**An Act To Enhance the Prevention of and Response to Sexual Assault and Sexual Harassment in the Maine National Guard**

**Be it enacted by the People of the State of Maine as follows:**

**PART** **A**

**Sec.** **A-****1.** **Independent review of Maine National Guard policies and** **procedures; report.** The Adjutant General shall request that the United States National Guard Bureau, Office of Complex Investigations thoroughly review the manner in which reports of sexual assault are investigated, prosecuted and adjudicated by the Maine Army National Guard and the Maine Air National Guard, referred to in this section as "the Maine National Guard." If the Adjutant General is unable to secure the assistance of the Office of Complex Investigations, the Adjutant General shall contract with an independent agency experienced in evaluating military sexual violence prevention and response to conduct the review. To the extent requested by the Office of Complex Investigations or the independent agency, the Adjutant General shall, to the greatest extent allowed under state and federal law and in a manner that protects the privacy of victims, provide the office or the agency access to all Maine National Guard policies, procedures and records related to sexual assault and sexual harassment, the results of climate command surveys and unit risk inventory surveys and any other materials requested by the office or the agency. The Adjutant General shall direct all members of the Maine National Guard to cooperate fully with the review, except that no victim of sexual assault or sexual harassment may be required to participate. The Adjutant General shall submit a copy of the report prepared by the Office of Complex Investigations or the independent agency, including the findings and recommendations for improving Maine National Guard policies, practices and procedures related to sexual assault and sexual harassment, to the joint standing committee of the Legislature having jurisdiction over veterans affairs by February 15, 2023. The joint standing committee of the Legislature having jurisdiction over veterans affairs may report out legislation regarding the subject matter of the report to the 131st Legislature in 2023.

**PART** **B**

**Sec.** **B-****1. 5 MRSA §12004-I, sub-§5-E** is enacted to read:

**5-E.**

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| Defense, Veterans and Emergency Management | Advisory Council on Sexual Trauma in the Maine National Guard | Expenses Only | 37-B MRSA §12 |

**Sec.** **B-****2. 17-A MRSA §506-A, sub-§1, ¶A,** as amended by PL 2009, c. 246, §1, is further amended by amending subparagraph (1), division (b) to read:

(b) A court in a protective order issued under Title 5, section 4654 or 4655 or Title 19‑A, section 4006 or 4007; ~~or~~

**Sec.** **B-****3. 17-A MRSA §506-A, sub-§1, ¶A,** as amended by PL 2009, c. 246, §1, is further amended by amending subparagraph (2) to read:

(2) If the person is an adult in the custody or under the supervision of the Department of Corrections, after having been forbidden to engage in such conduct by the Commissioner of Corrections, the chief administrative officer of the facility, the correctional administrator for the region or their designees~~.~~; or

**Sec.** **B-****4. 17-A MRSA §506-A, sub-§1, ¶A,** as amended by PL 2009, c. 246, §1, is further amended by enacting a new subparagraph (3) to read:

(3) After having been notified, in writing or otherwise, while the person was a member of the National Guard, not to engage in such conduct by a commanding officer. A person violates this subparagraph regardless of whether the person is a member of the National Guard when the person engages in the conduct and regardless of where the conduct occurs. The notification not to engage in such conduct expires one year from the date of issuance.

**Sec.** **B-****5. 17-A MRSA §506-A, sub-§3,** as enacted by PL 1991, c. 566, §3, is amended to read:

**3.**  For the purposes of this section, "immediate family" means spouse, parent, child, sibling, stepchild and stepparent, "National Guard" has the same meaning as in Title 37-B, section 102, subsection 1 and "commanding officer" has the same meaning as in Title 37‑B, section 402, subsection 4.

