



**STATE OF ILLINOIS
OFFICE OF THE ATTORNEY GENERAL
KWAME RAOUL
ATTORNEY GENERAL**

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-232, The Capitol
Washington, DC 20515

The Honorable Charles Schumer
Senate Majority Leader
U.S. Senate
S-221, The Capitol
Washington, DC 20510



**STATE OF NEBRASKA
OFFICE OF THE ATTORNEY GENERAL
DOUG PETERSON
ATTORNEY GENERAL**

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
H-204, The Capitol
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
S-230, The Capitol
Washington, DC 20510

Re: The Military Justice Improvement and Increasing Prevention Act

Dear Congressional Leaders:

We, the undersigned state Attorneys General, write to urge Congress to swiftly pass the Military Justice Improvement and Increasing Prevention Act.¹ This bill, which has broad bipartisan support in both chambers of Congress, aims to address serious, longstanding problems in underreporting and prosecuting sexual assault in the military. As we honor Veteran's Day this year, it is past time to remedy these issues.

We owe an immense debt of gratitude to the men and women who serve our nation and protect our freedom. Yet each year, thousands of service members are sexually assaulted. In 2018, the Department of Defense reported that 6.2% of women (an estimated 12,927 service members) and 0.7% of men (an estimated 7,546 service members) had experienced a sexual assault in the past 12 months.² Other studies have indicated that between 22% and 84% of military service women

¹ Military Justice Improvement and Increasing Prevention Act of 2021, S.1520, 117th Congress (2021); Military Justice Improvement and Increasing Prevention Act of 2021, H.R. 4104, 117th Congress (2021).

² See Department of Defense, Office of People Analytics, *2018 Workplace and Gender Relations Survey of Active Duty Members*, vi (2018) available at <https://bit.ly/3CPIhCP>.

report being sexually harassed or assaulted during their military service.³ Of those service members, only a small percentage ever report their assault⁴ – often because they suffer retaliation when they do. For instance, in 2018, the Department of Defense found that roughly one-quarter of women who reported sexual assault experienced retaliation, including professional reprisal, ostracism, and maltreatment.⁵ Other estimates are higher.⁶ In many cases, the assailant is someone in the service member’s own chain of command, creating an additional risk of retaliation. Even when sexual assault is reported, only a handful of perpetrators are held accountable; a mere nine percent of assaults result in conviction.⁷ And the effects of failing to prevent and redress sexual assault in the military are costly: according to the Rand Corporation, military sexual assault and its aftermath cost U.S. taxpayers over \$3.5 billion a year.⁸ Studies have also found that the effects of sexual assault and trauma negatively impact military readiness.⁹

One reason for this is that the existing prosecutorial system for serious crimes in the military does not adequately account for the complexity of sexual assault cases or the likelihood that bias may affect how sexual assaults are investigated and charged. Sexual assault allegations are frequently investigated by agencies that are not solely dedicated to criminal investigation and prevention, dividing their focus, and diminishing their effectiveness. The decision to prosecute is then made by non-attorney military commanders who often experience career and higher command pressures, which are not related to the facts of the cases. The current system also produces racial disparities.¹⁰

The Military Justice Improvement and Increasing Prevention Act is intended to remedy these issues by professionalizing military prosecution of serious crimes like sexual assault. It addresses widespread reluctance to report sexual assault due to bias inherent in the military chain of command’s power to decide whether cases move forward to a trial. This legislation instead moves the decision over whether to prosecute to independent, trained, professional military

³ See, e.g., Turchik, J. A., & Wilson, S. M., *Sexual Assault in the U.S. Military: A Review of the Literature and Recommendations for the Future*, *Aggression and Violent Behavior*, 15(4), 267-277, available at <https://bit.ly/3CUh1mv>.

⁴ In 2018, 76% of victims did not report the assault. See Department of Defense, *Annual Report on Sexual Assault in the Military*, Appendix B, 12 (2018), available at <https://bit.ly/3o0BPTc>.

⁵ See Department of Defense, Office of People Analytics, *2018 Workplace and Gender Relations Survey of Active Duty Members*, viii (2018).

