

1 **SEC. 529B. STUDY AND REPORT ON ADMINISTRATIVE SEPA-**
2 **RATION BOARDS.**

3 (a) IN GENERAL.—The Comptroller General of the
4 United States shall conduct a study on the use of adminis-
5 trative separation boards within the Armed Forces.

6 (b) ELEMENTS.—The study under subsection (a)
7 shall evaluate—

8 (1) the process each Armed Force uses to con-
9 vene administrative separation boards, including the
10 process used to select the board president, the re-
11 corder, the legal advisor, and board members; and

12 (2) the effectiveness of the operations of such
13 boards.

14 (c) REPORT.—Not later than one year after the date
15 of the enactment of this Act, the Comptroller General shall
16 submit to the Committees on Armed Services of the Sen-
17 ate and the House of Representatives a report on the re-
18 sults of the study conducted under subsection (a).

19 **Subtitle D—Military Justice**
20 **Reform**

21 **PART 1—SPECIAL TRIAL COUNSEL**

22 **SEC. 531. SPECIAL TRIAL COUNSEL.**

23 (a) IN GENERAL.—Subchapter V of chapter 47 of
24 title 10, United States Code, is amended by inserting after
25 section 824 (article 24 of the Uniform Code of Military
26 Justice) the following new section:

1 **“§ 824a. Art 24a. Special trial counsel**

2 “(a) **DETAIL OF SPECIAL TRIAL COUNSEL.**—Each
3 Secretary concerned shall promulgate regulations for the
4 detail of commissioned officers to serve as special trial
5 counsel.

6 “(b) **QUALIFICATIONS.**—A special trial counsel shall
7 be a commissioned officer who—

8 “(1)(A) is a member of the bar of a Federal
9 court or a member of the bar of the highest court
10 of a State; and

11 “(B) is certified to be qualified, by reason of
12 education, training, experience, and temperament,
13 for duty as a special trial counsel by—

14 “(i) the Judge Advocate General of the
15 armed force of which the officer is a member;
16 or

17 “(ii) in the case of the Marine Corps, the
18 Staff Judge Advocate to the Commandant of
19 the Marine Corps; and

20 “(2) in the case of a lead special trial counsel
21 appointed pursuant to section 1044f(a)(2) of this
22 title, is in a grade no lower than O-7.

23 “(c) **DUTIES AND AUTHORITIES.**—

24 “(1) **IN GENERAL.**—Special trial counsel shall
25 carry out the duties described in this chapter and

1 any other duties prescribed by the Secretary con-
2 cerned, by regulation.

3 “(2) DETERMINATION OF COVERED OFFENSE;
4 RELATED CHARGES.—

5 “(A) AUTHORITY.—A special trial counsel
6 shall have exclusive authority to determine if a
7 reported offense is a covered offense and shall
8 exercise authority over any such offense in ac-
9 cordance with this chapter. Any determination
10 to prefer or refer charges shall not act to dis-
11 qualify the special trial counsel as an accuser.

12 “(B) KNOWN AND RELATED OFFENSES.—
13 If a special trial counsel determines that a re-
14 ported offense is a covered offense, the special
15 trial counsel may also exercise authority over
16 any offense that the special trial counsel deter-
17 mines to be related to the covered offense and
18 any other offense alleged to have been com-
19 mitted by a person alleged to have committed
20 the covered offense.

21 “(3) DISMISSAL; REFERRAL; PLEA BARGAINS.—
22 Subject to paragraph (4), with respect to charges
23 and specifications alleging any offense over which a
24 special trial counsel exercises authority, a special

1 trial counsel shall have exclusive authority to, in ac-
2 cordance with this chapter—

3 “(A) on behalf of the Government, with-
4 draw or dismiss the charges and specifications
5 or make a motion to withdraw or dismiss the
6 charges and specifications;

7 “(B) refer the charges and specifications
8 for trial by a special or general court-martial;

9 “(C) enter into a plea agreement; and

10 “(D) determine if an ordered rehearing is
11 impracticable.

12 “(4) BINDING DETERMINATION.—The deter-
13 mination of a special trial counsel to refer charges
14 and specifications to a court-martial for trial shall
15 be binding on any applicable convening authority for
16 the referral of such charges and specifications.

17 “(5) DEFERRAL TO COMMANDER OR CON-
18 VENING AUTHORITY.—If a special trial counsel exer-
19 cises authority over an offense and elects not to pre-
20 fer charges and specifications for such offense or,
21 with respect to charges and specifications for such
22 offense preferred by a person other than a special
23 trial counsel, elects not to refer such charges and
24 specifications, a commander or convening authority
25 may exercise any of the authorities of such com-

1 mander or convening authority under this chapter
2 with respect to such offense, except that such com-
3 mander or convening authority may not refer
4 charges and specifications for a covered offense for
5 trial by special or general court-martial.”.

6 (b) TABLE OF SECTIONS AMENDMENT.—The table of
7 sections at the beginning of subchapter V of chapter 47
8 of title 10, United States Code (the Uniform Code of Mili-
9 tary Justice), is amended by inserting after the item relat-
10 ing to section 824 (article 24) the following new item:

“824a. Art 24a. Special trial counsel.”.

11 (c) REPORT REQUIRED.—

12 (1) IN GENERAL.—Not later than one year
13 after the date of the enactment of this Act, each
14 Secretary concerned shall submit to the Committees
15 on Armed Services of the Senate and the House of
16 Representatives a report setting forth the plan of
17 the Secretary for detailing officers to serve as special
18 trial counsel pursuant to section 824a of title 10,
19 United States Code (article 24a of the Uniform
20 Code of Military Justice) (as added by subsection
21 (a) of this section).

22 (2) ELEMENTS.—Each report under paragraph
23 (1) shall include the following—

24 (A) The plan of the Secretary concerned—

25 (i) for staffing billets for—

1 (I) special trial counsel who meet
2 the requirements set forth in section
3 824a of title 10, United States Code
4 (article 24a of the Uniform Code of
5 Military Justice) (as added by sub-
6 section (a) of this section); and

7 (II) defense counsel for cases in-
8 volving covered offenses; and

9 (ii) for supporting and ensuring the
10 continuing professional development of
11 military justice practitioners.

12 (B) An estimate of the resources needed to
13 implement such section 824a (article 24a).

14 (C) An explanation of other staffing re-
15 quired to implement such section 824a (article
16 24a), including staffing levels required for mili-
17 tary judges, military magistrates, military de-
18 fense attorneys, and paralegals and other sup-
19 port staff.

20 (D) A description of how the use of special
21 trial counsel will affect the military justice sys-
22 tem as a whole.

23 (E) A description of how the Secretary
24 concerned plans to place appropriate emphasis
25 and value on litigation experience for judge ad-

1 vocates in order to ensure judge advocates are
2 experienced, prepared, and qualified to handle
3 covered offenses, both as special trial counsel
4 and as defense counsel. Such a description shall
5 address promotion considerations and explain
6 how the Secretary concerned plans to instruct
7 promotion boards to value litigation experience.

8 (F) Any additional resources, authorities,
9 or information that each Secretary concerned
10 deems relevant or important to the implementa-
11 tion of the requirements of this title.

12 (3) DEFINITIONS.—In this subsection—

13 (A) The term “Secretary concerned” has
14 the meaning given that term in section 101(a)
15 of title 10, United States Code.

16 (B) The term “covered offense” has the
17 meaning given that term in section 801(17) of
18 title 10, United States Code (as added by sec-
19 tion 533 of this part).

20 **SEC. 532. POLICIES WITH RESPECT TO SPECIAL TRIAL**
21 **COUNSEL.**

22 (a) IN GENERAL.—Chapter 53 of title 10, United
23 States Code, is amended by inserting after section 1044e
24 the following new section:

1 **“§ 1044f. Policies with respect to special trial counsel**

2 “(a) POLICIES REQUIRED.—The Secretary of De-
3 fense shall establish policies with respect to the appro-
4 priate mechanisms and procedures that the Secretaries of
5 the military departments shall establish relating to the ac-
6 tivities of special trial counsel, including expected mile-
7 stones for such Secretaries to fully implement such mecha-
8 nisms and procedures. The policies shall—

9 “(1) provide for the establishment of a dedi-
10 cated office within each military service from which
11 office the activities of the special trial counsel of the
12 military service concerned shall be supervised and
13 overseen;

14 “(2) provide for the appointment of one lead
15 special trial counsel, who shall—

16 “(A) be a judge advocate of that service in
17 a grade no lower than O-7, with significant ex-
18 perience in military justice;

19 “(B) be responsible for the overall super-
20 vision and oversight of the activities of the spe-
21 cial trial counsel of that service; and

22 “(C) report directly to the Secretary con-
23 cerned, without intervening authority;

24 “(3) ensure that within each office created pur-
25 suant to paragraph (1), the special trial counsel and
26 other personnel assigned or detailed to the office—

1 “(A) are independent of the military chains
2 of command of both the victims and those ac-
3 cused of covered offenses and any other of-
4 fenses over which a special trial counsel at any
5 time exercises authority in accordance with sec-
6 tion 824a of this title (article 24a); and

7 “(B) conduct assigned activities free from
8 unlawful or unauthorized influence or coercion;

9 “(4) provide that special trial counsel shall be
10 well-trained, experienced, highly skilled, and com-
11 petent in handling cases involving covered offenses;
12 and

13 “(5) provide that commanders of the victim and
14 the accused in a case involving a covered offense
15 shall have the opportunity to provide input to the
16 special trial counsel regarding case disposition, but
17 that the input is not binding on the special trial
18 counsel.

19 “(b) UNIFORMITY.—The Secretary of Defense shall
20 ensure that any lack of uniformity in the implementation
21 of policies, mechanisms, and procedures established under
22 subsection (a) does not render unconstitutional any such
23 policy, mechanism, or procedure.

1 “(c) **MILITARY SERVICE DEFINED.**—In this section,
2 the term ‘military service’ means the Army, Navy, Air
3 Force, Marine Corps, and Space Force.”.

4 (b) **CLERICAL AMENDMENT.**—The table of sections
5 at the beginning of chapter 53 of title 10, United States
6 Code, is amended by inserting after the item relating to
7 section 1044e the following new item:

“1044f. Policies with respect to special trial counsel.”.

8 (c) **QUARTERLY BRIEFING.**—Beginning not later
9 than 180 days after the date of the enactment of this Act,
10 and at the beginning of each fiscal quarter thereafter until
11 the policies established pursuant to section 1044f(a) of
12 title 10, United States Code (as added by subsection (a))
13 and the mechanisms and procedures to which they apply
14 are fully implemented and operational, the Secretary of
15 Defense and the Secretaries of the military departments
16 shall jointly provide to the Committee on Armed Services
17 of the Senate and the Committee on Armed Services of
18 the House of Representatives a briefing detailing the ac-
19 tions taken and progress made by the Office of the Sec-
20 retary of Defense and each of the military departments
21 in meeting the milestones established as required by such
22 section.

1 **SEC. 533. DEFINITION OF MILITARY MAGISTRATE, COV-**
2 **ERED OFFENSE, AND SPECIAL TRIAL COUN-**
3 **SEL.**

4 Section 801 of title 10, United States Code (article
5 1 of the Uniform Code of Military Justice), is amended—

6 (1) by inserting after paragraph (10) the fol-
7 lowing new paragraph:

8 “(11) The term ‘military magistrate’ means a
9 commissioned officer certified for duty as a military
10 magistrate in accordance with section 826a of this
11 title (article 26a).”; and

12 (2) by adding at the end the following new
13 paragraphs:

14 “(17) The term ‘covered offense’ means—

15 “(A) an offense under section 917a (article
16 117a), section 918 (article 118), section 919
17 (article 119), section 920 (article 120), section
18 920b (article 120b), section 920c (article 120c),
19 section 925 (article 125), section 928b (article
20 128b), section 930 (article 130), section 932
21 (article 132), or the standalone offense of child
22 pornography punishable under section 934 (ar-
23 ticle 134) of this title;

24 “(B) a conspiracy to commit an offense
25 specified in subparagraph (A) as punishable
26 under section 881 of this title (article 81);

1 “(C) a solicitation to commit an offense
2 specified in subparagraph (A) as punishable
3 under section 882 of this title (article 82); or

4 “(D) an attempt to commit an offense
5 specified in subparagraph (A), (B), or (C) as
6 punishable under section 880 of this title (arti-
7 cle 80).

8 “(18) The term ‘special trial counsel’ means a
9 judge advocate detailed as a special trial counsel in
10 accordance with section 824a of this title (article
11 24a) and includes a judge advocate appointed as a
12 lead special trial counsel pursuant to section
13 1044f(a)(2) of this title.”.

14 **SEC. 534. CLARIFICATION RELATING TO WHO MAY CON-**
15 **VENE COURTS-MARTIAL.**

16 (a) **GENERAL COURTS-MARTIAL.**—Section 822(b) of
17 title 10, United States Code (article 22(b) of the Uniform
18 Code of Military Justice), is amended—

19 (1) by striking “If any” and inserting “(1) If
20 any”; and

21 (2) by adding at the end the following new
22 paragraph:

23 “(2) A commanding officer shall not be considered
24 an accuser solely due to the role of the commanding officer
25 in convening a general court-martial to which charges and

1 specifications were referred by a special trial counsel in
2 accordance with this chapter.”.

3 (b) SPECIAL COURTS-MARTIAL.—Section 823(b) of
4 title 10, United States Code (article 23(b) of the Uniform
5 Code of Military Justice), is amended—

6 (1) by striking “If any” and inserting “(1) If
7 any”; and

8 (2) by adding at the end the following new
9 paragraph:

10 “(2) A commanding officer shall not be considered
11 an accuser solely due to the role of the commanding officer
12 in convening a special court-martial to which charges and
13 specifications were referred by a special trial counsel in
14 accordance with this chapter.”.

15 **SEC. 535. DETAIL OF TRIAL COUNSEL.**

16 Section 827 of title 10, United States Code (article
17 27 of the Uniform Code of Military Justice), is amended
18 by adding at the end the following new subsection:

19 “(e) For each general and special court-martial for
20 which charges and specifications were referred by a special
21 trial counsel—

22 “(1) a special trial counsel shall be detailed as
23 trial counsel; and

24 “(2) a special trial counsel may detail other
25 trial counsel as necessary who are judge advocates.”.

1 **SEC. 536. PRELIMINARY HEARING.**

2 (a) **DETAIL OF HEARING OFFICER; WAIVER.**—Sub-
3 section (a)(1) of section 832 of title 10, United States
4 Code (article 32 of the Uniform Code of Military Justice),
5 is amended—

6 (1) in subparagraph (A), by striking “hearing
7 officer” and all that follows through the period at
8 the end and inserting “hearing officer detailed in ac-
9 cordance with subparagraph (C).”;

10 (2) in subparagraph (B), by striking “written
11 waiver” and all that follows through the period at
12 the end and inserting the following: “written waiver
13 to—

14 “(i) except as provided in clause (ii), the
15 convening authority and the convening author-
16 ity determines that a hearing is not required;
17 and

18 “(ii) with respect to charges and specifica-
19 tions over which the special trial counsel is ex-
20 ercising authority in accordance with section
21 824a of this title (article 24a), the special trial
22 counsel and the special trial counsel determines
23 that a hearing is not required.”; and

24 (3) by adding at the end the following new sub-
25 paragraph:

1 “(C)(i) Except as provided in clause (ii), the
2 convening authority shall detail a hearing officer.

