



Key Message

While the Defense Department has led the implementation of enterprise-wide guidance on prevention, states can address harmful behaviors such as sexual assault and domestic violence by expanding protections for victims. Enacting state policy best practices can supplement federal program efforts and changes.

Analysis

Addressing issues of sexual assault, domestic violence, abuse and harassment within the military is of paramount importance when it comes to maintaining a resilient and ready force. The department has expanded victim support services to assist those affected. Specialized resources such as counseling, advocacy and legal assistance have been established to provide victims with the proper support, protection and access to justice.

States can support military service members through the implementation of the following policies that specifically address the issue of interpersonal violence:

- Extend the legal authority of military commanders and military protective orders beyond military locations and duty times.
- Allow state courts to recognize a special victims' counsel to assist victims of abuse and harassment.
- Mandate that states allow victims access to post-discharge travel funds to fully cover the expense of traveling to and from and participating in court proceedings.
- Amend domestic violence definitions to include coercive control, emotional distress and psychological abuse.
- Allow victims of military sexual trauma or interpersonal violence to appear virtually in court proceedings.

Best Practices

- 1. Extend the legal authority of military commanders and military protective orders beyond military locations and duty times. Maine state law makes it a disorderly person's offense to engage in harassment after having been notified not to by a commanding officer.**

Maine Legislative Document 2029 (HP 1511)

http://www.mainelegislature.org/legis/bills/display_ps.asp?id=2029&PID=1456&snum=130

Section B-4. 17-A Maine Revised Statutes, Section 506-A, Subsection 1, Paragraph A, as amended by Public Law 2009, c. 246, Section 1, is further amended by enacting a new subparagraph (3) to read:



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

Sec. B-12. 37-B Maine Revised Statutes, Section 463 is enacted to read:

“Section 463. Harassment

1. Prohibition; criminal harassment. Any person subject to this Code who commits an offense prohibited under Title 17-A, section 506-A is guilty of that offense under this Code.

2. Punishment. Any person found guilty of an offense prohibited under Title 17-A, section 506-A must be punished as a court-martial may direct.”

Based on laws recently enacted in Illinois and Maine, New Jersey has proposed language to provide the opportunity to obtain a temporary protective order by a victim of non-consensual sexual contact who has also received a military protective order and who files or has filed on their behalf a copy of the order, and create a central registry of all orders of protection issued by an appropriate military authority or a foreign tribunal and all persons who have been charged with a violation of such a protective order.

New Jersey Assembly Bill A5174, Proposed language:

<https://www.njleg.state.nj.us/bill-search/2022/A5174>

“Section 2 of P.L.2015, c.147 (C.2C:14-14) is amended to read as follows: [...]

g. The court shall issue a temporary protective order, pursuant to court rules, upon complaint of an applicant who is a service member of the New Jersey National Guard or any Reserve Component of the United States Armed Forces serving within the State who is a victim of non-consensual sexual contact who has also received a military protective order, or upon complaint of the Staff Judge Advocate of the New Jersey National Guard or any Reserve Component of the United States Armed Forces serving in the State on behalf of a named victim who is a victim of non-consensual sexual contact who has also received a military protective order [...]

4. Section 8 of P.L.2015, c.147 (C.2C:14-20) is amended as follows:

8. The Administrative Office of the Courts shall establish and maintain a central registry of all protective orders issued pursuant to P.L.2015, c.147 (C.2C:14-13 et al.) and all protective orders issued by a '[a military tribunal] an appropriate military authority¹ or a foreign tribunal of a foreign country, [...].’



2. Authorize special victims' counsel to file on victim's behalf.

New Jersey Assembly Bill A5174, Proposed language:

<https://www.njleg.state.nj.us/bill-search/2022/A5174>

5. Section 12 of P.L.1991, c.261 (C.2C:25-28) is amended as follows:

"The judge shall issue a temporary restraining order, pursuant to court rules, upon complaint of an applicant who is a service member of the New Jersey National Guard or any Reserve Component of the United States Armed Forces serving within the State who is a victim of non-consensual sexual contact who has also received a military protective order, or upon complaint of the Staff Judge Advocate of the New Jersey National Guard or any Reserve Component of the United States Armed Forces serving in the State on behalf of a named victim who is a victim of non-consensual sexual contact who has also received a military protective order [...]"

