

118TH CONGRESS
1ST SESSION

S. 1966

To amend title 10, United States Code, to increase transparency and reporting on sexual violence in the Junior Reserve Officers' Training Corps Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 14, 2023

Ms. WARREN (for herself, Mr. SANDERS, and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to increase transparency and reporting on sexual violence in the Junior Reserve Officers' Training Corps Program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Junior Reserve Offi-
5 cers’ Training Corps Safety Act of 2023”.

1 **SEC. 2. JROTC PROGRAM CERTIFICATION.**

2 Section 2031 of title 10, United States Code, is
3 amended by adding at the end the following new sub-
4 section:

5 “(i)(1) The Secretary of Defense shall permanently
6 suspend any Junior Reserve Officers’ Training Corps unit
7 that fails to notify the Department of Defense and the
8 Department of Education of allegations that an instructor
9 sexually harassed or assaulted a student participating in
10 the Junior Reserve Officers’ Training Corps within 48
11 hours after the institution is notified of the allegation.

12 “(2) The Secretary of Defense shall submit to the
13 Committee on Armed Services of the Senate and the Com-
14 mittee on Armed Services of the House of Representatives
15 an annual report including information on units sus-
16 pended pursuant to this subsection and a justification for
17 the reinstatement of any such unit.”.

18 **SEC. 3. DEPARTMENT OF DEFENSE CLIMATE SURVEYS.**

19 Section 481 of title 10, United States Code, is
20 amended—

21 (1) in subsection (a)—

22 (A) in paragraph (1), by striking “four
23 surveys” and inserting “five surveys”; and

24 (B) in paragraph (2)—

25 (i) by striking “four surveys” and in-
26 serting “five surveys”; and

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

3 “(E) To identify and assess gender issues and
4 discrimination among members of the Junior Re-
5 serve Officers’ Training Corps and the Senior Re-
6 serve Officers’ Training Corps.

7 “(F) To identify and assess disability issues
8 and discrimination among members of the Armed
9 Forces serving on active duty.

10 “(G) To identify and assess disability issues
11 and discrimination among members of the Armed
12 Forces serving in the reserve components.

13 “(H) To identify and assess racial and ethnic
14 issues and discrimination among members of the
15 Junior Reserve Officers’ Training Corps and the
16 Senior Reserve Officers’ Training Corps.

17 “(I) To identify and assess disability issues and
18 discrimination among members of the Junior Re-
19 serve Officers’ Training Corps and the Senior Re-
20 serve Officers’ Training Corps.”; and

21 (2) in subsection (e), by inserting “and publish
22 on a publicly accessible website of the Department”
23 after “the Secretary shall submit to Congress”.

1 **SEC. 4. PROGRAM INSPECTIONS.**

2 Section 2031(b) of title 10, United States Code, is
3 amended—

4 (1) in paragraph (4), by striking “; and” and
5 inserting a semicolon;

6 (2) by redesignating paragraph (5) as para-
7 graph (8); and

8 (3) by inserting after paragraph (4) the fol-
9 lowing new paragraphs:

10 “(5) the institution has been inspected and ap-
11 proved by the military department concerned in the
12 previous 18 months;

13 “(6) the military department concerned certifies
14 that—

15 “(A) the institution—

16 “(i) has created a process for students
17 to report violations of their rights under
18 title IX of the Education Amendments of
19 1972 (20 U.S.C. 1681 et seq.), title VI of
20 the Civil Rights Act of 1964 (42 U.S.C.
21 2000d et seq.), and section 504 of the Re-
22 habilitation Act (29 U.S.C. 794), including
23 the rights of students to not be subject to
24 discrimination or subject to retaliation for
25 reporting a violation of those laws; and

1 “(ii) has notified the students and in-
 2 structors of those rights and the process
 3 for reporting violations of those rights, in-
 4 cluding information on available reporting
 5 options, including mandatory reporters,
 6 and available supportive measures to en-
 7 sure students have access to any accom-
 8 modations needed in the aftermath of ex-
 9 periencing discrimination; and

10 “(B) the unit includes biannual training to
 11 inform students of methods to prevent, respond
 12 to, and report sexual assault and harassment;

13 “(7) the institution agrees to report all allega-
 14 tions of violations described under paragraph (6)(A)
 15 to the military department concerned and the De-
 16 partment of Education’s Office for Civil Rights not
 17 less than annually; and”.