3 “(ii) If a special trial counsel is exercising au-
4 thority over the charges and specifications subject to
5 a preliminary hearing under this section (article),
6 the special trial counsel shall request a hearing offi-
7 cer and a hearing officer shall be provided by the
8 convening authority, in accordance with regulations
9 prescribed by the President.”.

10 (b) REPORT OF PRELIMINARY HEARING OFFICER.—
11 Subsection (c) of such section is amended—

12 (1) in the heading, by inserting “OR SPECIAL
13 TRIAL COUNSEL” after “CONVENING AUTHORITY”;
14 and

15 (2) in the matter preceding paragraph (1) by
16 striking “to the convening authority” and inserting
17 “to the convening authority or, in the case of a pre-
18 liminary hearing in which the hearing officer is pro-
19 vided at the request of a special trial counsel to the
20 special trial counsel,”.

21 **SEC. 537. ADVICE TO CONVENING AUTHORITY BEFORE RE-**
22 **FERRAL FOR TRIAL.**

23 Section 834 of title 10, United States Code (article
24 34 of the Uniform Code of Military Justice), is amended—

1 (1) in subsection (a)(1), by striking “Before re-
2 ferral” and inserting “Subject to subsection (c), be-
3 fore referral”

4 (2) in subsection (b), by striking “Before refer-
5 ral” and inserting “Subject to subsection (c), before
6 referral”;

7 (3) by redesignating subsections (c) and (d) as
8 subsections (d) and (e) respectively;

9 (4) by inserting after subsection (b) the fol-
10 lowing new subsection:

11 “(c) COVERED OFFENSES.—A referral to a general
12 or special court-martial for trial of charges and specifica-
13 tions over which a special trial counsel exercises authority
14 may only be made—

15 “(1) by a special trial counsel, subject to a spe-
16 cial trial counsel’s written determination accom-
17 panying the referral that—

18 “(A) each specification under a charge al-
19 leges an offense under this chapter;

20 “(B) there is probable cause to believe that
21 the accused committed the offense charged; and

22 “(C) a court-martial would have jurisdic-
23 tion over the accused and the offense; or

24 “(2) in the case of charges and specifications
25 that do not allege a covered offense and as to which

1 a special trial counsel declines to prefer or, in the
2 case of charges and specifications preferred by a
3 person other than a special trial counsel, refer
4 charges, by the convening authority in accordance
5 with this section.”; and

6 (5) in subsection (e), as so redesignated, by in-
7 serting “or, with respect to charges and specifica-
8 tions over which a special trial counsel exercises au-
9 thority in accordance with section 824a of this title
10 (article 24a), a special trial counsel,” after “con-
11 vening authority”.

12 **SEC. 538. FORMER JEOPARDY.**

13 Section 844(c) of title 10, United States Code (article
14 44(c) of the Uniform Code of Military Justice), is amend-
15 ed by inserting “or the special trial counsel” after “the
16 convening authority” each place it appears.

17 **SEC. 539. PLEA AGREEMENTS.**

18 (a) **AUTHORITY TO ENTER INTO AGREEMENTS.—**
19 Subsection (a) of section 853a of title 10, United States
20 Code (article 53a of the Uniform Code of Military Jus-
21 tice), is amended—

22 (1) in paragraph (1), by striking “At any time”
23 and inserting “Subject to paragraph (3), at any
24 time”; and

1 (2) by adding at the end the following new
2 paragraph:

3 “(3) With respect to charges and specifications over
4 which a special trial counsel exercises authority pursuant
5 to section 824a of this title (article 24a), a plea agreement
6 under this section may only be entered into between a spe-
7 cial trial counsel and the accused. Such agreement shall
8 be subject to the same limitations and conditions applica-
9 ble to other plea agreements under this section (article).”.

10 (b) BINDING EFFECT.—Subsection (d) of such sec-
11 tion (article) is amended by inserting after “parties” the
12 following: “(including the convening authority and the spe-
13 cial trial counsel in the case of a plea agreement entered
14 into under subsection (a)(3))”.

15 **SEC. 539A. DETERMINATIONS OF IMPRACTICABILITY OF**
16 **REHEARING.**

17 (a) TRANSMITTAL AND REVIEW OF RECORDS.—Sec-
18 tion 865(e)(3)(B) of title 10, United States Code (article
19 65(e)(3)(B) of the Uniform Code of Military Justice), is
20 amended—

21 (1) by striking “IMPRACTICAL.—If the Judge
22 Advocate General” and inserting the following: “IM-
23 PRACTICABLE.—”

24 “(i) IN GENERAL.—Subject to clause (ii),
25 if the Judge Advocate General”;

1 (2) by striking “impractical” and inserting “im-
2 practicable”; and

3 (3) by adding at the end the following new
4 clause:

5 “(ii) CASES REFERRED BY SPECIAL TRIAL
6 COUNSEL.—If a case was referred to trial by
7 a special trial counsel, a special trial counsel
8 shall determine if a rehearing is impracticable
9 and shall dismiss the charges if the special trial
10 counsel so determines.”.

11 (b) COURTS OF CRIMINAL APPEALS.—Section
12 866(f)(1)(C) of title 10, United States Code (article
13 66(f)(1)(C) of the Uniform Code of Military Justice), is
14 amended—

15 (1) by striking “IMPRACTICABLE.—If the Court
16 of Criminal Appeals” and inserting the following:
17 “IMPRACTICABLE.—

18 “(i) IN GENERAL.—Subject to clause (ii),
19 if the Court of Criminal Appeals”; and

20 (2) by adding at the end the following new
21 clause:

22 “(ii) CASES REFERRED BY SPECIAL TRIAL
23 COUNSEL.—If a case was referred to trial by a
24 special trial counsel, a special trial counsel shall
25 determine if a rehearing is impracticable and

1 shall dismiss the charges if the special trial
2 counsel so determines.”.

3 (e) REVIEW BY THE COURT OF APPEALS FOR THE
4 ARMED FORCES.—Section 867(e) of title 10, United
5 States Code (article 67(e) of the Uniform Code of Military
6 Justice), is amended by adding at the end the following
7 new sentence: “Notwithstanding the preceding sentence,
8 if a case was referred to trial by a special trial counsel,
9 a special trial counsel shall determine if a rehearing is im-
10 practicable and shall dismiss the charges if the special
11 trial counsel so determines.”.

12 (d) REVIEW BY JUDGE ADVOCATE GENERAL.—Sec-
13 tion 869(c)(1)(D) of title 10, United States Code (article
14 69(c)(1)(D) of the Uniform Code of Military Justice), is
15 amended—

16 (1) by striking “If the Judge Advocate Gen-
17 eral” and inserting “(i) Subject to clause (ii), if the
18 Judge Advocate General”;

19 (2) by striking “impractical” and inserting “im-
20 practicable”; and

21 (3) by adding at the end the following new
22 clause:

23 “(ii) If a case was referred to trial by a special trial
24 counsel, a special trial counsel shall determine if a rehear-

1 ing is impracticable and shall dismiss the charges if the
2 special trial counsel so determines.”.

3 **SEC. 539B. APPLICABILITY TO THE UNITED STATES COAST**
4 **GUARD.**

5 The Secretary of Defense shall consult and enter into
6 an agreement with the Secretary of Homeland Security
7 to apply the provisions of this part and the amendments
8 made by this part, and the policies, mechanisms, and proc-
9 esses established pursuant to such provisions, to the
10 United States Coast Guard when it is operating as a serv-
11 ice in the Department of Homeland Security.

12 **SEC. 539C. EFFECTIVE DATE.**

13 (a) IN GENERAL.—Except as provided in subsection
14 (b), the amendments made by this part shall take effect
15 on the date that is two years after the date of the enact-
16 ment of this Act and shall apply with respect to offenses
17 that occur after that date.

18 (b) REGULATIONS.—

19 (1) REQUIREMENT.—The President shall pre-
20 scribe regulations to carry out this part not later
21 than two years after the date of the enactment of
22 this Act.

23 (2) IMPACT OF DELAY OF ISSUANCE.—If the
24 President does not prescribe the regulations nec-
25 essary to carry out this part before the date that is

1 two years after the date of the enactment of this
2 Act, the amendments made by this part shall take
3 effect on the date on which such regulations are pre-
4 scribed and shall apply with respect to offenses that
5 occur on or after that date.

6 **PART 2—SEXUAL HARASSMENT; SENTENCING**
7 **REFORM**

8 **SEC. 539D. INCLUSION OF SEXUAL HARASSMENT AS GEN-**
9 **ERAL PUNITIVE ARTICLE.**

10 (a) IN GENERAL.—Not later than 30 days after the
11 date of the enactment of this Act, the President shall—

12 (1) prescribe regulations establishing sexual
13 harassment, as described in this section, as an of-
14 fense punishable under section 934 of title 10,
15 United States Code (article 134 of the Uniform
16 Code of Military Justice); and

17 (2) revise the Manual for Courts-Martial to in-
18 clude such offense.

19 (b) ELEMENTS OF OFFENSE.—The regulations and
20 the revisions to the Manual for Courts-Martial required
21 under subsection (a) shall provide that the required ele-
22 ments constituting the offense of sexual harassment are—

23 (1) that the accused knowingly made sexual ad-
24 vances, demands or requests for sexual favors, or

1 knowingly engaged in other conduct of a sexual na-
2 ture;

3 (2) that such conduct was unwelcome;

4 (3) that, under the circumstances, such con-
5 duct—

6 (A) would cause a reasonable person to be-
7 lieve, and a certain person did believe, that sub-
8 mission to such conduct would be made, either
9 explicitly or implicitly, a term or condition of
10 that person’s job, pay, career, benefits, or enti-
11 tlements;

12 (B) would cause a reasonable person to be-
13 lieve, and a certain person did believe, that sub-
14 mission to, or rejection of, such conduct would
15 be used as a basis for decisions affecting that
16 person’s job, pay, career, benefits, or entitle-
17 ments; or

18 (C) was so severe, repetitive, or pervasive
19 that a reasonable person would perceive, and a
20 certain person did perceive, an intimidating,
21 hostile, or offensive working environment; and

22 (4) that, under the circumstances, the conduct
23 of the accused was—

24 (A) to the prejudice of good order and dis-
25 cipline in the armed forces;

1 (B) of a nature to bring discredit upon the
2 armed forces; or

3 (C) to the prejudice of good order and dis-
4 cipline in the armed forces and of a nature to
5 bring discredit upon the armed forces.

6 **SEC. 539E. SENTENCING REFORM.**

7 (a) ARTICLE 53; FINDINGS AND SENTENCING.—Sec-
8 tion 853 of title 10, United States Code (article 53 of the
9 Uniform Code of Military Justice), is amended—

10 (1) in subsection (b), by amending paragraph
11 (1) to read as follows:

12 “(1) GENERAL AND SPECIAL COURTS-MAR-
13 TIAL.—Except as provided in subsection (e) for cap-
14 ital offenses, if the accused is convicted of an offense
15 in a trial by general or special court-martial, the
16 military judge shall sentence the accused. The sen-
17 tence determined by the military judge constitutes
18 the sentence of the court-martial.”; and

19 (2) in subsection (c)—

20 (A) by amending paragraph (1) to read as
21 follows:

22 “(1) IN GENERAL.—In a capital case, if the ac-
23 cused is convicted of an offense for which the court-
24 martial may sentence the accused to death—

25 “(A) the members shall determine—

1 “(i) whether the sentence for that of-
2 fense shall be death or life in prison with-
3 out eligibility for parole; or

4 “(ii) whether the matter shall be re-
5 turned to the military judge for determina-
6 tion of a lesser punishment; and

7 “(B) the military judge shall sentence the
8 accused for that offense in accordance with the
9 determination of the members under subpara-
10 graph (A).”; and

11 (B) in paragraph (2), by striking “the
12 court-martial” and inserting “the military
13 judge”.

14 (b) ARTICLE 53A; PLEA AGREEMENTS.—Section
15 853a of title 10, United States Code (article 53a of the
16 Uniform Code of Military Justice), as amended by section
17 539 of this Act, is further amended—

18 (1) by redesignating subsections (b), (c), and
19 (d), as subsections (c), (d), and (e), respectively; and

20 (2) by inserting after subsection (a) the fol-
21 lowing new subsection:

22 “(b) ACCEPTANCE OF PLEA AGREEMENT.—Subject
23 to subsection (c), the military judge of a general or special
24 court-martial shall accept a plea agreement submitted by
25 the parties, except that—

1 “(1) in the case of an offense with a sentencing
2 parameter set forth in regulations prescribed by the
3 President pursuant to section 539E(e) of the Na-
4 tional Defense Authorization Act for Fiscal Year
5 2022, the military judge may reject a plea agree-
6 ment that proposes a sentence that is outside the
7 sentencing parameter if the military judge deter-
8 mines that the proposed sentence is plainly unrea-
9 sonable; and

10 “(2) in the case of an offense for which the
11 President has not established a sentencing param-
12 eter pursuant to section 539E(e) of the National
13 Defense Authorization Act for Fiscal Year 2022, the
14 military judge may reject a plea agreement that pro-
15 poses a sentence if the military judge determines
16 that the proposed sentence is plainly unreasonable.”.

17 (c) ARTICLE 56; SENTENCING.—Section 856 of title
18 10, United States Code (article 56 of the Uniform Code
19 of Military Justice), is amended—

20 (1) in subsection (c)—

21 (A) in paragraph (1)—

22 (i) in subparagraph (C)(vii), by strik-
23 ing “and” at the end;

1 (ii) in subparagraph (D), by striking
2 the period at the end and inserting “;
3 and”; and

4 (iii) by adding at the end the fol-
5 lowing new subparagraph:

6 “(E) the applicable sentencing parameters
7 or sentencing criteria set forth in regulations
8 prescribed by the President pursuant to section
9 539E(e) of the National Defense Authorization
10 Act for Fiscal Year 2022.”; and

11 (B) by striking paragraphs (2) through (4)
12 and inserting the following new paragraphs:

13 “(2) APPLICATION OF SENTENCING PARAM-
14 ETERS IN GENERAL AND SPECIAL COURTS-MAR-
15 TIAL.—

16 “(A) REQUIREMENT TO SENTENCE WITHIN
17 PARAMETERS.—Except as provided in subpara-
18 graph (B), in a general or special court-martial
19 in which the accused is convicted of an offense
20 for which the President has established a sen-
21 tencing parameter pursuant to section 539E(e)
22 of the National Defense Authorization Act for
23 Fiscal Year 2022, the military judge shall sen-
24 tence the accused for that offense within the
25 applicable parameter.

1 “(B) EXCEPTION.—The military judge
2 may impose a sentence outside a sentencing pa-
3 rameter upon finding specific facts that warrant
4 such a sentence. If the military judge imposes
5 a sentence outside a sentencing parameter
6 under this subparagraph, the military judge
7 shall include in the record a written statement
8 of the factual basis for the sentence.

