

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 1146 - L.D. 1783

**An Act to Implement the Recommendations of the Governor's Advisory
Council on Military Sexual Trauma**

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

Sec. 1. 5 MRSA §3360-C, sub-§1, as amended by PL 2003, c. 243, §4, is further amended by enacting at the end a new first blocked paragraph to read:

For purposes of this subsection, an unrestricted report of sexual assault made to the Maine National Guard by a current or former member of the Maine National Guard is a crime reported to a law enforcement officer.

Sec. 2. 37-B MRSA §3, sub-§1, ¶D, as amended by PL 2021, c. 634, Pt. B, §§10 and 11, is further amended by amending subparagraph (25) to read:

(25) By ~~February 15, 2023~~ December 6, 2023, and annually thereafter, the Adjutant General shall 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 or federal regulation 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. If necessary to protect the identity of victims of sexual assault or sexual harassment, the Adjutant General may submit a summary of specific items of data or information required to be included in the report;
- (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 during the preceding year of any advisory council or special study group convened by the Governor or the department or in which officials of the department have been asked to participate whose duties involve, at least in part, examining or making recommendations regarding the prevention of or the response to sexual assault and sexual harassment in the National Guard or, if no advisory council or special study group with such duties engaged in activities during the preceding year, a statement to that effect.

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

Sec. 3. 37-B MRSA §3, sub-§1, ¶D, as amended by PL 2021, c. 634, Pt. B, §§10 and 11, is further amended by enacting a new subparagraph (26) to read:

(26) By December 6, 2023, and annually thereafter, to the extent allowed by federal law, the Adjutant General shall submit a report to the joint standing committee of the Legislature having jurisdiction over veterans affairs containing the:

(a) Aggregate number of new members of the Maine National Guard broken down by gender in the previous year;

(b) Aggregate discharge numbers of Maine National Guard members broken down by gender in the previous year;

(c) Aggregate promotion rates from the previous year of Maine National Guard members broken down by gender;

(d) Aggregate data or coded reason for discharge of all Maine National Guard members discharged in the previous year broken down by gender;

(e) Percentages of Maine National Guard members broken down by gender reporting sexual harassment and sexual assault as measured by the anonymous survey with the highest percentage of Maine National Guard members having completed surveys from the previous year; and

(f) Number of restricted and unrestricted reports of sexual harassment and sexual assault in the Maine National Guard by year broken down by gender of the reporting party.

Sec. 4. 37-B MRSA §390-D is enacted to read:

§390-D. Paid leave pending completion of sexual harassment investigation or sexual assault investigation

A full-time or part-time member of the Maine National Guard who is in active state service pursuant to section 181-A and who reports that the member is a victim of a sexual assault or sexual harassment by another member of the Maine National Guard may request paid leave during any pending investigation, and paid leave must be granted if the reporting party requests it. A full-time or part-time member of the Maine National Guard who is in active state service pursuant to section 181-A and who is the responding party in an

investigation of sexual assault or sexual harassment must be placed on paid leave pending completion of the investigation, unless the reporting party consents to an alternative arrangement after consultation with counsel for the Maine National Guard. If a reporting party takes paid leave but wishes to return to work prior to completion of the investigation, an evaluation of supervisory or reporting structures must be completed and modified as necessary to avoid further alleged conduct by the responding party.

Sec. 5. Report by Adjutant General. By December 6, 2023, the Adjutant General shall submit a report to the Joint Standing Committee on Veterans and Legal Affairs. The report must contain any report made to the Governor or any summary of activities of the Governor's Advisory Council on Military Sexual Trauma that was established by Executive Order 1 FY 21/22 and must include any additional information examining or making recommendations for the prevention of or the response to sexual assault and sexual harassment in the Maine National Guard. After reviewing the report and any summary of activities, the committee may report out legislation to the Second Regular Session of the 131st Legislature to implement the report's recommendations. In its deliberations, the committee may consider whether to establish an advisory council on sexual trauma in the Maine National Guard.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF

Military Training and Operations 0108

Initiative: Provides one-time funding to pay for paid leave costs that are not otherwise reimbursed by another entity.

GENERAL FUND	2023-24	2024-25
Personal Services	\$0	\$126,000
All Other	\$0	\$54,000
GENERAL FUND TOTAL	\$0	\$180,000