

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1783

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H.P. 1146

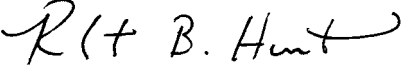
House of Representatives, April 25, 2023

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

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Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

  
ROBERT B. HUNT  
Clerk

Presented by Representative RIELLY of Westbrook.  
Cosponsored by Senator HICKMAN of Kennebec and  
Representatives: BOYER of Poland, JAUCH of Topsham, MALON of Biddeford, MILLIKEN  
of Blue Hill, MONTELL of Gardiner, RISEMAN of Harrison, RUDNICKI of Fairfield,  
SUPICA of Bangor.

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

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

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

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

9 (25) ~~By February 15, 2023~~ December 6, 2023, and annually thereafter, the  
10 Adjutant General shall submit a report to the joint standing committee of the  
11 Legislature having jurisdiction over veterans affairs containing:

12 (a) Data regarding all reported incidents of sexual assault and sexual  
13 harassment within the National Guard in each of the preceding 10 years,  
14 including information on the current duty status of victims and the outcome of  
15 any state or federal criminal or Maine Code of Military Justice proceedings  
16 arising out of such incidents, to the extent that the sharing of such data and  
17 information is not prohibited by federal law or federal regulation and can be  
18 presented in a way that does not identify, and that cannot be used with other  
19 information to identify, any victim of sexual assault or sexual harassment. If  
20 necessary to protect the identity of victims of sexual assault or sexual  
21 harassment, the Adjutant General may submit a summary of specific items of  
22 data or information required to be included in the report;

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

25 (c) A description of the current practices and procedures for the prevention of  
26 sexual assault and sexual harassment and investigation of and disciplinary  
27 actions taken in response to reports of sexual assault and sexual harassment in  
28 the National Guard; and

29 (d) A summary of the activities during the preceding year of any advisory  
30 council or special study group convened by the Governor or the department or  
31 in which officials of the department have been asked to participate whose  
32 duties involve, at least in part, examining or making recommendations  
33 regarding the prevention of or the response to sexual assault and sexual  
34 harassment in the National Guard or, if no advisory council or special study  
35 group with such duties engaged in activities during the preceding year, a  
36 statement to that effect.

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

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

41 (26) By December 6, 2023, and annually thereafter, to the extent allowed by  
42 federal law, the Adjutant General shall submit a report to the joint standing

1 committee of the Legislature having jurisdiction over veterans affairs containing  
2 the:

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

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

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

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

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

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

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

19 **§390-D. Paid leave pending completion of sexual harassment investigation or sexual**  
20 **assault investigation**

21 A full-time or part-time member of the Maine National Guard who reports that the  
22 member is a victim of a sexual assault or of sexual harassment by another member of the  
23 Maine National Guard may request paid leave during any pending investigation, and paid  
24 leave must be granted if the reporting party requests it. A full-time or part-time member of  
25 the Maine National Guard who is the responding party in an investigation of sexual  
26 harassment or sexual assault must be placed on paid leave pending completion of the  
27 investigation, unless the reporting party consents to an alternative arrangement after  
28 consultation with counsel for the Maine National Guard. If a reporting party takes paid  
29 leave but wishes to return to work prior to completion of the investigation, an evaluation  
30 of supervisory or reporting structures must be completed and modified as necessary to  
31 avoid further harassment, discrimination or other alleged conduct by the responding party.

32 **Sec. 5. Report by Adjutant General.** By December 6, 2023, the Adjutant General  
33 shall submit a report to the Joint Standing Committee on Veterans and Legal Affairs. The  
34 report must contain any report made to the Governor or any summary of activities of the  
35 Governor's Advisory Council on Military Sexual Trauma that was established by Executive  
36 Order 1 FY 21/22 and must include any additional information examining or making  
37 recommendations for the prevention of or the response to sexual assault and sexual  
38 harassment in the Maine National Guard. After reviewing the report and any summary of  
39 activities, the committee may report out legislation to the Second Regular Session of the  
40 131st Legislature to implement the report's recommendations. In its deliberations, the  
41 committee may consider whether to establish an advisory council on sexual trauma in the  
42 Maine National Guard.