9 “(3) USE OF SENTENCING CRITERIA IN GEN-
10 ERAL AND SPECIAL COURTS-MARTIAL.—In a general
11 or special court-martial in which the accused is con-
12 victed of an offense for which the President has es-
13 tablished sentencing criteria pursuant to section
14 539E(e) of the National Defense Authorization Act
15 for Fiscal Year 2022, the military judge shall con-
16 sider the applicable sentencing criteria in deter-
17 mining the sentence for that offense.

18 “(4) OFFENSE-BASED SENTENCING IN GEN-
19 ERAL AND SPECIAL COURTS-MARTIAL.—In announc-
20 ing the sentence under section 853 of this title (arti-
21 cle 53) in a general or special court-martial, the
22 military judge shall, with respect to each offense of
23 which the accused is found guilty, specify the term
24 of confinement, if any, and the amount of the fine,
25 if any. If the accused is sentenced to confinement

1 for more than one offense, the military judge shall
2 specify whether the terms of confinement are to run
3 consecutively or concurrently.

4 “(5) INAPPLICABILITY TO DEATH PENALTY.—
5 Sentencing parameters and sentencing criteria shall
6 not apply to a determination of whether an offense
7 should be punished by death.

8 “(6) SENTENCE OF CONFINEMENT FOR LIFE
9 WITHOUT ELIGIBILITY FOR PAROLE.—

10 “(A) IN GENERAL.—If an offense is sub-
11 ject to a sentence of confinement for life, a
12 court-martial may impose a sentence of confine-
13 ment for life without eligibility for parole.

14 “(B) TERM OF CONFINEMENT.—An ac-
15 cused who is sentenced to confinement for life
16 without eligibility for parole shall be confined
17 for the remainder of the accused’s life unless—

18 “(i) the sentence is set aside or other-
19 wise modified as a result of—

20 “(I) action taken by the con-
21 vening authority or the Secretary con-
22 cerned; or

23 “(II) any other action taken dur-
24 ing post-trial procedure or review

1 under any other provision of sub-
2 chapter IX of this chapter;

3 “(ii) the sentence is set aside or other-
4 wise modified as a result of action taken
5 by a court of competent jurisdiction; or

6 “(iii) the accused receives a pardon or
7 another form of Executive clemency.”; and

8 (4) in subsection (d)(1)—

9 (A) in subparagraph (A), by striking “or”
10 at the end;

11 (B) by redesignating subparagraph (B) as
12 subparagraph (C);

13 (C) by inserting after subparagraph (A)
14 the following new subparagraph:

15 “(B) in the case of a sentence for an of-
16 fense for which the President has established a
17 sentencing parameter pursuant to section
18 539E(e) of the National Defense Authorization
19 Act for Fiscal Year 2022, the sentence is a re-
20 sult of an incorrect application of the param-
21 eter; or”; and

22 (D) in subparagraph (C), as redesignated
23 by subparagraph (B) of this paragraph, by
24 striking “, as determined in accordance with

1 standards and procedures prescribed by the
2 President”.

3 (d) ARTICLE 66; COURTS OF CRIMINAL APPEALS.—
4 Section 866 of title 10, United States Code (article 66
5 of the Uniform Code of Military Justice), as amended by
6 section 539A of this Act, is further amended—

7 (1) in subsection (d)(1)(A), by striking the
8 third sentence; and

9 (2) by amending subsection (e) to read as fol-
10 lows:

11 “(e) CONSIDERATION OF SENTENCE.—

12 “(1) IN GENERAL.—In considering a sentence
13 on appeal, other than as provided in section 856(d)
14 of this title (article 56(d)), the Court of Criminal
15 Appeals may consider—

16 “(A) whether the sentence violates the law;

17 “(B) whether the sentence is inappropri-
18 ately severe—

19 “(i) if the sentence is for an offense
20 for which the President has not established
21 a sentencing parameter pursuant to section
22 539E(e) of the National Defense Author-
23 ization Act for Fiscal Year 2022; or

24 “(ii) in the case of an offense for
25 which the President has established a sen-

1 tencing parameter pursuant to section
2 539E(e) of the National Defense Author-
3 ization Act for Fiscal Year 2022, if the
4 sentence is above the upper range of such
5 sentencing parameter;

6 “(C) in the case of a sentence for an of-
7 fense for which the President has established a
8 sentencing parameter pursuant to section
9 539E(e) of the National Defense Authorization
10 Act for Fiscal Year 2022, whether the sentence
11 is a result of an incorrect application of the pa-
12 rameter;

13 “(D) whether the sentence is plainly un-
14 reasonable; and

15 “(E) in review of a sentence to death or to
16 life in prison without eligibility for parole deter-
17 mined by the members in a capital case under
18 section 853(c) of this title (article 53(c)),
19 whether the sentence is otherwise appropriate,
20 under rules prescribed by the President.

21 “(2) RECORD ON APPEAL.—In an appeal under
22 this subsection or section 856(d) of this title (article
23 56(d)), other than review under subsection (b)(2) of
24 this section, the record on appeal shall consist of—

1 “(A) any portion of the record in the case
2 that is designated as pertinent by any party;

3 “(B) the information submitted during the
4 sentencing proceeding; and

5 “(C) any information required by rule or
6 order of the Court of Criminal Appeals.”.

7 (e) ESTABLISHMENT OF SENTENCING PARAMETERS
8 AND SENTENCING CRITERIA.—

9 (1) IN GENERAL.—Not later than two years
10 after the date of the enactment of this Act, the
11 President shall prescribe regulations establishing
12 sentencing parameters and sentencing criteria re-
13 lated to offenses under chapter 47 of title 10,
14 United States Code (the Uniform Code of Military
15 Justice), in accordance with this subsection. Such
16 parameters and criteria—

17 (A) shall cover sentences of confinement;
18 and

19 (B) may cover lesser punishments, as the
20 President determines appropriate.

21 (2) SENTENCING PARAMETERS.—Sentencing
22 parameters established under paragraph (1) shall—

23 (A) identify a delineated sentencing range
24 for an offense that is appropriate for a typical

1 violation of the offense, taking into consider-
2 ation—

3 (i) the severity of the offense;

4 (ii) the guideline or offense category
5 that would apply to the offense if the of-
6 fense were tried in a United States district
7 court;

8 (iii) any military-specific sentencing
9 factors;

10 (iv) the need for the sentencing pa-
11 rameter to be sufficiently broad to allow
12 for individualized consideration of the of-
13 fense and the accused; and

14 (v) any other relevant sentencing
15 guideline.

16 (B) include no fewer than 5 and no more
17 than 12 offense categories;

18 (C) assign such offense under this chapter
19 to an offense category unless the offense is
20 identified as unsuitable for sentencing param-
21 eters under paragraph (4)(F)(ii); and

22 (D) delineate the confinement range for
23 each offense category by setting an upper con-
24 finement limit and a lower confinement limit.

1 (3) SENTENCING CRITERIA.—Sentencing cri-
2 teria established under paragraph (1) shall identify
3 offense-specific factors the military judge should
4 consider and any collateral effects of available pun-
5 ishments that may aid the military judge in deter-
6 mining an appropriate sentence when there is no ap-
7 plicable sentencing parameter for a specific offense.

8 (4) MILITARY SENTENCING PARAMETERS AND
9 CRITERIA BOARD.—

10 (A) IN GENERAL.—There is established
11 within the Department of Defense a board, to
12 be known as the “Military Sentencing Param-
13 eters and Criteria Board” (referred to in this
14 subsection as the “Board”).

15 (B) VOTING MEMBERS.—The Board shall
16 have 5 voting members, as follows:

17 (i) The 4 chief trial judges designated
18 under section 826(g) of title 10, United
19 States Code (article 26(g) of the Uniform
20 Code of Military Justice), except that, if
21 the chief trial judge of the Coast Guard is
22 not available, the Judge Advocate General
23 of the Coast Guard may designate as a
24 voting member a judge advocate of the

1 Coast Guard with substantial military jus-
2 tice experience.

3 (ii) A trial judge of the Navy, des-
4 igned under regulations prescribed by
5 the President, if the chief trial judges des-
6 igned under section 826(g) of title 10,
7 United States Code (article 26(g) of the
8 Uniform Code of Military Justice), do not
9 include a trial judge of the Navy.

10 (iii) A trial judge of the Marine
11 Corps, designated under regulations pre-
12 scribed by the President, if the chief trial
13 judges designated under section 826(g) of
14 title 10, United States Code (article 26(g)
15 of the Uniform Code of Military Justice),
16 do not include a trial judge of the Marine
17 Corps.

18 (C) NONVOTING MEMBERS.—The Chief
19 Judge of the Court of Appeals for the Armed
20 Forces, the Chairman of the Joint Chiefs of
21 Staff, and the General Counsel of the Depart-
22 ment of Defense shall each designate one non-
23 voting member of the Board. The Secretary of
24 Defense may appoint one additional nonvoting

1 member of the Board at the Secretary's discre-
2 tion.

3 (D) CHAIR AND VICE-CHAIR.—The Sec-
4 retary of Defense shall designate one voting
5 member as chair of the Board and one voting
6 member as vice-chair.

7 (E) VOTING REQUIREMENT.—An affirma-
8 tive vote of at least three members is required
9 for any action of the Board under this sub-
10 section.

11 (F) DUTIES OF BOARD.—The Board shall
12 have the following duties:

13 (i) As directed by the Secretary of De-
14 fense, the Board shall submit to the Presi-
15 dent for approval—

16 (I) sentencing parameters for all
17 offenses under chapter 47 of title 10,
18 United States Code (the Uniform
19 Code of Military Justice) (other than
20 offenses that the Board identifies as
21 unsuitable for sentencing parameters
22 in accordance with clause (ii)); and

23 (II) sentencing criteria to be used
24 by military judges in determining ap-
25 propriate sentences for offenses that

1 are identified as unsuitable for sen-
2 tencing parameters in accordance with
3 clause (ii).

4 (ii) Identify each offense under chap-
5 ter 47 of title 10, United States Code (the
6 Uniform Code of Military Justice), that is
7 unsuitable for sentencing parameters. The
8 Board shall identify an offense as unsuit-
9 able for sentencing parameters if—

10 (I) the nature of the offense is
11 indeterminate and unsuitable for cat-
12 egorization; and

13 (II) there is no similar criminal
14 offense under the laws of the United
15 States or the laws of the District of
16 Columbia.

17 (iii) In developing sentencing param-
18 eters and criteria, the Board shall consider
19 the sentencing data collected by the Mili-
20 tary Justice Review Panel pursuant to sec-
21 tion 946(f)(2) of title 10, United States
22 Code (article 146(f)(2) of the Uniform
23 Code of Military Justice).

24 (iv) In addition to establishing param-
25 eters for sentences of confinement under

1 clause (i)(I), the Board shall consider the
2 appropriateness of establishing sentencing
3 parameters for punitive discharges, fines,
4 reductions, forfeitures, and other lesser
5 punishments authorized under chapter 47
6 of title 10, United States Code (the Uni-
7 form Code of Military Justice).

8 (v) The Board shall regularly—
9 (I) review, and propose revision
10 to, in consideration of comments and
11 data coming to the Board’s attention,
12 the sentencing parameters and sen-
13 tencing criteria prescribed under para-
14 graph (1); and

15 (II) submit to the President,
16 through the Secretary of Defense,
17 proposed amendments to the sen-
18 tencing parameters and sentencing
19 criteria, together with statements ex-
20 plaining the basis for the proposed
21 amendments.

22 (vi) The Board shall develop means of
23 measuring the degree to which applicable
24 sentencing, penal, and correctional prac-
25 tices are effective with respect to the sen-

1 sentencing factors and policies set forth in
2 this section.

3 (vii) In fulfilling its duties and in ex-
4 exercising its powers, the Board shall consult
5 authorities on, and individual and institu-
6 tional representatives of, various aspects of
7 the military criminal justice system. The
8 Board may establish separate advisory
9 groups consisting of individuals with cur-
10 rent or recent experience in command and
11 in senior enlisted positions, individuals
12 with experience in the trial of courts-mar-
13 tial, and such other groups as the Board
14 deems appropriate.

15 (viii) The Board shall submit to the
16 President, through the Secretary of De-
17 fense, proposed amendments to the rules
18 for courts-martial with respect to sen-
19 tencing proceedings and maximum punish-
20 ments, together with statements explaining
21 the basis for the proposed amendments.

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date that is two years
24 after the date of the enactment of this Act and shall apply
25 to sentences adjudged in cases in which all findings of

1 guilty are for offenses that occurred after the date that
2 is two years after the date of the enactment of this Act.

3 (g) REPEAL OF SECRETARIAL GUIDELINES ON SEN-
4 TENCES FOR OFFENSES COMMITTED UNDER THE UNI-
5 FORM CODE OF MILITARY JUSTICE.—Section 537 of the
6 National Defense Authorization Act for Fiscal Year 2020
7 (Public Law 116–92; 133 Stat. 1363; 10 U.S.C. 856 note)
8 is repealed.

9 **PART 3—REPORTS AND OTHER MATTERS**

10 **SEC. 539F. BRIEFING AND REPORT ON RESOURCING RE-**
11 **QUIRED FOR IMPLEMENTATION.**

12 (a) BRIEFING AND REPORT REQUIRED.—

13 (1) BRIEFING.—Not later than March 1, 2022,
14 each Secretary concerned shall provide to the appro-
15 priate congressional committees a briefing that de-
16 tails the resourcing necessary to implement this sub-
17 title and the amendments made by this subtitle.

18 (2) REPORT.—On a date occurring after the
19 briefing under paragraph (1), but not later than one
20 year after the date of the enactment of this Act,
21 each Secretary concerned shall submit to the appro-
22 priate congressional committees a report that details
23 the resourcing necessary to implement this subtitle
24 and the amendments made by this subtitle.

1 (3) FORM OF BRIEFING AND REPORT.—Each
2 Secretary concerned may provide the briefing and
3 report required under paragraphs (1) and (2) joint-
4 ly, or separately, as determined appropriate by such
5 Secretaries

6 (b) ELEMENTS.—The briefing and report required
7 under subsection (a) shall address the following:

8 (1) The number of additional personnel and
9 personnel authorizations (military and civilian) re-
10 quired by the Armed Forces to implement and exe-
11 cute the provisions of this subtitle and the amend-
12 ments made by this subtitle by the effective date
13 specified in section 539C.

14 (2) The basis for the number provided pursuant
15 to paragraph (1), including the following:

16 (A) A description of the organizational
17 structure in which such personnel or groups of
18 personnel are or will be aligned.

19 (B) The nature of the duties and functions
20 to be performed by any such personnel or
21 groups of personnel across the domains of pol-
22 icy-making, execution, assessment, and over-
23 sight.

24 (C) The optimum caseload goal assigned to
25 the following categories of personnel who are or

1 will participate in the military justice process:
2 criminal investigators of different levels and ex-
3 pertise, laboratory personnel, defense counsel,
4 special trial counsel, military defense counsel,
5 military judges, and military magistrates.

6 (D) Any required increase in the number
7 of personnel currently authorized in law to be
8 assigned to the Armed Force concerned.

9 (3) The nature and scope of any contract re-
10 quired by the Armed Force concerned to implement
11 and execute the provisions of this subtitle and the
12 amendments made by this subtitle by the effective
13 date specified in section 539C.

14 (4) The amount and types of additional funding
15 required by the Armed Force concerned to imple-
16 ment the provisions of this subtitle and the amend-
17 ments made by this subtitle by the effective date
18 specified in section 539C.

