

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: March 24, 2021
To: Veterans and Legal Affairs Committee
From: Janet Stocco, Legislative Analyst

LD 625 **Resolve, Directing a Review of Crucial Needs and Lapses in Responding to and Preventing Sexual Trauma in the Maine National Guard** (*Rep. Rielly*)

SUMMARY

This resolve directs the Adjutant General:

1. To review the degree to which the recommendations made in the report submitted to the VLA Committee pursuant to Resolve 2013, chapter 66 have been implemented by the Maine National Guard; and
2. To identify any crucial needs and lapses in responding to and preventing military sexual trauma in the Maine National Guard and determine if additional action is necessary.

The Adjutant General must submit a report on the review by November 1, 2021, to the VLA Committee, which may submit legislation related to the report to the 2nd Regular Session of the 130th Legislature.

ADDITIONAL INFORMATION**Legislative History.**

The 126th Legislature enacted [Resolve 2013, chapter 66](#) (attached), which directed the Adjutant General to conduct an assessment of Maine law, including the Maine Code of Military Justice, governing active duty Maine National Guard members to determine whether these laws provide for the adequate prosecution of sexual assault and for the proper treatment of military victims of sexual assault, including by assessing how Maine law compares to the federal National Defense Authorization Act of 2013 with respect to 14 enumerated issues. The Adjutant General was directed to submit a report describing the results of the assessment to the VLA Committee by Feb. 15, 2014. A scanned copy of the Adjutant General's report is located here: http://lldc.mainelegislature.org/Open/Rpts/kf7620_m3_2014.pdf.

Maine Code of Military Justice.

The Maine Code of Military Justice is located in [Title 37, Chapter 5](#) of the Maine Revised Statutes.

Maine National Guard Sexual Assault Prevention and Response Program.

<https://www.me.ng.mil/Resources/Sexual-Assault-Prevention-and-Response/>

ISSUES RAISED AT PUBLIC HEARING

Sponsor's identified items of interest. Rep. Rielly testified that, at a minimum, the following specific issues, which the Adjutant General was directed to examine in Resolve 2013, chapter 66, bear re-examination given the passage of time since the 2014 report:

- Mandatory administrative separation or dismissal of any member of the Maine National Guard convicted of any sexual offense (Item #1 from 2013 resolve);
- Allowing victims to return to active duty after separation to help prosecute sex offenders (Item #3);
- The creation of an independent review panel to examine the way sexual assaults are investigated, prosecuted and adjudicated under the Maine Code of Military Justice (Item #4);
- Annual command climate assessment surveys to track individual attitudes toward sexual assault and sexual harassment (Item #5); and
- Required sexual assault prevention and intervention in precommand and command courses for officers and relevant personnel (Item #7).


TECHNICAL ISSUES

None identified.

FISCAL IMPACT

The [Preliminary Fiscal Impact Statement](#) (copied below) indicates that the costs of conducting the review and preparing the report can be absorbed within existing budgeted resources.

Approved: 03/03/21 *MAC*


130th MAINE LEGISLATURE
LD 625 **LR 1347(01)**
Resolve, Directing a Review of Crucial Needs and Lapses in Responding to and Preventing Sexual Trauma in the Maine National Guard
Preliminary Fiscal Impact Statement for Original Bill
Sponsor: Rep. Rielly of Westbrook
Committee: Veterans and Legal Affairs
Fiscal Note Required: No

Preliminary Fiscal Impact Statement

Minor cost increase - General Fund

Fiscal Detail and Notes
Additional costs to the Department of Defense, Veterans and Emergency Management associated with conducting the review and reporting the results can be absorbed within existing budgeted resources.

active duty personnel in or attached to the Maine National Guard allow for the adequate prosecution of sexual assault and proper treatment of military victims of sexual assault by comparing them with specific National Guard Bureau guidance and the provisions of the National Defense Authorization Act for Fiscal Year 2013 that amend 10 United States Code and that address the following:

1. Mandatory administrative separation or dismissal of any member of the Maine National Guard convicted of any sexual offense;

2. Retention of restricted report documentation for 50 years, if so desired by the victim, including information regarding a victim's consent regarding use of report records;

3. Allowing victims to return to active duty after separation to help prosecute sex offenders;

4. The creation of an independent review panel to examine the way sexual assaults are investigated, prosecuted and adjudicated under the Maine Code of Military Justice;

5. Annual command climate assessment surveys to track individual attitudes toward sexual assault and sexual harassment;

6. Mandatory insurance coverage for mental and physical health issues, including abortions in cases of rape or incest for service women and military family members;

7. Required sexual assault prevention and intervention in precommand and command courses for officers and relevant personnel;

8. Notification to Maine National Guard personnel of the options available for the correction of military records that reflect any retaliatory personnel action consequent to a report of sexual assault or sexual harassment;

9. Prohibition against the use of a moral waiver for recruitment of anyone convicted of a sexual offense;

10. Active duty retention of survivors until the completion of a line of duty determination to ensure completion of an official investigation and adjudication of the sexual offense case;

11. Development of a policy for and documented annual review of required initial and annual sexual assault prevention training for all new enlistees and members of the Maine National Guard, respectively;

12. Development of a policy addressing data collection and retention requirements to track reports of sexual harassment, sexual assault and rape from the date of an incident report to case closure;

13. Annual briefing by the Adjutant General to the Governor and the joint standing committee of the

CHAPTER 66

S.P. 562 - L.D. 1504

**Resolve, Directing the Adjutant
General of the State To Ensure
the Maine Code of Military
Justice Addresses Sexual
Trauma in the Military**

Sec. 1. Adjutant General to conduct assessment of Maine Code of Military Justice.
Resolved: That the Adjutant General shall conduct an assessment of the Maine Code of Military Justice and other provisions of the Maine Revised Statutes, Title 37-B that govern state active duty personnel in or attached to the Maine National Guard, including air reserve technicians and other activated military personnel, with regard to provisions that apply to sexual assault in the military. The purpose of the assessment is to determine if the Maine Code of Military Justice and other provisions of Title 37-B governing state

Attachment: Text of Resolve 2013, chapter 66

Legislature having jurisdiction over veterans and legal affairs, including a summary of all sexual assault and rape incidents, their status and the outcomes, including the duty status of adjudicated and administratively dismissed military offenders and military victims; and

14. Development of a policy to ensure convicted felons who meet national sex offender registry requirements are placed on that registry.

Nothing in this section prohibits the Adjutant General from considering other provisions of federal law that relate to prosecution and punishment of members of the Maine National Guard who have been accused of sexual assault in the military and the treatment of members of the Maine National Guard who are victims of sexual assault; and be it further

Sec. 2. Report. Resolved: That, no later than February 15, 2014, the Adjutant General shall submit a report to the Joint Standing Committee on Veterans and Legal Affairs describing the results of the assessment described in section 1. The report must include recommendations for legislation to make provisions of the Maine Code of Military Justice and other provisions of the Maine Revised Statutes, Title 37-B that deal with military personnel comparable to provisions of federal law that address the issue of sexual assault in the military. The Joint Standing Committee on Veterans and Legal Affairs is authorized to report out a bill based on the report to the Second Regular Session of the 126th Legislature.

**THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013**