**Sec.** **B-****6. 19-A MRSA §4013, sub-§1, ¶A,** as amended by PL 2021, c. 174, §9, is further amended by amending subparagraph (15) to read:

(15) One member, appointed by the Governor, who is a representative of a tribal court; ~~and~~

**Sec.** **B-****7. 19-A MRSA §4013, sub-§1, ¶A,** as amended by PL 2021, c. 174, §9, is further amended by amending subparagraph (16) to read:

(16) One member, appointed by the Governor, who is a representative of tribal government~~.~~; and

**Sec.** **B-****8. 19-A MRSA §4013, sub-§1, ¶A,** as amended by PL 2021, c. 174, §9, is further amended by enacting a new subparagraph (17) to read:

(17) One member, appointed by the Adjutant General, who is a representative of the National Guard, as defined in Title 37-B, section 102, subsection 1, with experience in sexual assault response within the National Guard.

**Sec.** **B-****9. 37-B MRSA §3, sub-§1, ¶D,** as repealed and replaced by PL 2017, c. 475, Pt. A, §63 and amended by PL 2019, c. 377, §6, is further amended by enacting a new subparagraph (24) to read:

(24) The Adjutant General shall provide current and former members of the National Guard who were the victims of sexual assault or sexual harassment while members of the National Guard and who are involved in state criminal or civil court proceedings or proceedings under the Maine Code of Military Justice related to the sexual assault or sexual harassment with financial assistance to fully cover the expenses of traveling to and from and participating in those proceedings.

**Sec.** **B-****10. 37-B MRSA §3, sub-§1, ¶D,** as repealed and replaced by PL 2017, c. 475, Pt. A, §63 and amended by PL 2019, c. 377, §6, is further amended by enacting a new subparagraph (25) to read:

(25) The Adjutant General shall enter into a cooperative agreement with a statewide coalition against sexual assault for the provision of advocacy and support services to members of the National Guard and their family members who are victims of sexual assault or sexual harassment, including the establishment of a process for individuals to request that the coalition report incidents of sexual assault or sexual harassment within the National Guard to the Adjutant General without revealing the identity of the victim. The cooperative agreement must require the Adjutant General and relevant staff of the National Guard to provide to the coalition information regarding the unique needs of victims who are members of the National Guard and their families and, to the greatest extent allowed under state and federal law and in a manner that protects the privacy of victims, access to all National Guard policies, procedures and records related to sexual assault and sexual harassment, the results of climate command surveys and unit risk inventory surveys and any other materials requested by the coalition. The Adjutant General shall direct all members of the National Guard to cooperate fully with the coalition, except that no victim of sexual assault or sexual harassment may be required to participate. The Adjutant General shall request that the coalition submit, by February 15, 2023 and annually thereafter, a report to the joint standing committee of the Legislature having jurisdiction over veterans affairs summarizing the coalition's recommendations, if any, related to the prevention of and appropriate response to sexual assault and sexual harassment within the National Guard. After reviewing the report, the committee may report out legislation related to the report.

**Sec.** **B-****11. 37-B MRSA §3, sub-§1, ¶D,** as repealed and replaced by PL 2017, c. 475, Pt. A, §63 and amended by PL 2019, c. 377, §6, is further amended by enacting a new subparagraph (26) to read:

(26) By February 15, 2023 and annually thereafter, the Adjutant General shall, in consultation with the statewide coalition against sexual assault with which a cooperative agreement has been entered into under subparagraph (25), submit a report to the joint standing committee of the Legislature having jurisdiction over veterans affairs containing:

(a) Data regarding all reported incidents of sexual assault and sexual harassment within the National Guard in each of the preceding 10 years, including information on the current duty status of victims and the outcome of any state or federal criminal or Maine Code of Military Justice proceedings arising out of such incidents, to the extent that the sharing of such data and information is not prohibited by federal law and can be presented in a way that does not identify, and that cannot be used with other information to identify, any victim of sexual assault or sexual harassment;

(b) A description of all sexual assault and sexual harassment prevention training provided to members of the National Guard in the preceding year;

(c) A description of the current practices and procedures for the prevention of sexual assault and sexual harassment and investigation of and disciplinary actions taken in response to reports of sexual assault and sexual harassment in the National Guard; and

(d) A summary of the activities of the Advisory Council on Sexual Trauma in the Maine National Guard under section 12 during the preceding year.