19 (5) Any additional authorities required to im-
20 plement the provisions of this subtitle and the
21 amendments made by this subtitle by the effective
22 date specified in section 539C.

23 (6) Any additional information the Secretary
24 concerned determines is necessary to ensure the
25 manning, equipping, and resourcing of the Armed

1 Forces to implement and execute the provisions of
2 this subtitle and the amendments made by this sub-
3 title.

4 (c) DEFINITIONS.—In this section:

5 (1) The term “appropriate congressional com-
6 mittees” means—

7 (A) the Committee on Armed Services and
8 the Committee on Commerce, Science, and
9 Transportation of the Senate; and

10 (B) the Committee on Armed Services and
11 the Committee on Transportation and Infra-
12 structure of the House of Representatives.

13 (2) The term “Secretary concerned” has the
14 meaning given that term in section 101(a) of title
15 10, United States Code.

16 **SEC. 539G. BRIEFING ON IMPLEMENTATION OF CERTAIN**
17 **RECOMMENDATIONS OF THE INDEPENDENT**
18 **REVIEW COMMISSION ON SEXUAL ASSAULT**
19 **IN THE MILITARY.**

20 (a) BRIEFING REQUIRED.—Not later than 180 days
21 after the date of the enactment of this Act, the Secretary
22 of Defense shall provide to the Committees on Armed
23 Services of the Senate and the House of Representatives
24 a briefing on the status of the implementation of the rec-
25 ommendations set forth in the report of the Independent

1 Review Commission on Sexual Assault in the Military ti-
2 tled “Hard Truths and the Duty to Change: Recommenda-
3 tions from the Independent Review Commission on Sexual
4 Assault in the Military”, and dated July 2, 2021.

5 (b) ELEMENTS.—The briefing under subsection (a)
6 shall address the following:

7 (1) The status of the implementation of each
8 recommendation, including—

9 (A) whether, how, and to what extent the
10 recommendation has been implemented; and

11 (B) any rules, regulations, policies, or
12 other guidance that have been issued, revised,
13 changed, or cancelled as a result of the imple-
14 mentation of the recommendation.

15 (2) For each recommendation that has not been
16 fully implemented or superseded by statute as of the
17 date of the briefing, a description of any plan for the
18 implementation of the recommendation, including
19 identification of—

20 (A) intermediate actions, milestone dates,
21 and any expected completion date for imple-
22 mentation of the recommendation; and

23 (B) any rules, regulations, policies, or
24 other guidance that are expected to be issued,

1 revised, changed, or cancelled as a result of the
2 implementation of the recommendation.

3 **Subtitle E—Other Military Justice**
4 **and Legal Matters**

5 **SEC. 541. RIGHTS OF THE VICTIM OF AN OFFENSE UNDER**
6 **THE UNIFORM CODE OF MILITARY JUSTICE.**

7 Section 806b(a) of title 10, United States Code (arti-
8 cle 6b(a) of the Uniform Code of Military Justice), is
9 amended—

10 (1) by redesignating paragraph (8) as para-
11 graph (9); and

12 (2) by inserting after paragraph (7) the fol-
13 lowing new paragraph:

14 “(8) The right to be informed in a timely man-
15 ner of any plea agreement, separation-in-lieu-of-trial
16 agreement, or non-prosecution agreement relating to
17 the offense, unless providing such information would
18 jeopardize a law enforcement proceeding or would
19 violate the privacy concerns of an individual other
20 than the accused.”.

21 **SEC. 542. CONDUCT UNBECOMING AN OFFICER.**

22 (a) IN GENERAL.—Section 933 of title 10, United
23 States Code (article 133 of the Uniform Code of Military
24 Justice) is amended—

1 (1) in the section heading, by striking “**and a**
2 **gentleman**”; and

3 (2) by striking “and a gentleman”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of subchapter X of chapter 47 of such
6 title is amended by striking the item relating to section
7 933 (article 133) and inserting the following new item:
“933. 133. Conduct unbecoming an officer.”.

8 **SEC. 543. INDEPENDENT INVESTIGATION OF COMPLAINTS**
9 **OF SEXUAL HARASSMENT.**

10 (a) IN GENERAL.—Section 1561 of title 10, United
11 States Code, is amended to read as follows:

12 **“§ 1561. Complaints of sexual harassment: inde-**
13 **pendent investigation**

14 “(a) ACTION ON COMPLAINTS ALLEGING SEXUAL
15 HARASSMENT.—A commanding officer or officer in charge
16 of a unit, vessel, facility, or area of the Army, Navy, Air
17 Force, Marine Corps, or Space Force who receives from
18 a member of the command or a civilian employee under
19 the supervision of the officer a formal complaint alleging
20 a claim of sexual harassment by a member of the armed
21 forces or a civilian employee of the Department of Defense
22 shall, to the extent practicable, direct that an independent
23 investigation of the matter be carried out in accordance
24 with this section.

1 “(b) COMMENCEMENT OF INVESTIGATION.—To the
2 extent practicable, a commanding officer or officer in
3 charge receiving such a formal complaint shall forward
4 such complaint to an independent investigator within 72
5 hours after receipt of the complaint, and shall further—

6 “(1) forward the formal complaint or a detailed
7 description of the allegation to the next superior of-
8 ficer in the chain of command who is authorized to
9 convene a general court-martial; and

10 “(2) advise the complainant of the commence-
11 ment of the investigation.

12 “(c) DURATION OF INVESTIGATION.—To the extent
13 practicable, a commanding officer or officer in charge shall
14 ensure that an independent investigator receiving a formal
15 complaint of sexual harassment under this section com-
16 pletes the investigation of the complaint not later than 14
17 days after the date on which the investigation is com-
18 menced, and that the findings of the investigation are for-
19 warded to the commanding officer or officer in charge
20 specified in subsection (a) for action as appropriate.

21 “(d) REPORT ON INVESTIGATION.—To the extent
22 practicable, a commanding officer or officer in charge
23 shall—

24 “(1) submit a final report on the results of the
25 independent investigation, including any action

1 taken as a result of the investigation, to the next su-
2 perior officer referred to in subsection (b)(1) within
3 20 days after the date on which the investigation is
4 commenced; or

5 “(2) submit a report on the progress made in
6 completing the investigation to the next superior of-
7 ficer referred to in subsection (b)(1) within 20 days
8 after the date on which the investigation is com-
9 menced and every 14 days thereafter until the inves-
10 tigation is completed and, upon completion of the in-
11 vestigation, then submit a final report on the results
12 of the investigation, including any action taken as a
13 result of the investigation, to that next superior offi-
14 cer.

15 “(e) SEXUAL HARASSMENT DEFINED.—In this sec-
16 tion, the term ‘sexual harassment’ means conduct that
17 constitutes the offense of sexual harassment as punishable
18 under section 934 of this title (article 134) pursuant to
19 the regulations prescribed by the Secretary of Defense for
20 purposes of such section (article).”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of chapter 80 of title 10, United States
23 Code, is amended by striking the item relating to section
24 1561 and inserting the following new item:

“1561. Complaints of sexual harassment: independent investigation.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 subsections (a) and (b) shall—

3 (1) take effect on the date that is two years
4 after the date of the enactment of this Act; and

5 (2) apply to any investigation of a formal com-
6 plaint of sexual harassment (as defined in section
7 1561 of title 10, United States Code, as amended by
8 subsection (a)) made on or after that date.

9 (d) REGULATIONS.—Not later than 18 months after
10 the date of the enactment of this Act the Secretary of De-
11 fense shall prescribe regulations providing for the imple-
12 mentation of section 1561 of title 10, United States Code,
13 as amended by subsection (a).

14 (e) REPORT ON IMPLEMENTATION.—Not later than
15 one year after the date of the enactment of this Act, the
16 Secretary of Defense shall submit to the Committees on
17 Armed Services of the Senate and the House of Represent-
18 atives a report on the preparation of the Secretary to im-
19 plement section 1561 of title 10, United States Code, as
20 amended by subsection (a).

1 **SEC. 544. DEPARTMENT OF DEFENSE TRACKING OF ALLE-**
2 **GATIONS OF RETALIATION BY VICTIMS OF**
3 **SEXUAL ASSAULT OR SEXUAL HARASSMENT**
4 **AND RELATED PERSONS.**

5 (a) IN GENERAL.—Chapter 80 of title 10, United
6 States Code, is amended by inserting after section 1562
7 the following new section:

8 **“§ 1562a. Complaints of retaliation by victims of sex-**
9 **ual assault or sexual harassment and re-**
10 **lated persons: tracking by Department of**
11 **Defense**

12 “(a) DESIGNATION OF RESPONSIBLE COMPONENT.—
13 The Secretary of Defense shall designate a component of
14 the Office of the Secretary of Defense to be responsible
15 for documenting and tracking all covered allegations of re-
16 taliation and shall ensure that the Secretaries concerned
17 and the Inspector General of the Department of Defense
18 provide to such component the information required to be
19 documented and tracked as described in subsection (b).

20 “(b) TRACKING OF ALLEGATIONS.—The head of the
21 component designated by the Secretary under subsection
22 (a) shall document and track each covered allegation of
23 retaliation, including—

24 “(1) that such an allegation has been reported
25 and by whom;

26 “(2) the date of the report;

1 “(3) the nature of the allegation and the name
2 of the person or persons alleged to have engaged in
3 such retaliation;

4 “(4) the Department of Defense component or
5 other entity responsible for the investigation of or
6 inquiry into the allegation;

7 “(5) the entry of findings;

8 “(6) referral of such findings to a decision-
9 maker for review and action, as appropriate;

10 “(7) the outcome of final action; and

11 “(8) any other element of information per-
12 taining to the allegation determined appropriate by
13 the Secretary or the head of the component des-
14 ignated by the Secretary.

15 “(c) COVERED ALLEGATION OF RETALIATION DE-
16 FINED.—In this section, the term ‘covered allegation of
17 retaliation’ means an allegation of retaliation—

18 “(1) made by—

19 “(A) an alleged victim of sexual assault or
20 sexual harassment;

21 “(B) an individual charged with providing
22 services or support to an alleged victim of sex-
23 ual assault or sexual harassment;

24 “(C) a witness or bystander to an alleged
25 sexual assault or sexual harassment; or

1 “(D) any other person associated with an
2 alleged victim of a sexual assault or sexual har-
3 assment; and

4 “(2) without regard to whether the allegation is
5 reported to or investigated or inquired into by—

6 “(A) the Department of Defense Inspector
7 General or any other inspector general;

8 “(B) a military criminal investigative orga-
9 nization;

10 “(C) a commander or other person at the
11 direction of the commander;

12 “(D) another military or civilian law en-
13 forcement organization; or

14 “(E) any other organization, officer, or
15 employee of the Department of Defense.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of chapter 80 of title 10, United States
18 Code, is amended by inserting after the item relating to
19 section 1562 the following new item:

 “1562a. Complaints of retaliation by victims of sexual assault or sexual harass-
 ment and related persons: tracking by Department of De-
 fense.”.

1 **SEC. 545. MODIFICATION OF NOTICE TO VICTIMS OF PEND-**
2 **ENCY OF FURTHER ADMINISTRATIVE ACTION**
3 **FOLLOWING A DETERMINATION NOT TO**
4 **REFER TO TRIAL BY COURT-MARTIAL.**

5 Section 549 of the National Defense Authorization
6 Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C.
7 806b note) is amended—

8 (1) in the section heading, by striking “**AL-**
9 **LEGED SEXUAL ASSAULT**” and inserting “**AL-**
10 **LEGED SEX-RELATED OFFENSE**”;

11 (2) by striking “Under regulations” and insert-
12 ing “Notwithstanding section 552a of title 5, United
13 States Code, and under regulations”;

14 (3) by striking “alleged sexual assault” and in-
15 serting “an alleged sex-related offense (as defined in
16 section 1044e(h) of title 10, United States Code)”;
17 and

18 (4) by adding at the end the following new sen-
19 tence: “Upon such final determination, the com-
20 mander shall notify the victim of the type of action
21 taken on such case, the outcome of the action (in-
22 cluding any punishments assigned or characteriza-
23 tion of service, as applicable), and such other infor-
24 mation as the commander determines to be rel-
25 evant.”

1 **SEC. 546. CIVILIAN POSITIONS TO SUPPORT SPECIAL VIC-**
2 **TIMS' COUNSEL.**

3 (a) CIVILIAN SUPPORT POSITIONS.—Each Secretary
4 of a military department may establish one or more civil-
5 ian positions within each office of the Special Victims'
6 Counsel under the jurisdiction of such Secretary.

7 (b) DUTIES.—The duties of each position under sub-
8 section (a) shall be—

9 (1) to provide support to Special Victims' Coun-
10 sel, including legal, paralegal, and administrative
11 support; and

12 (2) to ensure the continuity of legal services
13 and the preservation of institutional knowledge in
14 the provision of victim legal services notwithstanding
15 transitions in the military personnel assigned to of-
16 fices of the Special Victims' Counsel.

17 (c) SPECIAL VICTIMS' COUNSEL DEFINED.—In this
18 section, the term “Special Victims' Counsel” means Spe-
19 cial Victims' Counsel described in section 1044e of title
20 10, United States Code, and in the case of the Navy and
21 Marine Corps, includes counsel designated as “Victims'
22 Legal Counsel”.

23 **SEC. 547. PLANS FOR UNIFORM DOCUMENT MANAGEMENT**
24 **SYSTEM, TRACKING PRETRIAL INFORMA-**
25 **TION, AND ASSESSING CHANGES IN LAW.**

26 (a) PLAN FOR DOCUMENT MANAGEMENT SYSTEM.—

1 (1) IN GENERAL.—Not later than one year
2 after the date of the enactment of this Act, the Sec-
3 retary of Defense, in consultation with the Secretary
4 of Homeland Security (with respect to the Coast
5 Guard when it is not operating as a service in the
6 Navy), the Secretaries of the military departments,
7 and the Judge Advocates specified in subsection (e),
8 shall publish a plan pursuant to which the Secretary
9 of Defense shall establish a single document man-
10 agement system for use by each Armed Force to col-
11 lect and present information on matters within the
12 military justice system, including information col-
13 lected and maintained for purposes of section 940a
14 of title 10, United States Code (article 140a of the
15 Uniform Code of Military Justice).

16 (2) ELEMENTS.—The plan under subsection (a)
17 shall meet the following criteria:

18 (A) CONSISTENCY OF DATA FIELDS.—The
19 plan shall ensure that each Armed Force uses
20 consistent data collection fields, definitions, and
21 other criteria for the document management
22 system described in subsection (a).

23 (B) BEST PRACTICES.—The plan shall in-
24 clude a strategy for incorporating into the docu-
25 ment management system the features of the

1 case management and electronic case filing sys-
2 tem of the Federal courts to the greatest extent
3 possible.

4 (C) PROSPECTIVE APPLICATION.—The
5 plan shall require the document management
6 system to be used for the collection and presen-
7 tation of information about matters occurring
8 after the date of the implementation of the sys-
9 tem. The plan shall not require the collection
10 and presentation of historical data about mat-
11 ters occurring before the implementation date
12 of the system.

13 (D) RESOURCES.—The plan shall include
14 an estimate of the resources (including costs,
15 staffing, and other resources) required to imple-
16 ment the document management system.