18 **SEC. 5. ANNUAL REPORT ON ALLEGATIONS OF DISCRIMI-**
 19 **NATION AND SEX-BASED HARASSMENT IN**
 20 **JROTC PROGRAMS.**

21 Section 2031 of title 10, United States Code, as
 22 amended by section 2 of this Act, is further amended by
 23 adding at the end the following new subsection:

24 “(j)(1) Not later than March 31 each year, the Sec-
 25 retary of Defense and the Secretary of Education shall

1 submit to the appropriate congressional committees a re-
2 port on allegations of sex-based harassment (including
3 sexual harassment, sexual assault, domestic violence, dat-
4 ing violence, and stalking) and discriminatory harassment
5 based on disability, race, color, national origin, and other
6 sex-based harassment, including sexual orientation, gender
7 identity, transgender status, pregnancy, and related med-
8 ical conditions in all JROTC programs during the pre-
9 ceding year.

10 “(2) Each report required under paragraph (1) shall
11 set forth the following:

12 “(A) The number of reported allegations of a
13 possible violation under title IX of the Education
14 Amendments of 1972 (20 U.S.C. 1681 et seq.) in
15 school-affiliated JROTC programs, including—

16 “(i) the number of such reported allega-
17 tions that were investigated;

18 “(ii) the outcome of those investigations;

19 “(iii) the number of allegations the De-
20 partment of Defense, military services, or De-
21 partment of Education received directly from
22 students or third parties, including whether the
23 individual making the report raised concerns
24 that the institution had not properly inves-
25 tigated the incident or reported it to proper au-

1 thorities within and outside of the school on any
2 initial allegation that was reported to the insti-
3 tution; and

4 “(iv) the number of such reported allega-
5 tions by State, including the District of Colum-
6 bia, Puerto Rico, American Samoa, Guam,
7 Northern Mariana Islands, and United States
8 Virgin Islands, in which these reports occurred.

9 “(B) The number of reports that the Depart-
10 ment of Defense, military services, or Department of
11 Education have received during the reporting period
12 involving allegations of sex-based harassment (in-
13 cluding sexual harassment, sexual assault, domestic
14 violence, dating violence, and stalking), harassment
15 based on disability, race, color, national origin, and
16 other sex-based harassment, including sexual ori-
17 entation, gender identity, transgender status, preg-
18 nancy and related medical conditions, by instructors
19 against students in the JROTC program, includ-
20 ing—

21 “(i) the type of incident;

22 “(ii) the military service;

23 “(iii) the number of instructors and num-
24 ber of allegations they each received;

1 “(iv) the number of reports of sex-based
2 harassment (including sexual harassment, sex-
3 ual assault, domestic violence, dating violence,
4 and stalking), harassment based on disability,
5 race, color, national origin, and other sex-based
6 harassment, including sexual orientation, gen-
7 der identity, transgender status, pregnancy and
8 related medical conditions, that have been in-
9 vestigated;

10 “(v) the number of reports or investiga-
11 tions that have led to the removal of instructors
12 from JROTC programs;

13 “(vi) the number of allegations the Depart-
14 ment of Defense received directly from students
15 or third parties, including whether the indi-
16 vidual making the report raised concerns the in-
17 stitution had not properly investigated the inci-
18 dent or reported it to proper authorities within
19 and outside of the school on any initial allega-
20 tion that was reported to the institution; and

21 “(vii) the number of such reported allega-
22 tions by State, including the District of Colum-
23 bia, in which these reports occurred.

24 “(C) The number of reports that the Depart-
25 ment of Defense, military services, or Department of

1 Education have received during the reporting period
2 involving allegations of sex-based harassment (in-
3 cluding sexual harassment, sexual assault, domestic
4 violence, dating violence, and stalking), harassment
5 based on disability, race, color, national origin, and
6 other sex-based harassment, including sexual ori-
7 entation, gender identity, transgender status, preg-
8 nancy, and related medical conditions, by students
9 against students in the JROTC program, includ-
10 ing—

11 “(i) the type of incident;

12 “(ii) the military service;

13 “(iii) the number of students who were al-
14 leged to have committed such acts and the
15 number of allegations that each student re-
16 ceived;

17 “(iv) the number of reports of sex-based
18 harassment (including sexual harassment, sex-
19 ual assault, domestic violence, dating violence,
20 and stalking), harassment based on disability,
21 race, color, national origin, and other sex-based
22 harassment, including sexual orientation, gen-
23 der identity, transgender status, pregnancy and
24 related medical conditions, that have been in-
25 vestigated;

1 “(v) the number of reports or investiga-
2 tions that have led to the removal of students
3 who were alleged to have committed such acts
4 or students who were alleged victims of those
5 acts from the JROTC program;

6 “(vi) the number of allegations the Depart-
7 ment of Defense or Department of Education
8 received directly from students or third parties,
9 including whether the individual making the re-
10 port raised concerns the institution had not
11 properly investigated the incident or reported it
12 to proper authorities within and outside of the
13 school on any initial allegation that was re-
14 ported to the institution; and

15 “(vii) the number of such reported allega-
16 tions by State, including the District of Colum-
17 bia, Puerto Rico, American Samoa, Guam,
18 Northern Mariana Islands, and United States
19 Virgin Islands in which these reports occurred.

