

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1504

S.P. 562

In Senate, May 7, 2013

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

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Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator VALENTINO of York.  
Cosponsored by Representative RUSSELL of Portland and  
Senators: President ALFOND of Cumberland, BOYLE of Cumberland, CAIN of Penobscot,  
CLEVELAND of Androscoggin, CRAVEN of Androscoggin, DUTREMBLE of York,  
FLOOD of Kennebec, GERZOFKY of Cumberland, GRATWICK of Penobscot, HILL of  
York, JACKSON of Aroostook, JOHNSON of Lincoln, LACHOWICZ of Kennebec,  
MAZUREK of Knox, MILLETT of Cumberland, PATRICK of Oxford, TUTTLE of York,  
Representatives: BEAULIEU of Auburn, BEAVERS of South Berwick, CHENETTE of Saco,  
CHIPMAN of Portland, Speaker EVES of North Berwick, HAYES of Buckfield,

LONGSTAFF of Waterville, McCABE of Skowhegan, MONAGHAN-DERRIG of Cape Elizabeth.

1           **Sec. 1. Adjutant General to conduct assessment of Maine Code of**  
2 **Military Justice. Resolved:** That the Adjutant General shall conduct an assessment  
3 of the Maine Code of Military Justice and other provisions of the Maine Revised Statutes,  
4 Title 37-B that govern active duty personnel in the Maine National Guard, including air  
5 reserve technicians and other activated military personnel, with regard to provisions that  
6 apply to sexual assault in the military. The purpose of the assessment is to determine if  
7 the Maine Code of Military Justice and other provisions of Title 37-B governing active  
8 duty personnel in the Maine National Guard allow for the adequate prosecution of sexual  
9 assault and proper treatment of military victims of sexual assault by comparing them with  
10 the provisions of the National Defense Authorization Act for Fiscal Year 2013 that  
11 amend 10 United States Code and that address the following:

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

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

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

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

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

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

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

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

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

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

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

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

4 13. Annual briefing by the Adjutant General to the Governor and the joint standing  
5 committee of the Legislature having jurisdiction over veterans and legal affairs, including  
6 a summary of all sexual assault and rape incidents, their status and the outcomes,  
7 including the duty status of adjudicated and administratively dismissed military offenders  
8 and military victims; and

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

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

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

25 **SUMMARY**

26 This resolve directs the Adjutant General of the State to conduct an assessment of the  
27 Maine Code of Military Justice and other provisions of Maine law that deal with military  
28 personnel to ensure that these laws are comparable to federal laws in addressing the  
29 adequate investigation, prosecution and adjudication of sexual assault by members of the  
30 Maine National Guard and the appropriate treatment of Maine National Guard members  
31 who are victims of sexual assault.