17 (E) AUTHORITIES.—The plan shall include
18 an analysis of any legislative actions, including
19 any changes to law, that may be required to im-
20 plement the document management system for
21 each Armed Force.

22 (b) PLAN FOR TRACKING PRETRIAL INFORMA-
23 TION.—Not later than one year after the date of the enact-
24 ment of this Act, the Secretary of Defense, in consultation
25 with the Secretary of Homeland Security (with respect to

1 the Coast Guard when it is not operating as a service in
2 the Navy), the Secretaries of the military departments,
3 and the Judge Advocates specified in subsection (e), shall
4 publish a plan addressing how the Armed Forces will col-
5 lect, track, and maintain pretrial records, data, and other
6 information regarding the reporting, investigation, and
7 processing of all offenses under chapter 47 of title 10,
8 United States Code (the Uniform Code of Military Jus-
9 tice), arising in any Armed Force in a manner such that
10 each Armed Force uses consistent data collection fields,
11 definitions, and criteria.

12 (c) PLAN FOR ASSESSING EFFECTS OF CHANGES IN
13 LAW.—Not later than one year after the date of the enact-
14 ment of this Act, the Secretary of Defense, in consultation
15 with the Secretary of Homeland Security (with respect to
16 the Coast Guard when it is not operating as a service in
17 the Navy), the Secretaries of the military departments,
18 and the Judge Advocates specified in subsection (e), shall
19 publish a plan addressing the manner in which the De-
20 partment of Defense will analyze the effects of the changes
21 in law and policy required under subtitle D and the
22 amendments made by such subtitle with respect to the dis-
23 position of offenses over which a special trial counsel at
24 any time exercises authority in accordance with section
25 824a of title 10, United States Code (article 24a of the

1 Uniform Code of Military Justice) (as added by section
2 531 of this Act).

3 (d) INTERIM BRIEFINGS.—

4 (1) IN GENERAL.—Not less frequently than
5 once every 90 days during the covered period, the
6 Secretary of Defense, in consultation with the Sec-
7 retary of Homeland Security (with respect to the
8 Coast Guard when it is not operating as a service
9 in the Navy), the Secretaries of the military depart-
10 ments, and the Judge Advocates specified in sub-
11 section (e), shall provide to the Committees on
12 Armed Services of the Senate and the House of Rep-
13 resentatives, the Committee on Commerce, Science,
14 and Transportation of the Senate, and the Com-
15 mittee on Transportation and Infrastructure of the
16 House of Representatives a briefing on the status of
17 the development of the plans required under sub-
18 sections (a) through (c).

19 (2) COVERED PERIOD.—In this subsection, the
20 term “covered period” means the period beginning
21 on the date of the enactment of this Act and ending
22 on the date that is one year after the date of the en-
23 actment of this Act.

24 (e) JUDGE ADVOCATES SPECIFIED.—The Judge Ad-
25 vocates specified in this subsection are the following:

1 (1) The Judge Advocate General of the Army.

2 (2) The Judge Advocate General of the Navy.

3 (3) The Judge Advocate General of the Air
4 Force.

5 (4) The Staff Judge Advocate to the Com-
6 mandant of the Marine Corps.

7 (5) The Judge Advocate General of the Coast
8 Guard.

9 **SEC. 548. DETERMINATION AND REPORTING OF MEMBERS**

10 **MISSING, ABSENT UNKNOWN, ABSENT WITH-**
11 **OUT LEAVE, AND DUTY STATUS-WHERE-**
12 **ABOUTS UNKNOWN.**

13 (a) COMPREHENSIVE REVIEW OF MISSING PERSONS
14 REPORTING.—The Secretary of Defense shall instruct
15 each Secretary of a military department to perform a com-
16 prehensive review of the policies and procedures of the
17 military department concerned to determine and report a
18 member of an Armed Force under the jurisdiction of such
19 Secretary of a military department as missing, absent un-
20 known, absent without leave, or duty status-whereabouts
21 unknown.

22 (b) REVIEW OF INSTALLATION-LEVEL PROCE-
23 DURES.—In addition to such other requirements as may
24 be set forth by the Secretary of Defense pursuant to sub-

1 section (a), each Secretary of a military department shall,
2 with regard to the military department concerned—

3 (1) direct each commander of a military instal-
4 lation, including any tenant command or activity
5 present on such military installation, to review poli-
6 cies and procedures for carrying out the determina-
7 tion and reporting activities described in subsection
8 (a); and

9 (2) update such installation-level policies and
10 procedures, including any tenant command or activ-
11 ity policies and procedures, to improve force protec-
12 tion, enhance security for members living on the
13 military installation, and promote reporting at the
14 earliest practicable time to local law enforcement (at
15 all levels) and Federal law enforcement field offices
16 with overlapping jurisdiction with that installation,
17 when a member is determined to be missing, absent
18 unknown, absent without leave, or duty status-
19 whereabouts unknown.

20 (c) INSTALLATION-SPECIFIC REPORTING PROTO-
21 COLS.—

22 (1) IN GENERAL.—Each commander of a mili-
23 tary installation shall establish a protocol applicable
24 to all persons and organizations present on the mili-
25 tary installation, including tenant commands and ac-

1 activities, for sharing information with local and Fed-
2 eral law enforcement agencies about members who
3 are missing, absent-unknown, absent without leave,
4 or duty status-whereabouts unknown. The protocol
5 shall provide for the immediate entry regarding the
6 member concerned in the Missing Persons File of
7 the National Crimes Information Center data and
8 for the commander to immediately notify all local
9 law enforcement agencies with jurisdictions in the
10 immediate area of the military installation, when the
11 status of a member assigned to such installation has
12 been determined to be missing, absent unknown, ab-
13 sent without leave, or duty status-whereabouts un-
14 known.

15 (2) REPORTING TO MILITARY INSTALLATION
16 COMMAND.—Each commander of a military installa-
17 tion shall submit the protocol established pursuant
18 to paragraph (1) to the Secretary of the military de-
19 partment concerned.

20 (d) REPORT REGARDING NATIONAL GUARD.—Not
21 later than June 1, 2022, the Secretary of Defense shall
22 submit, to the Committees on Armed Services of the Sen-
23 ate and House of Representatives, a report on the feasi-
24 bility of implementing subsections (a), (b), and (c), with
25 regards to facilities of the National Guard. Such report

1 shall include recommendations of the Secretary, including
2 a proposed timeline for implementing the provisions of
3 such subsections that the Secretary determines feasible.

4 **SEC. 549. ACTIVITIES TO IMPROVE FAMILY VIOLENCE PRE-**
5 **VENTION AND RESPONSE.**

6 (a) DELEGATION OF AUTHORITY TO AUTHORIZE EX-
7 CEPTIONAL ELIGIBILITY FOR CERTAIN BENEFITS.—

8 Paragraph (4) of section 1059(m) of title 10, United
9 States Code, is amended to read as follows:

10 “(4)(A) Except as provided in subparagraph (B), the
11 authority of the Secretary concerned under paragraph (1)
12 may not be delegated.

13 “(B) During the two year period following the date
14 of the enactment of the National Defense Authorization
15 Act for Fiscal Year 2022, the authority of the Secretary
16 concerned under paragraph (1) may be delegated to an
17 official at the Assistant Secretary-level or above. Any exer-
18 cise of such delegated authority shall be reported to the
19 Secretary concerned on a quarterly basis.”.

20 (b) EXTENSION OF REQUIREMENT FOR ANNUAL
21 FAMILY ADVOCACY PROGRAM REPORT REGARDING
22 CHILD ABUSE AND DOMESTIC VIOLENCE.—Section
23 574(a) of the National Defense Authorization Act for Fis-
24 cal Year 2017 (Public Law 114–328; 130 Stat. 2141) is

1 amended by striking “April 30, 2021” and inserting
2 “April 30, 2026”.

3 (c) IMPLEMENTATION OF COMPTROLLER GENERAL
4 RECOMMENDATIONS.—

5 (1) IN GENERAL.—Consistent with the rec-
6 ommendations set forth in the report of the Comp-
7 troller General of the United States titled “Domestic
8 Abuse: Actions Needed to Enhance DOD’s Preven-
9 tion, Response, and Oversight” (GAO–21–289), the
10 Secretary of Defense, in consultation with the Secre-
11 taries of the military departments, shall carry out
12 the activities specified in subparagraphs (A) through
13 (K).

14 (A) DOMESTIC ABUSE DATA.—Not later
15 than 180 days after the date of the enactment
16 of this Act, the Secretary of Defense, in con-
17 sultation with the Secretaries of the military de-
18 partments, shall carry out each of the following:

19 (i) Issue guidance to the Secretaries
20 of the military departments to clarify and
21 standardize the process for collecting and
22 reporting data on domestic abuse in the
23 Armed Forces, including—

24 (I) data on the numbers and
25 types of domestic abuse incidents in-

1 volving members of the Armed Forces;
2 and

3 (II) data for inclusion in the re-
4 ports required to be submitted under
5 section 574 of the National Defense
6 Authorization Act for Fiscal Year
7 2017 (Public Law 114–328; 130 Stat.
8 2141).

9 (ii) Develop a quality control process
10 to ensure the accurate and complete re-
11 porting of data on allegations of abuse in-
12 volving a member of the Armed Forces, in-
13 cluding allegations of abuse that do not
14 meet the Department of Defense definition
15 of domestic abuse.

16 (iii) Expand the scope of any report-
17 ing to Congress that includes data on do-
18 mestic abuse in the Armed Forces to in-
19 clude data on and analysis of the types of
20 allegations of domestic abuse.

21 (B) DOMESTIC VIOLENCE AND COMMAND
22 ACTION DATA.—Not later than 180 days after
23 the date of the enactment of this Act, the Sec-
24 retary of Defense, in consultation with the Sec-
25 retaries of the military departments, shall—

- 1 (i) evaluate the organizations and ele-
2 ments of the Department of Defense that
3 are responsible for tracking domestic vio-
4 lence incidents and the command actions
5 taken in response to such incidents to de-
6 termine if there are actions that may be
7 carried out to—
- 8 (I) eliminate gaps and
9 redundancies in the activities of such
10 organizations;
- 11 (II) ensure consistency in the ap-
12 proaches of such organizations to the
13 tracking of such incidents and actions;
14 and
- 15 (III) otherwise improve the
16 tracking of such incidents and actions
17 across the Department;
- 18 (ii) based on the evaluation under
19 clause (i), clarify or adjust—
- 20 (I) the duties of such organiza-
21 tions and elements; and
- 22 (II) the manner in which such or-
23 ganizations and elements coordinate
24 their activities; and

1 (iii) issue guidance to the Secretaries
2 of the military departments to clarify and
3 standardize the information required to be
4 collected and reported to the database on
5 domestic violence incidents under section
6 1562 of title 10, United States Code.

7 (C) REGULATIONS FOR VIOLATION OF CI-
8 VILIAN ORDERS OF PROTECTION.—The Sec-
9 retary of Defense shall revise or issue regula-
10 tions (as applicable) to ensure that each Sec-
11 retary of a military department provides, to any
12 member of the Armed Forces under the jurisdic-
13 tion of such Secretary who is subject to a ci-
14 vilian order of protection, notice that the viola-
15 tion of such order may be punishable under
16 chapter 47 of title 10, United States Code (the
17 Uniform Code of Military Justice).

18 (D) AGREEMENTS WITH CIVILIAN VICTIM
19 SERVICE ORGANIZATIONS.—

20 (i) GUIDANCE REQUIRED.—The Sec-
21 retary of Defense, in consultation with the
22 Secretaries of the military departments,
23 shall issue guidance pursuant to which per-
24 sonnel of a Family Advocacy Program at a
25 military installation may enter into memo-

1 randa of understanding with qualified civil-
2 ian victim service organizations for pur-
3 poses of providing services to victims of do-
4 mestic abuse in accordance with clause (ii).

5 (ii) CONTENTS OF AGREEMENT.—A
6 memorandum of understanding entered
7 into under clause (i) shall provide that per-
8 sonnel of a Family Advocacy Program at a
9 military installation may refer a victim of
10 domestic abuse to a qualified civilian vic-
11 tim service organization if such personnel
12 determine that—

13 (I) the services offered at the in-
14 stallation are insufficient to meet the
15 victim’s needs; or

16 (II) such a referral would other-
17 wise benefit the victim.

18 (E) SCREENING AND REPORTING OF INI-
19 TIAL ALLEGATIONS.—The Secretary of Defense,
20 in consultation with the Secretaries of the mili-
21 tary departments, shall develop and implement
22 a standardized process—

23 (i) to ensure consistency in the man-
24 ner in which allegations of domestic abuse
25 are screened and documented at military

1 installations, including by ensuring that al-
2 legations of domestic abuse are docu-
3 mented regardless of the severity of the in-
4 cident; and

5 (ii) to ensure consistency in the form
6 and manner in which such allegations are
7 presented to Incident Determination Com-
8 mittees.

9 (F) IMPLEMENTATION AND OVERSIGHT OF
10 INCIDENT DETERMINATION COMMITTEES.—

11 (i) IMPLEMENTATION.—The Secretary
12 of Defense, in consultation with the Secre-
13 taries of the military departments, shall
14 ensure that Incident Determination Com-
15 mittees are fully implemented within each
16 Armed Force.

17 (ii) OVERSIGHT AND MONITORING.—
18 The Secretary of Defense shall—

19 (I) direct the Under Secretary of
20 Defense for Personnel and Readiness
21 to conduct oversight of the activities
22 of the Incident Determination Com-
23 mittees of the Armed Forces on an
24 ongoing basis; and

1 (II) establish a formal process
2 through which the Under Secretary
3 will monitor Incident Determination
4 Committees to ensure that the activi-
5 ties of such Committees are conducted
6 in an consistent manner in accordance
7 with the applicable policies of the De-
8 partment of Defense and the Armed
9 Forces.

10 (G) REASONABLE SUSPICION STANDARD
11 FOR INCIDENT REPORTING.—Not later than 90
12 days after the date of the enactment of the Act,
13 the Secretary of Defense, in consultation with
14 the Secretaries of the military departments,
15 shall issue regulations—

16 (i) under which the personnel of a
17 Family Advocacy Program shall be re-
18 quired to report an allegation of domestic
19 abuse to an Incident Determination Com-
20 mittee if there is reasonable suspicion that
21 the abuse occurred; and

22 (ii) that fully define and establish
23 standardized criteria for determining
24 whether an allegation of abuse meets the

1 reasonable suspicion standard referred to
2 in clause (i).

3 (H) GUIDANCE FOR VICTIM RISK ASSESS-
4 MENT.—The Secretary of Defense, in consulta-
5 tion with the Secretaries of the military depart-
6 ments, shall issue guidance that—

7 (i) identifies the risk assessment tools
8 that must be used by Family Advocacy
9 Program personnel to assess reports of do-
10 mestic abuse; and

11 (ii) establishes minimum qualifications
12 for the personnel responsible for using
13 such tools.

