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### Confidentiality Guarantee Proposed for Military Victims of Violence

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Legislation that would create a wide-ranging confidentiality policy for military victims of violence was introduced Tuesday in response to situations where alleged victims' treatment records and counseling service providers were subpoenaed in the course of prosecuting accused offenders.

The Military Victims of Violence Confidentiality Act of 2005 (H.R. 3837) was introduced by Reps. Louise Slaughter, D-N.Y., and Carolyn Kilpatrick, D-Mich., and would give an alleged victim the ability to refuse the disclosure of confidential information relating to his or her medical and psychological treatment.

Prompting the legislation were several cases in the military, including that of Jessica Brakey, who said she was raped in 2000 while serving as a cadet at the Colorado Springs, Colo., Air Force Academy. After the alleged rape, Brakey attended counseling sessions with a military-contracted civilian counselor, Jennifer Bier.

In the subsequent prosecution, a military court subpoenaed Brakey's treatment records and her 10-year medical history, despite Colorado's rape shield law that prohibits the disclosure of an alleged victim's counseling records. Bier refused to release the records, and the case against the alleged rapist was dropped.

Proponents of the act believe that without this law, alleged victims will be less likely to seek help after an attack under current military policies. The proposed legislation currently has 15 cosponsors.

"The military should be at the forefront of prosecuting assailants and setting the highest standards for treatment of servicewomen victimized by sexual assault and domestic violence," Slaughter said in a statement on the House floor. "Do not allow our brave service members to be victimized twice, once by their perpetrator and then again by the lack of appropriate, compassionate and confidential care."

Pentagon policy allows for limited confidentiality for the reporting of sexual assaults. Alleged victims can seek private help from medical professionals, counselors and victim advocates without triggering an investigation, but once the alleged victim decides to have the case prosecuted, all communications between the service member and the medical professionals and advocates loses its confidentiality status.

This legislation, if enacted, would go much further in establishing victims' rights under military law by keeping information – declared confidential if it is communication between a client and a victim service organization or health care professional – from being released. The bill would apply to alleged victims of sexual assault, domestic violence, stalking and trafficking, which can include prostitution, begging, or sweatshop labor.

A congressional chartered task force recently recommended that a confidentiality policy along these lines be put into law.

Roger Kaplan, spokesman for the Pentagon's Joint Task Force on Sexual Assault Prevention and Response, would not comment on the legislation because the office's legislative affairs staff had not looked over the bill.

But he did say that the task force has been very pleased with the results of the existing confidentiality policy.

"We have additional people come forward," Kaplan said. "We have had victims change their reporting option after receiving some care and treatment ... it proves our point that confidentiality is a good thing because it empowers the victim and allows them additional time while they are considering their options."

Kaplan said that statistics detailing this trend will be released sometime in the future when enough are available to make a reliable comparison.

Kilpatrick and Slaughter first started pushing for legal protections for alleged sexual assault victims, counselors and advocates in April in a letter to Defense Secretary Donald Rumsfeld. They stated that victim advocates were being prevented from doing their jobs because of various hurdles the military placed in their way.

Anita Sanchez, spokeswoman for the Miles Foundation, a Newtown, Conn., nonprofit group that assists military service members who are victims of sexual assault, said that most states have laws that prohibit the use of private information in even criminal complaints, such as the status of the alleged victim's intimate relationships and the treatment her or she is receiving.

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