

HOUSE BILL NO. 34  
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by  
on )

(Patron Prior to Substitute—Delegate Cole, J.G.)

*A BILL to amend to amend the Code of Virginia by adding in Chapter 1 of Title 44 an article numbered 2.1, consisting of sections numbered 44-24.2 through 44-24.5, relating to Virginia military forces; Sexual Offense Prevention and Response Program established; report.*

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 1 of Title 44 an article numbered 2.1, consisting of sections numbered 44-24.2 through 44-24.5, as follows:**

*Article 2.1.*

*Sexual Offense Prevention and Response.*

**§ 44-24.2. Definitions.**

*For the purposes of this article, unless the context requires a different meaning:*

*"Criminal sexual assault" means a violation of any offense enumerated in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2.*

*"Department" means the Department of Military Affairs established pursuant to § 44-11.*

*"Officer" means the Sexual Offense Prevention and Response Officer.*

*"Program" means the Sexual Offense Prevention and Response Program.*

*"Restricted report" means a reporting option in which the victim of criminal sexual assault may confidentially, and without initiating an investigation, disclose such offense to the Officer so that such victim may receive emergency care, medical treatment, and counseling. Such restricted report shall not be referred to law enforcement without the victim's consent.*

*"Unrestricted report" means a reporting option in which the victim of criminal sexual assault may disclose, without requesting confidentiality or a restricted report, such offense to the Officer.*

*"Virginia military forces" means the Virginia National Guard, which shall include the Virginia Army National Guard and the Virginia Air National Guard, and the Virginia Defense Force.*

*"Virginia military protective order" means a protective order issued by the Officer on behalf of a victim of an offense of criminal sexual assault in response to a restricted report or an unrestricted report made (i) by a member of the Virginia military forces or (ii) against a member of the Virginia military forces.*

**§ 44-24.3. Sexual Offense Prevention and Response Program created; Sexual Offense Prevention and Response Officer.**

A. There is created within the Department of Military Affairs the Sexual Offense Prevention and Response Program and there is established within the Program a Sexual Offense Prevention and Response Officer. The Program and Officer shall exercise the authority granted by this article independently from the chain of command within the Department.

B. The Officer shall:

1. Perform victim advocacy services for victims of criminal sexual assault, including helping victims to understand the available reporting options and to receive the appropriate medical treatment and counseling;

2. Accept reports of alleged criminal sexual assault made (i) by a person who is a member of the Virginia military forces or (ii) against a person who is a member of the Virginia military forces;

3. Provide any victim who makes a report pursuant to this section with information regarding compensation for victims of crime pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) of Title 19.2; and

4. Upon the request and with the consent of a victim of a criminal sexual assault who has made a restricted report or unrestricted report, file a petition for a Virginia military protective order on behalf of such victim consistent with the provisions of §§ 16.1-253.1, 16.1-253.4, and 16.1-279.1 and Chapter 9.1 (§ 19.2-152.7:1 et seq.) of Title 19.2.

C. A victim of criminal sexual assault who is a member of the Virginia military forces shall be able to (i) file with the Officer either a restricted or an unrestricted report and, if such victim files a restricted report, change such restricted report to an unrestricted report at any time; (ii) participate in the U.S. Department of Defense Catch a Serial Offender program; and (iii) receive notice when the Officer is made aware that the accused person has been subsequently accused of an offense of criminal sexual assault by a member of the Virginia military forces or any other person.

**§ 44-24.4. Investigation of unrestricted reports.**

A. Upon the filing of an unrestricted report, the Officer shall refer such unrestricted report to the State Police or to a local law-enforcement agency, whichever is appropriate, for the initial collection of evidence.

B. A local law-enforcement agency responsible for such initial collection of evidence in accordance with subsection A shall provide to the State Police, upon request of the State Police, any such evidence collected or other information relevant to the unrestricted report.

**§ 44-24.5. Annual report.**

A. The Officer, in coordination with the Adjutant General, shall submit a report regarding the Program

annually to the Governor, the Lieutenant Governor, the Speaker of the House of Delegates, and the Chairs of both the House and Senate Committees for Courts of Justice.

B. Using data collected by the Officer, the annual report shall include:

1. The policies and procedures of the Program implemented by the Officer and the Adjutant General designed to prevent and respond to criminal sexual assault incidents, including procedures for making and filing restricted and unrestricted reports;

2. An assessment of the implementation and effectiveness of such policies and procedures, including oversight of and the Commonwealth's response to restricted and unrestricted reports;

3. An analysis of the number of reports of criminal sexual assault offenses involving members of the Virginia military forces; and

4. Any areas of improvement or deficiencies in the Department's training of the Officer.

C. Any information included in the annual report regarding a restricted report shall be limited to aggregated statistical data and shall not include any identifying information. Any information in the annual report regarding unrestricted reports shall include:

1. Types of criminal sexual assault offenses reported;

2. Information relating to victims and persons accused;

3. The status of investigations and prosecutions initiated in accordance with this article; and

4. The status of any administrative action taken by the Department against members of Virginia military forces who are on state active duty pursuant to § 44-75.1.