After reviewing the report, the committee may report out legislation related to the report.

**Sec.** **B-****12. 37-B MRSA §12** is enacted to read:

**§****12.** **Advisory Council on Sexual Trauma in the Maine National Guard**

The Governor, in consultation with the Adjutant General, shall convene the Advisory Council on Sexual Trauma in the Maine National Guard, established in Title 5, section 12004-I, subsection 5-E, consisting of representatives of the Maine Army National Guard, the Maine Air National Guard and the Maine Bureau of Veterans' Services; a district attorney with experience prosecuting sexual assault cases; a representative of a statewide coalition for the prevention of sexual assault or sexual harassment; a representative of a statewide coalition or organization that provides services to victims of sexual assault or sexual harassment; and an individual or individuals who are survivors of sexual assault or sexual harassment that occurred while the individual or individuals were members of the Maine National Guard. The advisory council shall review best practices for the prevention of and response to sexual assault and sexual harassment within a military environment, including best practices for assisting state and local law enforcement with the prosecution of offenders, and shall compile a directory of resources available to assist victims of sexual assault or sexual harassment who are current or former members of the Maine National Guard.

**SUMMARY**

This bill is reported out by the Joint Standing Committee on Veterans and Legal Affairs pursuant to Resolve 2021, chapter 21.

Part A of the bill requires the Adjutant General to provide for a thorough review of the manner in which reports of sexual assault are investigated, prosecuted and adjudicated by the Maine Army National Guard and the Maine Air National Guard, referred to in this summary as "the Maine National Guard," to be performed either by the United States National Guard Bureau, Office of Complex Investigations or by an independent agency experienced in evaluating military sexual violence prevention and response. The Adjutant General must submit a copy of the report resulting from the review to the joint standing committee of the Legislature having jurisdiction over veterans affairs by February 15, 2023. The committee may report out legislation regarding the subject matter of the report to the 131st Legislature in 2023.

Part B of the bill:

1. Amends the crime of harassment to provide that a person is guilty of harassment if the person engages in any course of conduct with the intent to harass, torment or threaten another person and during the previous year the person, while a member of the Maine National Guard, was notified, in writing or otherwise, not to engage in such conduct by a commanding officer, regardless of whether the person remains a member of the state military forces when the conduct occurs and regardless of where the conduct occurs;

2. Adds a member of the Maine National Guard with experience in sexual assault response to the Maine Commission on Domestic and Sexual Abuse;

3. Directs the Governor and the Adjutant General to convene the Advisory Council on Sexual Trauma in the Maine National Guard to review best practices for the prevention of and response to sexual assault and sexual harassment within the Maine National Guard, including best practices for assisting state and local law enforcement with the prosecution of offenders, and to compile a directory of all resources available to assist victims of sexual assault or sexual harassment who are current or former members of the Maine National Guard;

4. Requires the Adjutant General to provide current and former members of the Maine National Guard who were victims of sexual assault or sexual harassment while members of the Maine National Guard with financial assistance to cover the expenses of traveling to and from and participating in state criminal or civil court proceedings or proceedings under the Maine Code of Military Justice related to the sexual assault or sexual harassment;

5. Requires the Adjutant General to enter into a cooperative agreement with a statewide coalition against sexual assault for the provision of advocacy and support services to members of the Maine National Guard and their family members who are victims of sexual assault or sexual harassment, including a method for such individuals to make anonymous reports of sexual assault or sexual harassment to the Adjutant General; and

6. Requires the Adjutant General to submit an annual report to the joint standing committee of the Legislature having jurisdiction over veterans affairs containing specific data regarding reported incidents of sexual assault or sexual harassment within the Maine National Guard, to the extent permitted by federal law and in a manner that does not reveal the identity of victims; a description of all sexual assault and sexual harassment prevention training provided during the previous year; a description of the current practices and procedures for the prevention of sexual assault and sexual harassment and investigation of and disciplinary actions taken in response to reports of sexual assault and sexual harassment in the Maine National Guard; and a summary of the activities of the Advisory Council on Sexual Trauma in the Maine National Guard.