⁶ In 2016, the Department of Defense reported that 6 out of 10 survivors experience retaliation. See Department of Defense, *Annual Report on Sexual Assault in the Military*, 37 (2016), available at <https://bit.ly/3BQh81c>.

⁷ See *id.*

⁸ See Farris, Coreen et al., *Enemy Within: Military Sexual Assault Inflicts Physical, Psychological, Financial Pain*, RAND Corporation (2013).

⁹ Klein, M., & Gallus, J. A., *The Readiness Imperative For Reducing Sexual Violence in the U.S. Armed Forces*, *Military Psychology* 30(3), 264-269, available at <https://bit.ly/2YkGUNn> (2018).

¹⁰ See, e.g., Government Accountability Office, *Military Justice: DOD and the Coast Guard Need to Improve Their Capabilities to Assess Racial Disparities*, available at <https://bit.ly/3wss7gg> (2020) (“GAO’s analysis of available data identified disparities in how likely service members of different races were to be subjects of investigations recorded in military criminal investigative organization databases and tried in general and special courts-martial in particular”).

prosecutors, while leaving uniquely military crimes within the chain of command.¹¹ Authorizing military prosecutors to make these determinations will help ensure that unacceptable factors, such as a military member's assault by a commanding officer, or race or ethnicity, are not considered at any stage of the process. The Act additionally requires increased training on sexual assault prevention for military personnel, as well as added instruction for prosecutors on the proper conduct, presentation, and handling of sexual assault and domestic violence cases.¹²

Passing the Military Justice Improvement and Increasing Prevention Act would also support the work state attorneys general do to protect victims of sexual assault and advocate on behalf of military members and veterans. For instance, the Illinois Attorney General's Military and Veterans Rights Bureau advocates for veterans and service members in crisis, protects rights through enforcement of veteran and service-member related laws, and works to ensure veterans, service members, and their dependents receive benefits. Similarly, state attorneys general provide services aimed at protecting assault survivors, such as offering grant funding through the Victims of Crimes Act or developing trainings for law enforcement and first responders to give them better tools to prevent and prosecute sex offenses. Ensuring that military sexual assault is appropriately reported and prosecuted under federal law would enhance the work we do as state law enforcement officials.

We applaud the bipartisan, bicameral sponsors and cosponsors of the Military Justice Improvement and Increasing Prevention Act. As we celebrate Veteran's Day, we ask committee members to give this bill due consideration and we urge the House and the Senate to ensure passage.

Respectfully,



Kwame Raoul
Illinois Attorney General



Douglas Peterson
Nebraska Attorney General



Treg R. Taylor
Alaska Attorney General



Rob Bonta
California Attorney General

¹¹ Excluded offenses that are not affected by the Act and remain within the military chain of command include all offenses that are uniquely military in nature, plus all crimes punishable by less than one year of confinement. They include 37 offenses ranging from desertion to espionage to destruction of military property. *See* S.1520, § 2(A)(2).

¹² S. 1520, §§ 7-8.

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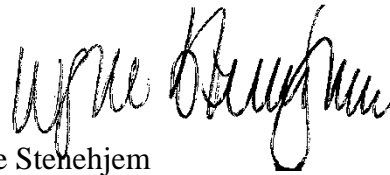
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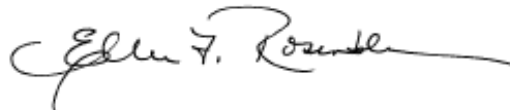
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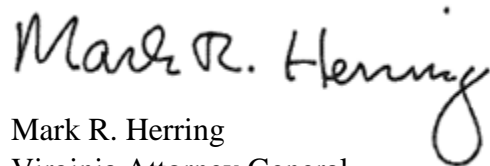
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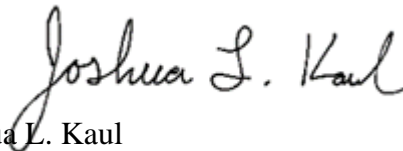
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