION OF MILITARY PROSECU-**
22 **TORS.**

23 (a) IN GENERAL.—The Secretary of Defense shall in-
24 crease enhanced and specialized training to certain pros-

1 ecutors on the proper conduct, presentation, and handling
2 of sexual assault and domestic violence cases.

3 (b) REPORT.—Not later than one year after the date
4 of the enactment of this Act, the Secretary of Defense
5 shall submit to the congressional defense committees a re-
6 port on the program implemented under subsection (a).

7 **SEC. 8. INCREASED TRAINING AND EDUCATION ON MILI-**
8 **TARY SEXUAL ASSAULT.**

9 (a) UNIFORMED OFFICERS AND SENIOR ENLISTED
10 LEADERS.—

11 (1) UNIFORMED OFFICERS.—All uniformed offi-
12 cers of the military services shall be required within
13 2 years of the date of the enactment of this Act to
14 complete training on military sexual assault preven-
15 tion equivalent to that provided to Sexual Assault
16 Prevention and Response Victim Advocates before
17 those officers may be considered for promotion to a
18 grade at or above O-5. A portion of this training
19 shall be in-person, facilitated training.

20 (2) ENLISTED LEADERS.—All senior enlisted
21 leaders of the military services will be required with-
22 in 2 years of the date of the enactment of this Act
23 to complete a training on military sexual assault
24 prevention equivalent to that provided to the Sexual
25 Assault Prevention and Response Victim Advocates

1 before enlisted service members may be considered
2 for promotion to a grade at or above E-9. A portion
3 of this training shall be in-person, facilitated train-
4 ing.

5 (b) OFFICER CANDIDATES AND ROTC.—

6 (1) IN GENERAL.—The United States Army
7 Cadet Command, the Naval Education and Training
8 Command, the Air Education and Training Com-
9 mand, and the Coast Guard Recruiting Command
10 shall carry out a program for increasing training on
11 the prevention of military sexual assault within cadet
12 ranks. A portion of this training shall be in-person,
13 facilitated training.

14 (2) REPORT ON DEVELOPMENT OF PLAN.—Not
15 later than one year after the date of the enactment
16 of this Act, the United States Army Cadet Com-
17 mand, the Naval Education and Training Command,
18 the Air Education and Training Command, and the
19 Coast Guard Recruiting Command shall submit to
20 the congressional defense committees a report on the
21 development of the program required under para-
22 graph (1) and a plan for execution.

23 (3) REPORT ON IMPLEMENTATION.—Not later
24 than two years after the date of the enactment of
25 this Act, the United States Army Cadet Command,

1 the Naval Education and Training Command, the
2 Air Education and Training Command, and the
3 Coast Guard Recruiting Command shall submit to
4 the congressional defense committees a report on the
5 implementation of the program required under para-
6 graph (1).

7 (c) **MILITARY SERVICE ACADEMIES.**—

8 (1) **IN GENERAL.**—The Superintendents of the
9 military service academies shall carry out additional
10 military sexual assault prevent training and edu-
11 cation at the academies. A portion of this training
12 shall be in-person, facilitated training.

13 (2) **REPORT.**—The Secretary of Defense, in
14 consultation with the Superintendents of the military
15 service academies, shall submit a report to the con-
16 gressional defense committees describing the addi-
17 tional training and education implemented pursuant
18 to paragraph (1).

19 **SEC. 9. INCREASING THE PHYSICAL SECURITY OF MILI-**
20 **TARY INSTALLATIONS.**

21 (a) **SURVEY.**—Not later than one year after the date
22 of the enactment of this Act, the Secretary of Defense
23 shall conduct a survey of all lodging and living spaces on
24 military installations to identify, replace, or repair locking
25 mechanisms on points of entry, identify areas of installa-

1 tion of closed-circuit television (CCTV) security cameras,
2 and other passive security measures as necessary to in-
3 crease the prevention of crimes, including sexual assault,
4 on military installations.

5 (b) REPORT.—Not later than one year after the date
6 of the enactment of this Act, the Secretary of Defense
7 shall submit to the congressional defense committees a re-
8 port on the results of the survey conducted under sub-
9 section (a).

10 (c) PROGRAM.—Based on the results of the survey
11 conducted under subsection (a), the Secretary of Defense
12 shall carry out a program for increasing the security of
13 all lodging and living spaces on military installations, in-
14 cluding replacing or repairing locking mechanisms on
15 points of entry, installation of CCTV security cameras,
16 and other passive security measures as necessary to in-
17 crease the prevention of crimes, including sexual assault,
18 on military installations.

19 **SEC. 10. EFFECTIVE DATE AND APPLICABILITY.**

20 (a) EFFECTIVE DATE AND APPLICABILITY.—This
21 Act and the amendments made by this Act shall take ef-
22 fect one year after the date of the enactment of this Act,
23 and shall apply with respect to any allegation of charges
24 of an offense specified in subsection (b) of section 2, and

1 not excluded under subsection (c) of section 2, which of-
2 fense occurs on or after such effective date.

3 (b) REVISIONS OF POLICIES AND PROCEDURES.—

4 Any revision of policies and procedures required of the
5 military departments or the Department of Homeland Se-
6 curity as a result of this part and the amendments made
7 by this part shall be completed so as to come into effect
8 together with the coming into effect of this Act and the
9 amendments made by this Act in accordance with sub-
10 section (a).