14 (I) IMPROVING FAMILY ADVOCACY PRO-
15 GRAM AWARENESS CAMPAIGNS.—The Secretary
16 of Defense, in consultation with the Secretaries
17 of the military departments, shall develop and
18 implement—

19 (i) a communications strategy to sup-
20 port the Armed Forces in increasing
21 awareness of the options and resources
22 available for reporting incidents of domes-
23 tic abuse; and

24 (ii) metrics to evaluate the effective-
25 ness of domestic abuse awareness cam-

1 paigns within the Department of Defense
2 and the Armed Forces, including by identi-
3 fying a target audience and defining meas-
4 urable objectives for such campaigns.

5 (J) ASSESSMENT OF THE DISPOSITION
6 MODEL FOR DOMESTIC VIOLENCE.—As part of
7 the independent analysis required by section
8 549C of the William M. (Mac) Thornberry Na-
9 tional Defense Authorization Act for Fiscal
10 Year 2021 (Public Law 116–283) the Secretary
11 of Defense shall include an assessment of—

12 (i) the risks and consequences of the
13 disposition model for domestic violence in
14 effect as of the date of the enactment of
15 this Act, including the risks and con-
16 sequences of such model with respect to—

17 (I) the eligibility of victims for
18 transitional compensation and other
19 benefits; and

20 (II) the eligibility of perpetrators
21 of domestic violence to possess fire-
22 arms and any related effects on the
23 military service of such individuals;
24 and

1 (ii) the feasibility and advisability of
2 establishing alternative disposition models
3 for domestic violence, including an assess-
4 ment of the advantages and disadvantages
5 of each proposed model.

6 (K) FAMILY ADVOCACY PROGRAM TRAIN-
7 ING.—

8 (i) TRAINING FOR COMMANDERS AND
9 SENIOR ENLISTED ADVISORS.—The Sec-
10 retary of Defense, in consultation with the
11 Secretaries of the military departments,
12 shall—

13 (I) ensure that the Family Advo-
14 cacy Program training provided to in-
15 stallation-level commanders and senior
16 enlisted advisors of the Armed Forces
17 meets the applicable requirements of
18 the Department of Defense; and

19 (II) shall provide such additional
20 guidance and sample training mate-
21 rials as may be necessary to improve
22 the consistency of such training.

23 (ii) TRAINING FOR CHAPLAINS.—The
24 Secretary of Defense shall—

1 (I) require that chaplains of the
2 Armed Forces receive Family Advoca-
3 cacy Program training;

4 (II) establish content require-
5 ments and learning objectives for such
6 training; and

7 (III) provide such additional
8 guidance and sample training mate-
9 rials as may be necessary to effec-
10 tively implement such training.

11 (iii) TRAINING COMPLETION DATA.—
12 The Secretary of Defense, in consultation
13 with the Secretaries of the military depart-
14 ments, shall develop a process to ensure
15 the quality and completeness of data indi-
16 cating whether members of the Armed
17 Forces who are required to complete Fam-
18 ily Advocacy Program training, including
19 installation-level commanders and senior
20 enlisted advisors, have completed such
21 training.

22 (2) GENERAL IMPLEMENTATION DATE.—Except
23 as otherwise provided in paragraph (1), the Sec-
24 retary of Defense shall complete the implementation
25 of the activities specified in such paragraph by not

1 later than one year after the date of the enactment
2 of this Act.

3 (3) QUARTERLY STATUS BRIEFING.—Not later
4 than 90 days after the date of the enactment of this
5 Act and on a quarterly basis thereafter until the
6 date on which all of the activities specified in para-
7 graph (1) have been implemented, the Secretary of
8 Defense shall provide to the appropriate congress-
9 sional committees a briefing on the status of the im-
10 plementation of such activities.

11 (d) INFORMATION ON SERVICES FOR MILITARY FAM-
12 ILIES.—Each Secretary of a military department shall en-
13 sure that a military family member who reports an inci-
14 dent of domestic abuse or child abuse and neglect to a
15 Family Advocacy Program under the jurisdiction of such
16 Secretary receives comprehensive information, in a clear
17 and easily understandable format, on the services available
18 to such family member in connection with such incident.
19 Such information shall include a complete guide to the fol-
20 lowing:

21 (1) The Family Advocacy Program of the
22 Armed Force or military department concerned.

23 (2) Military law enforcement services, including
24 an explanation of the process that follows a report

1 of an incident of domestic abuse or child abuse or
2 neglect.

3 (3) Other applicable victim services.

4 (e) REPORTS ON STAFFING LEVELS FOR FAMILY AD-
5 VOCACY PROGRAMS.—

6 (1) IN GENERAL.—Not later than 180 days
7 after the date on which the staffing tool described
8 in paragraph (2) becomes operational, and on an an-
9 nual basis thereafter for the following five years, the
10 Secretary of Defense shall submit to the appropriate
11 congressional committees a report setting forth the
12 following:

13 (A) Military, civilian, and contract support
14 staffing levels for the Family Advocacy Pro-
15 grams of the Armed Forces at each military in-
16 stallation so staffed as of the date of the report.

17 (B) Recommendations for ideal staffing
18 levels for the Family Advocacy Programs, as
19 identified by the staffing tool.

20 (2) STAFFING TOOL DESCRIBED.—The staffing
21 tool described in this paragraph is a tool that will
22 be used to assist the Department in determining
23 adequate staffing levels for Family Advocacy Pro-
24 grams.

25 (3) COMPTROLLER GENERAL REVIEW.—

1 (A) IN GENERAL.—Following the submis-
2 sion of the first annual report required under
3 paragraph (1), the Comptroller General of the
4 United States shall conduct a review of the
5 staffing of the Family Advocacy Programs of
6 the Armed Forces.

7 (B) ELEMENTS.—The review conducted
8 under subparagraph (A) shall include an assess-
9 ment of each of the following:

10 (i) The extent to which the Armed
11 Forces have filled authorized billets for
12 Family Advocacy program manager, clini-
13 cian, and victim advocate positions.

14 (ii) The extent to which the Armed
15 Forces have experienced challenges filling
16 authorized Family Advocacy Program posi-
17 tions, and how such challenges, if any,
18 have affected the provision of services.

19 (iii) The extent to which the Depart-
20 ment of Defense and Armed Forces have
21 ensured that Family Advocacy Program
22 clinicians and victim advocates meet quali-
23 fication and training requirements.

24 (iv) The extent to which the Depart-
25 ment of Defense has established metrics to

1 evaluate the effectiveness of the staffing
2 tool described in paragraph (2).

3 (C) BRIEFING AND REPORT.—

4 (i) BRIEFING.—Not later than one
5 year following the submission of the first
6 annual report required under paragraph
7 (1), the Comptroller General shall provide
8 to the Committees on Armed Services of
9 the Senate and the House of Representa-
10 tives a briefing on the preliminary observa-
11 tions made by the Comptroller General as
12 part of the review required under subpara-
13 graph (A).

14 (ii) REPORT.—Not later than 90 days
15 after the date of the briefing under clause
16 (i), the Comptroller General shall submit
17 to the Committees on Armed Services of
18 the Senate and the House of Representa-
19 tives a report on the results of the review
20 conducted under subparagraph (A).

21 (f) STUDY AND BRIEFING ON INITIAL ENTRY
22 POINTS.—

23 (1) STUDY.—The Secretary of Defense shall
24 conduct a study to identify initial entry points (in-
25 cluding anonymous entry points) through which mili-

1 tary family members may seek information or sup-
2 port relating to domestic abuse or child abuse and
3 neglect. Such study shall include an assessment of—

4 (A) points at which military families inter-
5 act with the Armed Forces or the Department
6 of Defense through which such information or
7 support may be provided to family members, in-
8 cluding points such as enrollment in the De-
9 fense Enrollment Eligibility Reporting System,
10 and the issuance of identification cards; and

11 (B) other existing and potential routes
12 through which such family members may seek
13 information or support from the Armed Forces
14 or the Department, including online chat rooms,
15 text-based support capabilities, and software
16 applications for smartphones.

17 (2) BRIEFING.—Not later than one year after
18 the date of the enactment of this Act, the Secretary
19 of Defense shall provide to the Committees on
20 Armed Services of the Senate and the House of Rep-
21 resentatives a briefing setting forth the results of
22 the study conducted under paragraph (1).

23 (g) DEFINITIONS.—In this section:

1 (1) The term “appropriate congressional com-
2 mittees” means the Committees on Armed Services
3 of the Senate and the House of Representatives.

4 (2) The term “civilian order of protection” has
5 the meaning given that term in section 1561a of
6 title 10, United States Code.

7 (3) The term “disposition model for domestic
8 violence” means the process to determine—

9 (A) the disposition of charges of an offense
10 of domestic violence under section 928b of title
11 10, United States Code (article 128b of the
12 Uniform Code of Military Justice); and

13 (B) consequences of such disposition for
14 members of the Armed Forces determined to
15 have committed such offense and the victims of
16 such offense.

17 (4) The term “Incident Determination Com-
18 mittee” means a committee established at a military
19 installation that is responsible for reviewing reported
20 incidents of domestic abuse and determining whether
21 such incidents constitute harm to the victims of such
22 abuse according to the applicable criteria of the De-
23 partment of Defense.

1 (5) The term “qualified civilian victim service
2 organization” means an organization outside the De-
3 partment of Defense that—

4 (A) is approved by the Secretary of De-
5 fense for the purpose of providing legal or other
6 services to victims of domestic abuse; and

7 (B) is located in a community surrounding
8 a military installation.

9 (6) The term “risk assessment tool” means a
10 process or technology that may be used to evaluate
11 a report of an incident of domestic abuse to deter-
12 mine the likelihood that the abuse will escalate or
13 recur.

14 **SEC. 549A. ANNUAL PRIMARY PREVENTION RESEARCH**
15 **AGENDA.**

16 (a) **IN GENERAL.**—Beginning on October 1, 2022,
17 and annually on the first day of each fiscal year thereafter,
18 the Secretary of Defense shall publish a Department of
19 Defense research agenda for that fiscal year, focused on
20 the primary prevention of interpersonal and self-directed
21 violence, including sexual assault, sexual harassment, do-
22 mestic violence, child abuse and maltreatment, problem-
23 atic juvenile sexual behavior, suicide, workplace violence,
24 and substance misuse.

1 (b) ELEMENTS.—Each annual primary prevention re-
2 search agenda published under subsection (a) shall—

3 (1) identify research priorities for that fiscal
4 year;

5 (2) assign research projects and tasks to the
6 military departments and other components of the
7 Department of Defense, as the Secretary of Defense
8 determines appropriate;

9 (3) allocate or direct the allocation of appro-
10 priate resourcing for each such project and task; and

11 (4) be directive in nature and enforceable
12 across all components of the Department of Defense,
13 including with regard to—

14 (A) providing for timely access to records,
15 data and information maintained by any compo-
16 nent of the Department of Defense that may be
17 required in furtherance of an assigned research
18 project or task;

19 (B) ensuring the sharing across all compo-
20 nents of the Department of Defense of the find-
21 ings and the outcomes of any research project
22 or task; and

23 (C) any other matter determined by the
24 Secretary of Defense.

1 (c) GUIDING PRINCIPLES.—The primary prevention
2 research agenda should, as determined by the Secretary
3 of Defense—

4 (1) reflect a preference for research projects
5 and tasks with the potential to yield or contribute to
6 the development and implementation of actionable
7 primary prevention strategies in the Department of
8 Defense;

9 (2) be integrated, so as to discover or test
10 cross-cutting interventions across the spectrum of
11 interpersonal and self-directed violence;

12 (3) incorporate collaboration with other Federal
13 departments and agencies, State governments, aca-
14 demia, industry, federally funded research and devel-
15 opment centers, non-profit organizations, and other
16 organizations outside of the Department of Defense;
17 and

18 (4) minimize unnecessary duplication of effort.

19 (d) BUDGETING.—The Secretary of Defense shall
20 create a unique Program Element for and shall prioritize
21 recurring funding to ensure the continuity of research pur-
22 suant to the annual primary prevention research agenda.

23 **SEC. 549B. PRIMARY PREVENTION WORKFORCE.**

24 (a) ESTABLISHMENT.—The Secretary of Defense
25 shall establish a Primary Prevention Workforce to provide

1 a comprehensive and integrated program across the De-
2 partment of Defense enterprise for the primary prevention
3 of interpersonal and self-directed violence, including sex-
4 ual assault, sexual harassment, domestic violence, child
5 abuse and maltreatment, problematic juvenile sexual be-
6 havior, suicide, workplace violence, and substance misuse.

7 (b) PRIMARY PREVENTION WORKFORCE MODEL.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of the enactment of this Act, the Sec-
10 retary of Defense shall submit to the Committee on
11 Armed Services of the Senate and the Committee on
12 Armed Services of the House of Representatives a
13 report setting forth a holistic model for a dedicated
14 and capable Primary Prevention Workforce in the
15 Department of Defense.

16 (2) ELEMENTS.—The model required under
17 paragraph (1) shall include the following elements:

18 (A) A description of Primary Prevention
19 Workforce roles, responsibilities, and capabili-
20 ties, including—

21 (i) the conduct of research and anal-
22 ysis;

23 (ii) advising all levels of military com-
24 manders and leaders;

- 1 (iii) designing and writing strategic
2 and operational primary prevention policies
3 and programs;
- 4 (iv) integrating and analyzing data;
5 and
- 6 (v) implementing, evaluating, and
7 adapting primary prevention programs and
8 activities, to include developing evidence-
9 based training and education programs for
10 Department personnel that is appropriately
11 tailored by rank, occupation, and environ-
12 ment.
- 13 (B) The design and structure of the Pri-
14 mary Prevention Workforce, including—
- 15 (i) consideration of military, civilian,
16 and hybrid manpower options;
- 17 (ii) the comprehensive integration of
18 the workforce from strategic to tactical lev-
19 els of the Department of Defense and its
20 components; and
- 21 (iii) mechanisms for individuals in
22 workforce roles to report to and align with
23 installation-level and headquarters per-
24 sonnel.

1 (C) Strategies, plans, and systematic ap-
2 proaches for recruiting, credentialing, pro-
3 moting, and sustaining the diversity of work
4 force roles comprising a professional workforce
5 dedicated to primary prevention.

6 (D) The creation of a professional, primary
7 prevention credential that standardizes a com-
8 mon base of education and experience across
9 the prevention workforce, coupled with knowl-
10 edge development and skill building require-
11 ments built into the career cycle of prevention
12 practitioners such that competencies and exper-
13 tise increase over time.

14 (E) Any other matter the Secretary of De-
15 fense determines necessary and appropriate to
16 presenting an accurate and complete model of
17 the Primary Prevention Workforce.

18 (c) REPORTS.—

19 (1) IN GENERAL.—Not later than one year
20 after the date of the enactment of this Act, the Sec-
21 retaries of the military departments and the Chief of
22 the National Guard Bureau each shall submit to the
23 Committee on Armed Services of the Senate and the
24 Committee on Armed Services of the House of Rep-
25 resentatives a report detailing how the military serv-

1 ices and the National Guard, as applicable, will
2 adapt and implement the primary prevention work-
3 force model set forth in the report required under
4 subsection (b).

5 (2) ELEMENTS.—Each report submitted under
6 subsection (a) shall include a description of—

7 (A) expected milestones to implement the
8 prevention workforce in the component at issue;

9 (B) challenges associated with implementa-
10 tion of the workforce and the strategies for ad-
11 dressing such challenges; and

12 (C) additional authorities that may be re-
13 quired to optimize implementation and oper-
14 ation of the workforce.

