

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 2029

H.P. 1511

House of Representatives, March 22, 2022

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

Reported by Representative CAIAZZO of Scarborough for the Joint Standing Committee on Veterans and Legal Affairs pursuant to Resolve 2021, chapter 21, section 2.

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **PART A**

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

26 **PART B**

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

28 **5-E.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 **Sec. B-9. 37-B MRSA §3, sub-§1, ¶D**, as repealed and replaced by PL 2017, c.
29 475, Pt. A, §63 and amended by PL 2019, c. 377, §6, is further amended by enacting a new
30 subparagraph (24) to read:

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

37 **Sec. B-10. 37-B MRSA §3, sub-§1, ¶D**, as repealed and replaced by PL 2017, c.
38 475, Pt. A, §63 and amended by PL 2019, c. 377, §6, is further amended by enacting a new
39 subparagraph (25) to read:

40 (25) The Adjutant General shall enter into a cooperative agreement with a
41 statewide coalition against sexual assault for the provision of advocacy and support
42 services to members of the National Guard and their family members who are

1 victims of sexual assault or sexual harassment, including the establishment of a
2 process for individuals to request that the coalition report incidents of sexual
3 assault or sexual harassment within the National Guard to the Adjutant General
4 without revealing the identity of the victim. The cooperative agreement must
5 require the Adjutant General and relevant staff of the National Guard to provide to
6 the coalition information regarding the unique needs of victims who are members
7 of the National Guard and their families and, to the greatest extent allowed under
8 state and federal law and in a manner that protects the privacy of victims, access to
9 all National Guard policies, procedures and records related to sexual assault and
10 sexual harassment, the results of climate command surveys and unit risk inventory
11 surveys and any other materials requested by the coalition. The Adjutant General
12 shall direct all members of the National Guard to cooperate fully with the coalition,
13 except that no victim of sexual assault or sexual harassment may be required to
14 participate. The Adjutant General shall request that the coalition submit, by
15 February 15, 2023 and annually thereafter, a report to the joint standing committee
16 of the Legislature having jurisdiction over veterans affairs summarizing the
17 coalition's recommendations, if any, related to the prevention of and appropriate
18 response to sexual assault and sexual harassment within the National Guard. After
19 reviewing the report, the committee may report out legislation related to the report.

20 **Sec. B-11. 37-B MRSA §3, sub-§1, ¶D**, as repealed and replaced by PL 2017, c.
21 475, Pt. A, §63 and amended by PL 2019, c. 377, §6, is further amended by enacting a new
22 subparagraph (26) to read:

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

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

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

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

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

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

1 of offenders, and to compile a directory of all resources available to assist victims of sexual
2 assault or sexual harassment who are current or former members of the Maine National
3 Guard;

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

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

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