10. (New section) (Supplementing P.L.1991, c.261; C.2C:25-17 et seq.)

A person entitled to protection under an order or protection issued by the court of another state, tribe, or United States territory, or military tribunal may file a certified copy of the order of protection with the clerk of the Superior Court pursuant to the Rules of Court in a judicial vicinage in which the person believes that enforcement may be necessary."

3. Provide financial assistance to victims involved in sexual assault and harassment proceedings. Maine state law requires victims who are current or former service members to receive state active-duty orders when participating in court proceedings after having been a victim of interpersonal violence.

Maine Legislative Document 2029 (HP 1511)

http://www.mainelegislature.org/legis/bills/display_ps.asp?Id=2029&PID=1456&snum=130

Sec. B-9. 37-B Maine Revised Statutes, Section 3, Subsection 1, Paragraph D, as repealed and replaced by Public Law 2017, c. 475, Pt. A, Section 63 and amended by Public Law 2019, c. 377, Section 6, is further amended by enacting a new subparagraph (24) to read: "(24) The Adjutant General shall provide current and former members of the National Guard who were the victims of sexual assault or sexual harassment while members of the National Guard and who are involved in administrative or Maine Code of Military Justice proceedings related to the sexual assault or sexual harassment with financial assistance to fully cover the expenses of traveling to and from and participating in those proceedings."



- 4. Update domestic violence definitions to include coercive control. Six states refer to coercive control, emotional abuse, emotional distress or psychological abuse in their definitions, which closes a significant gap in holding abusers accountable who may not engage physically at first but restrict a victim's liberty. These cases often escalate to lethality.**

Hawaii House Bill 2425

https://www.capitol.hawaii.gov/sessions/session2020/bills/HB2425_.HTM

"SECTION 2. Section 432:1-101.6, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

'(e) As used in this section, "domestic abuse" means:

- (1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members;
- (2) Sexual assault of one family or household member by another;
- (3) Stalking of one family or household member by another family or household member;
- (4) Intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another household member; or
- (5) Coercive control, as defined in section 586-1, between family or household members.' [...]

SECTION 5. Section 586-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

"Coercive control' means a pattern of threatening, humiliating, or intimidating actions, which may include assaults, or other abuse that is used to harm, punish, or frighten an individual. 'Coercive control' includes a pattern of behavior that seeks to take away the individual's liberty or freedom and strip away the individual's sense of self, including bodily integrity and human rights, whereby the 'coercive control' is designed to make an individual dependent by isolating them from support, exploiting them, depriving them of independence, and regulating their everyday behavior including:

- (1) Isolating the individual from friends and family;
- (2) Controlling how much money is accessible to the individual and how it is spent;
- (3) Monitoring the individual's activities, communications, and movements;
- (4) Name-calling, degradation, and demeaning the individual frequently;
- (5) Threatening to harm or kill the individual or a child or relative of the individual;
- (6) Threatening to publish information or make reports to the police or the authorities;
- (7) Damaging property or household goods; and
- (8) Forcing the individual to take part in criminal activity or child abuse.'"



5. Virtual appearances by victims of sexual assault and domestic violence. Allowing the victim to appear in court virtually or by proxy to keep the victim safe and separate from the abuser.

California – Local Rules of the Tulare County Superior Court

https://www.tulare.courts.ca.gov/system/files/local-rules_effective7-1-2022-final.pdf

“Rule 937 - Remote Appearances at Family Law Hearings, Including Petitions for Domestic Violence Restraining Orders

(a) In accordance with Family Code section 6308, a party or witness may appear remotely at all hearings on a petition for a domestic violence restraining order.

(b) In all other family law hearings, a party or witness may appear remotely unless the court exercises its discretion to order a personal appearance pursuant to California Rule of Court 3.672(d).

(c) Instructions for remote appearances permitted under this rule are available at the court’s website at: <https://www.tulare.courts.ca.gov/online-services/request-remote-hearings>.

(d) In all other respects, California Rule of Court 3.672 shall govern remote appearances in family law matters.

(e) Members of the public may obtain assistance regarding remote appearances by calling (559) 738-2330. This telephone number shall be staffed 30 minutes before the start of the court session at which the hearing will take place, and during the court session. (07/01/2022)”

6. A service member who commits criminal harassment shall be subject to military discipline.