15 (d) OPERATING CAPABILITY DEADLINE.—The Pri-
16 mary Prevention Workforce authorized under this section
17 shall attain initial operating capability in each military de-
18 partment and military service and in the National Guard
19 by not later than the effective date specified in section
20 539C.

21 **SEC. 549C. REFORM AND IMPROVEMENT OF MILITARY**
22 **CRIMINAL INVESTIGATIVE ORGANIZATIONS.**

23 (a) EVALUATION AND PLAN FOR REFORM.—Not
24 later than one year after the date of the enactment of this
25 Act, each Secretary concerned shall—

1 (1) complete an evaluation of the effectiveness
2 of the military criminal investigative organization
3 under the jurisdiction of such Secretary: and

4 (2) submit to the appropriate congressional
5 committees a report that includes—

6 (A) the results of the evaluation conducted
7 under paragraph (1); and

8 (B) based on such results, if the Secretary
9 determines that reform to the military criminal
10 investigative organization under the jurisdiction
11 of such Secretary is advisable, a proposal for
12 reforming such organization to ensure that the
13 organization effectively meets the demand for
14 complex investigations and other emerging mis-
15 sion requirements.

16 (b) IMPLEMENTATION PLAN.—

17 (1) IN GENERAL.—Not later than two years
18 after the date of the enactment of this Act, each
19 Secretary concerned shall submit to the appropriate
20 congressional committees a plan to implement, to
21 the extent determined appropriate by such Sec-
22 retary, the reforms to the military criminal inves-
23 tigative organization proposed by such Secretary
24 under subsection (a) to ensure that such organiza-

1 tion is capable of professionally investigating crimi-
2 nal misconduct under its jurisdiction.

3 (2) ELEMENTS.—Each plan under paragraph
4 (1) shall include, with respect to the military crimi-
5 nal investigative organization under the jurisdiction
6 of the Secretary concerned, the following:

7 (A) The requirements that such military
8 criminal investigative organization must meet to
9 effectively carry out criminal investigative and
10 other law enforcement missions in 2022 and
11 subsequent years.

12 (B) The resources that will be needed to
13 ensure that each such military criminal inves-
14 tigative organization can achieve its mission.

15 (C) An analysis of factors affecting the
16 performance of such military criminal inves-
17 tigate organization, including—

18 (i) whether appropriate technological
19 investigative tools are available and acces-
20 sible to such organization; and

21 (ii) whether the functions of such or-
22 ganization would be better supported by ci-
23 vilian rather than military leadership.

24 (D) For each such military criminal inves-
25 tigative organization—

1 (i) the number of military personnel
2 assigned to the organization;

3 (ii) the number of civilian personnel
4 assigned to the organization; and

5 (iii) the functions of such military and
6 civilian personnel.

7 (E) A description of any plans of the Sec-
8 retary concerned to develop a more professional
9 workforce of military and civilian investigators.

10 (F) A proposed timeline for the reform of
11 such military investigative organization.

12 (G) An explanation of the potential bene-
13 fits of such reforms, including a description
14 of—

15 (i) specific improvements that are ex-
16 pected to result from the reforms; and

17 (ii) whether the reforms will improve
18 information sharing across military crimi-
19 nal investigative organizations.

20 (H) With respect to the military criminal
21 investigative organization of the Army, an ex-
22 planation of how the plan will—

23 (i) address the findings of the report
24 of the Fort Hood Independent Review
25 Committee, dated November 6, 2020; and

1 (ii) coordinate with any other internal
2 reform efforts of the Army.

3 (c) LIMITATION ON THE CHANGES TO TRAINING LO-
4 CATIONS.—In carrying out this section, the Secretary con-
5 cerned may not change the locations at which military
6 criminal investigative training is provided to members of
7 the military criminal investigative organization under the
8 jurisdiction of such Secretary until—

9 (1) the implementation plan under subsection
10 (b) is submitted to the appropriate congressional
11 committees; and

12 (2) a period of 60 days has elapsed following
13 the date on which the Secretary notifies the appro-
14 priate congressional committees of the Secretary’s
15 intent to move such training to a different location.

16 (d) DEFINITIONS.—In this section:

17 (1) The term “appropriate congressional com-
18 mittees” means—

19 (A) the Committee on Armed Services and
20 the Committee on Commerce, Science, and
21 Transportation of the Senate; and

22 (B) the Committee on Armed Services and
23 the Committee on Transportation and Infra-
24 structure of the House of Representatives.

1 (2) The term “military criminal investigative
2 organization” means each organization or element of
3 the Department of Defense or the Armed Forces
4 that is responsible for conducting criminal investiga-
5 tions, including—

6 (A) the Army Criminal Investigation Com-
7 mand;

8 (B) the Naval Criminal Investigative Serv-
9 ice;

10 (C) the Air Force Office of Special Inves-
11 tigation;

12 (D) the Coast Guard Investigative Service;
13 and

14 (E) the Defense Criminal Investigative
15 Service.

16 (3) The term “Secretary concerned” means—

17 (A) the Secretary of the Army, with re-
18 spect to the Army Criminal Investigation Com-
19 mand;

20 (B) the Secretary of the Navy, with re-
21 spect to the Naval Criminal Investigative Serv-
22 ice;

23 (C) the Secretary of the Air Force, with
24 respect to the Air Force Office of Special Inves-
25 tigation;

1 (D) the Secretary of Homeland Security,
2 with respect to the Coast Guard Investigative
3 Service; and

4 (E) the Secretary of Defense, with respect
5 to the Defense Criminal Investigative Service.

6 **SEC. 549D. MILITARY DEFENSE COUNSEL.**

7 Each Secretary of a military department shall—

8 (1) ensure that military defense counsel have
9 timely and reliable access to and funding for defense
10 investigators, expert witnesses, trial support, pre-
11 trial and post-trial support, paralegal support, coun-
12 sel travel, and other necessary resources;

13 (2) ensure that military defense counsel detailed
14 to represent a member of the Armed Forces accused
15 of a covered offense (as defined in section 801(17)
16 of title 10, United States Code (article 1(17) of the
17 Uniform Code of Military Justice), as added by sec-
18 tion 533 of this Act) are well-trained and experi-
19 enced, highly skilled, and competent in the defense
20 of cases involving covered offenses; and

21 (3) take or direct such other actions regarding
22 military defense counsel as may be warranted in the
23 interest of the fair administration of justice.

1 **SEC. 549E. FULL FUNCTIONALITY OF MILITARY JUSTICE**
2 **REVIEW PANEL.**

3 Not later than 30 days after the date of the enact-
4 ment of this Act, the Secretary of Defense shall establish
5 or reconstitute, maintain, and ensure the full functionality
6 of the Military Justice Review Panel established pursuant
7 to section 946 of title 10, United States Code (article 146
8 of the Uniform Code of Military Justice)).

9 **SEC. 549F. MILITARY SERVICE INDEPENDENT RACIAL DIS-**
10 **PARITY REVIEW.**

11 (a) **REVIEW REQUIRED.**—Each Secretary of a mili-
12 tary department shall conduct an assessment of racial dis-
13 parity in military justice and discipline processes and mili-
14 tary personnel policies, as they pertain to minority popu-
15 lations.

16 (b) **REPORT REQUIRED.**—Not later than one year
17 after the date of the enactment of this Act, each Secretary
18 of a military department shall submit to the Committees
19 on Armed Services of the Senate and the House of Rep-
20 resentatives and the Comptroller General of the United
21 States a report detailing the results of the assessment re-
22 quired by subsection (a), together with recommendations
23 for statutory or regulatory changes as the Secretary con-
24 cerned determines appropriate.

25 (c) **COMPTROLLER GENERAL REPORT.**—Not later
26 than 180 days after receiving the reports submitted under

1 subsection (b), the Comptroller General shall submit to
2 the Committees on Armed Services of the Senate and the
3 House of Representatives a report comparing the military
4 service assessments on racial disparity conducted under
5 subsection (a) to existing reports assessing racial disparity
6 in civilian criminal justice systems in the United States.

7 (d) DEFINITIONS.—In this section:

8 (1) MILITARY JUSTICE; DISCIPLINE PROC-
9 ESSES.—The terms “military justice” and “dis-
10 cipline processes” refer to all facets of the military
11 justice system, including investigation, the use of ad-
12 ministrative separations and other administrative
13 sanctions, non-judicial punishment, panel selection,
14 pre-trial confinement, the use of solitary confine-
15 ment, dispositions of courts-martial, sentencing, and
16 post-trial processes.

17 (2) MILITARY PERSONNEL POLICIES.—The
18 term “military personnel policies” includes accession
19 rates and policies, retention rates and policies, pro-
20 motion rates, assignments, professional military edu-
21 cation selection and policies, and career opportunity
22 for minority members of the Armed Forces.

23 (3) MINORITY POPULATIONS.—The term “mi-
24 nority populations” includes Black, Hispanic, Asian/

1 Pacific Islander, American Indian, and Alaska Na-
2 tive populations.

3 **SEC. 549G. INCLUSION OF RACE AND ETHNICITY IN AN-**
4 **NUAL REPORTS ON SEXUAL ASSAULTS; RE-**
5 **PORTING ON RACIAL AND ETHNIC DEMO-**
6 **GRAPHICS IN THE MILITARY JUSTICE SYS-**
7 **TEM.**

8 (a) ANNUAL REPORTS ON RACIAL AND ETHNIC DE-
9 MOGRAPHICS IN THE MILITARY JUSTICE SYSTEM.—

10 (1) IN GENERAL.—Chapter 23 of title 10,
11 United States Code, is amended by inserting after
12 section 485 the following new section:

13 **“§ 486. Annual reports on racial and ethnic demo-**
14 **graphics in the military justice system**

15 “(a) IN GENERAL.—Not later than March 1 of each
16 year, the Secretary of each military department shall sub-
17 mit to the Secretary of Defense a report on racial, ethnic,
18 and sex demographics in the military justice system dur-
19 ing the preceding year. In the case of the Secretary of
20 the Navy, separate reports shall be prepared for the Navy
21 and for the Marine Corps. In the case of the Secretary
22 of the Air Force, separate reports shall be prepared for
23 the Air Force and for the Space Force.

24 “(b) CONTENTS.—The report of a Secretary of a
25 military department for an armed force under subsection

1 (a) shall contain, to the extent possible, statistics on of-
2 fenses under chapter 47 of this title (the Uniform Code
3 of Military Justice), during the year covered by the report,
4 including—

5 “(1) the number of offenses in the armed force
6 that were reported to military officials,
7 disaggregated by—

8 “(A) statistical category as related to the
9 victim; and

10 “(B) statistical category as related to the
11 principal;

12 “(2) the number of offenses in the armed forces
13 that were investigated, disaggregated by statistical
14 category as related to the principal;

15 “(3) the number of offenses in which adminis-
16 trative action was imposed, disaggregated by statis-
17 tical category as related to the principal and each
18 type of administrative action imposed;

19 “(4) the number of offenses in which non judi-
20 cial punishment was imposed under section 815 of
21 this title (article 15 of the Uniform Code of Military
22 Justice), disaggregated by statistical category as re-
23 lated to the principal;

1 “(5) the number of offenses in which charges
2 were preferred, disaggregated by statistical category
3 as related to the principal;

4 “(6) the number of offenses in which charges
5 were referred to court-martial, disaggregated by sta-
6 tistical category as related to the principal and type
7 of court-martial;

8 “(7) the number of offenses which resulted in
9 conviction at court-martial, disaggregated by statis-
10 tical category as related to the principal and type of
11 court-martial; and

12 “(8) the number of offenses which resulted in
13 acquittal at court-martial, disaggregated by statis-
14 tical category as related to the principal and type of
15 court-martial.

16 “(c) SUBMISSION TO CONGRESS.—Not later than
17 April 30 of each year in which the Secretary of Defense
18 receives reports under subsection (a), the Secretary of De-
19 fense shall forward the reports to the Committees on
20 Armed Services of the Senate and the House of Represent-
21 atives.

22 “(e) DEFINITIONS.—In this section:

23 “(1) The term ‘statistical category’ means each
24 of the following categories:

25 “(A) race;

1 “(B) sex;
2 “(C) ethnicity;
3 “(D) rank; and
4 “(E) offense enumerated under chapter 47
5 of this title (the Uniform Code of Military Jus-
6 tice).

7 “(2) The term ‘principal’ has the meaning given
8 that term in section 877 of this title (article 77 of
9 the Uniform Code of Military Justice).”.

10 (2) CLERICAL AMENDMENT.—The table of sec-
11 tions at the beginning of chapter 23 of such title is
12 amended by inserting after the item relating to sec-
13 tion 485 the following new item:

 “486. Annual reports on racial and ethnic demographics in the military justice
 system.”.

14 (b) POLICY REQUIRED.—

15 (1) REQUIREMENT.—Not later than two years
16 after the date of the enactment of this Act, the Sec-
17 retary of Defense shall prescribe a policy requiring
18 information on the race and ethnicity of accused in-
19 dividuals to be included to the maximum extent
20 practicable in the annual report required under sec-
21 tion 1631 of the Ike Skelton National Defense Au-
22 thorization Act for Fiscal Year 2011 (Public Law
23 111–383; 10 U.S.C. 1561 note).

1 (2) EXCLUSION.—The policy prescribed under
2 paragraph (1) may provide for the exclusion of such
3 information based on privacy concerns, impacts on
4 accountability efforts, or other matters of impor-
5 tance as determined and identified in such policy by
6 the Secretary.

7 (3) PUBLICLY AVAILABLE.—The Secretary of
8 Defense shall make publicly available the informa-
9 tion described in paragraph (1), subject to the exclu-
10 sion of such information pursuant to paragraph (2).

11 (4) SUNSET.—The requirements of this sub-
12 section shall terminate on May 1, 2028.

13 **SEC. 549H. DOD SAFE HELPLINE AUTHORIZATION TO PER-**
14 **FORM INTAKE OF OFFICIAL RESTRICTED**
15 **AND UNRESTRICTED REPORTS FOR ELIGIBLE**
16 **ADULT SEXUAL ASSAULT VICTIMS.**

17 Section 584 of the National Defense Authorization
18 Act for Fiscal Year 2012 (Public Law 112–81; 10 U.S.C.
19 1561 note) is amended—

20 (1) by redesignating subsection (d) as sub-
21 section (e); and

22 (2) by inserting after subsection (c) the fol-
23 lowing new subsection:

24 “(d) AUTHORIZATIONS FOR DoD SAFE HELPLINE.—

1 “(1) PROVIDING SUPPORT AND RECEIVING OF-
2 FICIAL REPORTS.—DoD Safe Helpline (or any suc-
3 cessor service to DoD Safe Helpline, if any, as iden-
4 tified by the Secretary of Defense) is authorized to
5 provide crisis intervention and support and to per-
6 form the intake of official reports of sexual assault
7 from eligible adult sexual assault victims who con-
8 tact the DoD Safe Helpline or other reports as di-
9 rected by the Secretary of Defense.

10 “(2) TRAINING AND OVERSIGHT.—DoD Safe
11 Helpline staff shall have specialized training and ap-
12 propriate certification to support eligible adult sex-
13 ual assault victims.