20 “(D) Any steps the Department of Defense and
21 the Department of Education have taken to mitigate
22 sex-based harassment (including sexual harassment,
23 sexual assault, domestic violence, dating violence,
24 and stalking) in JROTC programs during the pre-
25 ceding year.

1 “(3) Each report required under paragraph (1) shall
2 be submitted in unclassified form and may not be marked
3 as controlled unclassified information.

4 “(4) Each secondary school (as defined in section
5 8101 of the Elementary and Secondary Education Act of
6 1965 (20 U.S.C. 7081)) participating in the JROTC pro-
7 gram under this chapter that receives funding under title
8 I of the Elementary and Secondary Education Act of 1965
9 shall develop and submit to the Secretary of Defense and
10 the Secretary of Education for inclusion in the report re-
11 quired under paragraph (1) a statement of policy regard-
12 ing—

13 “(A) the secondary school’s programs to pre-
14 vent sex-based harassment (including sexual harass-
15 ment, sexual assault, domestic violence, dating vio-
16 lence, and stalking), harassment based on disability,
17 race, color, national origin, and other sex-based har-
18 assment, including sexual orientation, gender iden-
19 tity, transgender status, pregnancy and related med-
20 ical conditions;

21 “(B) the JROTC program’s provision of evi-
22 dence-based training to JROTC recruits, in coordi-
23 nation with school-based mental health services pro-
24 viders as defined in section 4102(6) of the Elemen-

1 tary and Secondary Education Act of 1965 (20
2 U.S.C. 7012(6)), if applicable, regarding—

3 “(i) the mental health resources and serv-
4 ices made available to them;

5 “(ii) mental health education; and

6 “(iii) methods that students can use to
7 seek help for themselves and others, including
8 for sex-based harassment (including sexual har-
9 assment, sexual assault, domestic violence, dat-
10 ing violence, and stalking), harassment based
11 on disability, race, color, national origin, and
12 other sex-based harassment, including sexual
13 orientation, gender identity, transgender status,
14 pregnancy and related medical conditions; and

15 “(C) the procedures that the secondary school
16 will follow once an allegation of sex-based harass-
17 ment (including sexual harassment, sexual assault,
18 domestic violence, dating violence, and stalking),
19 harassment based on disability, race, color, national
20 origin, or other sex-based harassment, including sex-
21 ual orientation, gender identity, transgender status,
22 pregnancy and related medical conditions, has been
23 reported, including a statement of the standard of
24 evidence that will be used during any school conduct
25 proceeding arising from the report.

1 “(5) The Secretary of Defense and the Secretary of
2 Education shall annually report to the authorizing com-
3 mittees regarding compliance with this subsection by the
4 JROTC program, including an up-to-date report on the
5 Secretary’s monitoring of such compliance.

6 “(6)(A) The Secretary of Defense and the Secretary
7 of Education shall seek the advice and counsel of the At-
8 torney General concerning the development and dissemi-
9 nation to the JROTC program of best practices informa-
10 tion about campus safety and emergencies related to sex-
11 ual misconduct.

12 “(B) The Secretary of Defense and the Secretary of
13 Education shall seek the advice and counsel of the Attor-
14 ney General and the Secretary of Health and Human
15 Services concerning the development and dissemination to
16 the JROTC program of best practices information about
17 preventing and responding to incidents of sex-based har-
18 assment (including sexual harassment, sexual assault, do-
19 mestic violence, dating violence, and stalking), harassment
20 based on disability, race, color, national origin, and other
21 sex-based harassment, including sexual orientation, gender
22 identity, transgender status, pregnancy and related med-
23 ical conditions, including elements of institutional policies
24 that have proven successful based on evidence-based out-
25 come measurements.

1 “(7)(A) No officer, employee, or agent of an institu-
 2 tion participating in any program under this chapter shall
 3 retaliate, intimidate, threaten, coerce, or otherwise dis-
 4 criminate against any individual for exercising their rights
 5 or responsibilities under any provision of this subsection.