14 “(3) ELIGIBILITY AND PROCEDURES.—The Sec-
15 retary of Defense shall prescribe regulations regard-
16 ing eligibility for DoD Safe Helpline services, proce-
17 dures for providing crisis intervention and support,
18 and accepting reports.

19 “(4) ELECTRONIC RECEIPT OF OFFICIAL RE-
20 PORTS OF ADULT SEXUAL ASSAULTS.—DoD Safe
21 Helpline shall provide the ability to receive reports
22 of adult sexual assaults through the DoD Safe
23 Helpline website and mobile phone applications, in a
24 secure manner consistent with appropriate protec-
25 tion of victim privacy, and may offer other methods

1 of receiving electronic submission of adult sexual as-
2 sault reports, as appropriate, in a manner that ap-
3 propriately protects victim privacy.

4 “(5) TYPES OF REPORTS.—Reports of sexual
5 assault from eligible adult sexual assault victims re-
6 ceived by DoD Safe Helpline (or a successor as de-
7 termined by the Secretary of Defense) shall include
8 unrestricted and restricted reports, or other reports
9 as directed by the Secretary of Defense.

10 “(6) OPTION FOR ENTRY INTO THE CATCH A
11 SERIAL OFFENDER SYSTEM.—An individual making
12 a restricted report (or a relevant successor type of
13 report or other type of appropriate report, as deter-
14 mined by the Secretary of Defense) to the DoD Safe
15 Helpline (or a successor as determined by the Sec-
16 retary of Defense) shall have the option to submit
17 information related to their report to the Catch a
18 Serial Offender system (or its successor or similar
19 system as determined by the Secretary of De-
20 fense).”.

21 **SEC. 549I. EXTENSION OF ANNUAL REPORT REGARDING**
22 **SEXUAL ASSAULTS INVOLVING MEMBERS OF**
23 **THE ARMED FORCES.**

24 Section 1631(a) of the Ike Skelton National Defense
25 Authorization Act for Fiscal Year 2011 (Public Law 111–

1 383; 10 U.S.C. 1561 note) is amended by striking
2 “through March 1, 2021” and inserting “through March
3 1, 2026”.

4 **SEC. 549J. STUDY AND REPORT ON SEXUAL ASSAULT RE-**
5 **SPONSE COORDINATOR MILITARY OCCUPA-**
6 **TIONAL SPECIALTY.**

7 (a) STUDY.—Beginning not later than 30 days after
8 the date of the enactment of this Act, the Secretary of
9 Defense shall initiate a personnel study to determine—

10 (1) the feasibility and advisability of creating a
11 military occupational speciality for Sexual Assault
12 Response Coordinators; and

13 (2) if determined to be feasible and advisable,
14 the optimal approach to establishing and maintain-
15 ing such a military occupational speciality.

16 (b) REPORT AND BRIEFING.—

17 (1) REPORT.—Not later than 180 days after
18 the date of the enactment of this Act the Secretary
19 of Defense shall submit to the congressional defense
20 committees a report on the results of the study con-
21 ducted under subsection (a).

22 (2) BRIEFING.—Not later than 30 days after
23 the date on which the report is submitted under
24 paragraph (1), the Secretary of Defense shall pro-
25 vide to the congressional defense committees a brief-

1 ing on the results of the study conducted under sub-
2 section (a).

3 (c) ELEMENTS.—The report and briefing under sub-
4 section (b) shall include the following:

5 (1) The determination of the Secretary of De-
6 fense as to whether creating a military occupational
7 speciality for Sexual Assault Response Coordinators
8 is feasible and advisable.

9 (2) If the Secretary determines that the cre-
10 ation of such a specialty is feasible and advisable—

11 (A) a recommendation on the rank and
12 level of experience required for a military occu-
13 pational speciality for Sexual Assault Response
14 Coordinators;

15 (B) recommendations for strengthening re-
16 cruitment and retention of members of the
17 Armed Forces of the required rank and experi-
18 ence identified under subparagraph (A), includ-
19 ing recommendations with respect to—

20 (i) designating Sexual Assault Re-
21 sponse Coordinators as a secondary mili-
22 tary occupational speciality instead of a
23 primary military occupational speciality;

24 (ii) providing initial or recurrent bo-
25 nuses or duty stations of choice to mem-

1 bers who qualify for the military occupa-
2 tional speciality for Sexual Assault Re-
3 sponse Coordinators;

4 (iii) limiting the amount of time that
5 a member who has qualified for such mili-
6 tary occupational speciality can serve as a
7 Sexual Assault Response Coordinator in a
8 given period; or

9 (iv) requiring evaluations, completed
10 by an officer in the rank of O-6 or higher,
11 for members who have qualified for such
12 military occupational speciality and are
13 serving as a Sexual Assault Response Co-
14 ordinator;

15 (C) recommendations for standardizing
16 training and education for members of the
17 Armed Forces seeking a military occupational
18 speciality for Sexual Assault Response Coordi-
19 nators or those serving as a Sexual Assault Re-
20 sponse Coordinator, including by establishing
21 dedicated educational programs for such mem-
22 bers within each Armed Force;

23 (D) an analysis of the impact of a military
24 occupational speciality for Sexual Assault Re-
25 sponse Coordinators on the personnel manage-

1 ment of the existing Sexual Assault Response
2 Coordinator program, including recruitment
3 and retention;

4 (E) an analysis of the requirements for a
5 Sexual Assault Response Coordinator-specific
6 chain of command;

7 (F) analysis of the costs of establishing
8 and maintaining a military occupational spe-
9 cialty for Sexual Assault Response Coordina-
10 tors;

11 (G) analysis of the potential impacts of a
12 military occupational specialty for Sexual As-
13 sault Response Coordinators on the mental
14 health of personnel within the specialty; and

15 (H) any other matters the Secretary of De-
16 fense determines relevant for inclusion.

17 **SEC. 549K. AMENDMENTS TO ADDITIONAL DEPUTY INSPEC-**
18 **TOR GENERAL OF THE DEPARTMENT OF DE-**
19 **FENSE.**

20 Section 554(a) of the William M. (Mac) Thornberry
21 National Defense Authorization Act for Fiscal Year 2021
22 (Public Law 116–283) is amended—

23 (1) in the section heading, by striking “**DEP-**
24 **UTY**” and inserting “**ASSISTANT**”;

25 (2) in paragraph (1)—

1 (A) in the matter preceding subparagraph

2 (A)—

3 (i) by striking “Secretary of Defense”
4 and inserting “Inspector General of the
5 Department of Defense”; and

6 (ii) by striking “Deputy” and insert-
7 ing “Assistant”;

8 (B) in subparagraph (A), by striking “of
9 the Department”; and

10 (C) in subparagraph (B), by striking “re-
11 port directly to and serve” and inserting “be”;

12 (3) in paragraph (2)—

13 (A) in the matter preceding clause (i) of
14 subparagraph (A)—

15 (i) by striking “Conducting and su-
16 pervising” and inserting “Developing and
17 carrying out a plan for the conduct of com-
18 prehensive oversight, including through the
19 conduct and supervision of”; and

20 (ii) by striking “evaluations” and in-
21 serting “inspections,”;

22 (B) in clause (ii) of subparagraph (A), by
23 striking “, including the duties of the Inspector
24 General under subsection (b)”; and

1 (C) in subparagraph (B), by striking “Sec-
2 retary or”;

3 (4) in paragraph (3)(A) in the matter preceding
4 subparagraph (A), by striking “Deputy” and insert-
5 ing “Assistant”;

6 (5) in paragraph (4)—

7 (A) in subparagraph (A), by striking
8 “Deputy” each place it appears and inserting
9 “Assistant”;

10 (B) in subparagraph (B)—

11 (i) by striking “Deputy” the first
12 place it appears;

13 (ii) by striking “and the Inspector
14 General”;

15 (iii) by striking “Deputy” the second
16 place it appears and inserting “Assistant”;
17 and

18 (iv) by inserting before the period at
19 the end the following: “, for inclusion in
20 the next semiannual report of the Inspec-
21 tor General under section 5 of the Inspec-
22 tor General Act of 1978 (5 U.S.C. App.)”;

23 (C) in subparagraph (C)—

24 (i) by striking “Deputy”; and

1 (ii) by striking “and Inspector Gen-
2 eral”;

3 (D) in subparagraph (D)—

4 (i) by striking “Deputy”;

5 (ii) by striking “and the Inspector
6 General”;

7 (iii) by striking “Secretary or”; and

8 (iv) by striking “direct” and inserting
9 “determine”; and

10 (E) in subparagraph (E)—

11 (i) by striking “Deputy”; and

12 (ii) by striking “of the Department”
13 and all that follows through “Representa-
14 tives” and inserting “consistent with the
15 requirements of the Inspector General Act
16 of 1978 (5 U.S.C. App.).”.

17 **SEC. 549L. IMPROVED DEPARTMENT OF DEFENSE PREVEN-**
18 **TION OF, AND RESPONSE TO, BULLYING IN**
19 **THE ARMED FORCES.**

20 Section 549 of the National Defense Authorization
21 Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C.
22 113 note) is amended—

23 (1) in the section heading, by inserting “**AND**
24 **BULLYING**” after “**HAZING**”;

25 (2) in subsection (a)—

1 (A) in the heading, by inserting “and anti-
2 bullying” after “Anti-hazing”; and

3 (B) by inserting “or bullying” after “haz-
4 ing” both places it appears;

5 (3) in subsection (b), by inserting “and bul-
6 lying” after “hazing”; and

7 (4) in subsection (c)—

8 (A) in the heading, by inserting “and bul-
9 lying” after “hazing”;

10 (B) in paragraph (1)—

11 (i) in the matter preceding subpara-
12 graph (A)—

13 (I) by striking “January 31 of
14 each year through January 31, 2021”
15 and inserting “May 31, 2023, and an-
16 nually thereafter for five years,”; and

17 (II) by striking “each Secretary
18 of a military department, in consulta-
19 tion with the Chief of Staff of each
20 Armed Force under the jurisdiction of
21 such Secretary,” and inserting “the
22 Secretary of Defense”;

23 (ii) in subparagraph (A), by inserting
24 “or bullying” after “hazing”; and

1 (iii) in subparagraph (C), by inserting
2 “and anti-bullying” after “anti-hazing”;
3 and
4 (C) in amending paragraph (2) to read as
5 follows:

6 “(2) ADDITIONAL ELEMENTS.—Each report re-
7 quired by this subsection shall include the following:

8 “(A) A description of comprehensive data-
9 collection systems of each Armed Force de-
10 scribed in subsection (b) and the Office of the
11 Secretary of Defense for collecting hazing or
12 bullying reports involving a member of the
13 Armed Forces.

14 “(B) A description of processes of each
15 Armed Force described in subsection (b) to
16 identify, document, and report alleged instances
17 of hazing or bullying. Such description shall in-
18 clude the methodology each such Armed Force
19 uses to categorize and count potential instances
20 of hazing or bullying.

21 “(C) An assessment by each Secretary of
22 a military department of the quality and need
23 for training on recognizing and preventing haz-
24 ing and bullying provided to members under the
25 jurisdiction of such Secretary.

1 “(D) An assessment by the Office of the
2 Secretary of Defense of—

3 “(i) the effectiveness of each Armed
4 Force described in subsection (b) in track-
5 ing and reporting instances of hazing or
6 bullying;

7 “(ii) whether the performance of each
8 such Armed Force was satisfactory or un-
9 satisfactory in the preceding fiscal year.

10 “(E) Recommendations of the Secretary to
11 improve—

12 “(i) elements described in subpara-
13 graphs (A) through (D).

14 “(ii) the Uniform Code of Military
15 Justice or the Manual for Courts-Martial
16 to improve the prosecution of persons al-
17 leged to have committed hazing or bullying
18 in the Armed Forces.

19 “(F) The status of efforts of the Secretary
20 to evaluate the prevalence of hazing and bul-
21 lying in the Armed Forces.

22 “(G) Data on allegations of hazing and
23 bullying in the Armed Forces, including final
24 disposition of investigations.

1 “(H) Plans of the Secretary to improve
2 hazing and bullying prevention and response
3 during the next reporting year.”.

4 **SEC. 549M. RECOMMENDATIONS ON SEPARATE PUNITIVE**
5 **ARTICLE IN THE UNIFORM CODE OF MILI-**
6 **TARY JUSTICE ON VIOLENT EXTREMISM.**

7 Not later than 180 days after the date of the enact-
8 ment of this Act, the Secretary of Defense shall submit
9 to the Committees on Armed Services of the Senate and
10 the House of Representatives a report containing such rec-
11 ommendations as the Secretary considers appropriate with
12 respect to the establishment of a separate punitive article
13 in chapter 47 of title 10, United States Code (the Uniform
14 Code of Military Justice), on violent extremism.

15 **SEC. 549N. COMBATING FOREIGN MALIGN INFLUENCE.**

16 Section 589E of the William M. (Mac) Thornberry
17 National Defense Authorization Act for Fiscal Year 2021
18 (Public Law 116–283) is amended—

19 (1) by striking subsections (d) and (e); and

20 (2) by inserting after subsection (c) the fol-
21 lowing new subsections:

22 “(d) ESTABLISHMENT OF WORKING GROUP.—(1)

23 Not later than one year after the date of the enactment
24 of this subsection, the Secretary of Defense shall establish

1 a working group to assist the official designated under
2 subsection (b), as follows:

3 “(A) In the identification of mediums used by
4 covered foreign countries to identify, access, and en-
5 deavor to influence servicemembers and Department
6 of Defense civilian employees through foreign malign
7 influence campaigns and the themes conveyed
8 through such mediums.

9 “(B) In coordinating and integrating the train-
10 ing program under this subsection in order to en-
11 hance and strengthen servicemember and Depart-
12 ment of Defense civilian employee awareness of and
13 defenses against foreign malign influence, including
14 by bolstering information literacy.

15 “(C) In such other tasks deemed appropriate by
16 the Secretary of Defense or the official designated
17 under subsection (b).

18 “(2) The official designed under subsection (b) and
19 the working group established under this subsection shall
20 consult with the Foreign Malign Influence Response Cen-
21 ter established pursuant to section 3059 of title 50, United
22 States Code.

23 “(e) REPORT REQUIRED.—Not later than 18 months
24 after the establishment of the working group, the Sec-
25 retary shall submit to the Committees on Armed Services

1 of the Senate and the House of Representatives a report
2 on the results of the working group, its activities, the ef-
3 fectiveness of the counter foreign malign influence activi-
4 ties carried out under this section, the metrics applied to
5 determined effectiveness, and the actual costs associated
6 with actions undertaken pursuant to this section.

7 “(f) DEFINITIONS.—In this section:

8 “(1) FOREIGN MALIGN INFLUENCE.—The term
9 ‘foreign malign influence’ has the meaning given
10 that term in section 119C of the National Security
11 Act of 1947 (50 U.S.C. 3059).

12 “(2) COVERED FOREIGN COUNTRY.—The term
13 ‘covered foreign country’ has the meaning given that
14 term in section 119C of the National Security Act
15 of 1947 (50 U.S.C. 3059)

16 “(3) INFORMATION LITERACY.—The term ‘in-
17 formation literacy’ means the set of skills needed to
18 find, retrieve, understand, evaluate, analyze, and ef-
19 fectively use information (which encompasses spoken
20 and broadcast words and videos, printed materials,
21 and digital content, data, and images).”.