6 “(B) Each report required under paragraph (1) shall
 7 include all reported incidents of retaliation against report-
 8 ers of the key prohibitions outlined in paragraph (2).

9 “(C) Each individual who exercised their rights or re-
 10 sponsibilities to report under any provision in this sub-
 11 section shall be offered mental health assistance from a
 12 school-based mental health services provider as defined in
 13 section 4102(6) of the Elementary and Secondary Edu-
 14 cation Act of 1965.

15 “(8) In this subsection, the term ‘appropriate con-
 16 gressional committees’ means—

17 “(A) the Committee on Armed Services and the
 18 Committee on Health, Education, Labor, and Pen-
 19 sions of the Senate; and

20 “(B) the Committee on Armed Services and the
 21 Committee on Education and the Workforce of the
 22 House of Representatives.”.

23 **SEC. 6. INFORMED CONSENT.**

24 (a) **INFORMED CONSENT REQUIREMENT.**—Section
 25 2031 of title 10, United States Code, as amended by sec-

1 tion 5 of this Act, is further amended by inserting after
2 subsection (j) the following new subsection:

3 “(k)(1) No student shall be enrolled in the Junior
4 Reserve Officers’ Training Corps without the full and in-
5 formed consent of both the student and the student’s legal
6 guardian. Students and legal guardians shall be notified
7 of the voluntary nature of the program, process for
8 disenrolling from the program, and the program’s require-
9 ments, including academic and physical expectations for
10 students.

11 “(2) The Secretary of Defense shall suspend any
12 Junior Reserve Officers’ Training Corps unit found to
13 have violated the full and informed consent requirement
14 under paragraph (1).”.

15 (b) PLAN.—Not later than 180 days after the date
16 of the enactment of this Act, the Secretary of Defense
17 shall, in consultation with the Secretary of Education, de-
18 velop and implement a plan to collect affirmative, in-
19 formed consent from students and their legal guardians
20 before enrollment in the Junior Reserve Officers’ Training
21 Corps, as required by subsection (k) of section 2031 of
22 title 10, United States Code, as added by subsection (a).

23 **SEC. 7. COMPTROLLER GENERAL REVIEW.**

24 (a) IN GENERAL.—Not later than one year after the
25 date of the enactment of this Act, the Comptroller General

1 of the United States shall submit to the appropriate con-
2 gressional committees a report on efforts to increase
3 transparency and reporting on sexual violence in the Jun-
4 ior Reserve Officers' Training Corps Program.

5 (b) ELEMENTS.—The report required under sub-
6 section (a) shall include a description of the following:

7 (1) The implementation of section 2031 of title
8 10, United States Code, as amended by sections 2,
9 4, 5, and 6 of this Act, and subparagraph (E) of
10 section 481(a)(2) of title 10, United States Code, as
11 added by section 3 of this Act.

12 (2) The adequacy of the Department of De-
13 fense's vetting process for Junior Reserve Officers'
14 Training Corps instructors in preventing individuals
15 who engage in harassment from becoming JROTC
16 instructors and an analysis of whether any addi-
17 tional needed components of the vetting process.

18 (3) The Department of Defense and the De-
19 partment of Education's oversight of compliance of
20 units with respect to title IX of the Education
21 Amendments of 1972 (20 U.S.C. 1681 et seq.), title
22 VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d
23 et seq.), and section 504 of the Rehabilitation Act
24 (29 U.S.C. 701 et seq.).

1 (4) Any changes in the number of incidents of
2 sex-based harassment (including sexual harassment,
3 sexual assault, domestic violence, dating violence,
4 and stalking), harassment based on disability, race,
5 color, national origin, and other sex-based harass-
6 ment, including sexual orientation, gender identity,
7 transgender status, pregnancy and related medical
8 conditions, reported to institutions or law enforce-
9 ment agencies or reported in the climate surveys
10 pursuant to subparagraph (E) of section 481(a)(2)
11 of title 10, United States Code, as added by section
12 3 of this Act.

13 (5) The sufficiency of military department unit
14 inspections.

15 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
16 FINED.—In this section, the term “appropriate congres-
17 sional committees” means—

18 (1) the Committee on Armed Services and the
19 Committee on Health, Education, Labor, and Pen-
20 sions of the Senate; and

21 (2) the Committee on Armed Services and the
22 Committee on Education and the Workforce of the
23 House of Representatives.

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