ASSEMBLY MILITARY AND VETERANS' AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 3173 and 3160

STATE OF NEW JERSEY

DATED: MAY 6, 2024

The Assembly Military and Veterans' Affairs Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 3173 and 3160.

Sexual assault remains a persistent problem in the military despite numerous initiatives to address it. The lack of progress stems from the complexity of the problem of sexual assaults, and it is necessary to develop effective prevention and response programs to increase the reporting of sexual assaults as well as to increase the conviction rates of perpetrators of sexual assault.

This substitute allows an applicant, in the case of nonconsensual sexual conduct or domestic violence, who is a service member of the New Jersey National Guard or any Reserve Component of the Armed Forces of the United States serving within the State and who is a victim of non-consensual sexual contact, to apply for and obtain a protective order regardless of where the alleged conduct or attempted conduct which is the basis for such an order occurred. An applicant can also use a military protective order related to non-consensual sexual contact to initiate the application process to obtain a protective order from the court if the military protective order indicates, in writing, that the victim wishes to pursue an application for a protective order from the Superior Court.

The substitute makes it a petty disorderly persons offense if, with the purpose to harass another, a person engages in conduct after having been notified, while the person was a member of the National Guard, not to engage in such conduct by a commanding officer.

In addition, the substitute prohibits any person from obtaining a handgun purchase permit or firearms purchaser identification card who is subject to a restraining order issued pursuant to Prevention of Domestic Violence Act of 1991, a temporary or final domestic violence restraining order issued in another jurisdiction, or a substantially similar order issued by the court of another state, tribe, United States Territory, appropriate military authority, or military tribunal.

Under the substitute, a person, or the family member of the person, that is participating in a military legal proceeding is to receive unpaid leave from employment to seek legal assistance and remedies and attend and prepare for the proceeding when the proceeding involves domestic or sexual violence.

The substitute also directs the Adjutant General to 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 New Jersey Code of Military Justice proceedings related to sexual assault or sexual harassment, with financial assistance to fully cover the expenses of traveling to and from and participating in those proceedings.

The substitute requires the New Jersey National Guard to file a certified copy of any military order of protection with the court in a judicial vicinage in which the person entitled to protection resides or, if the person entitled to protection is not a State resident, in a judicial circuit in which it is believed that enforcement may be necessary, when the victim's desire to pursue an application for a such an order from the Superior Court has been memorialized in the military protective order to be filed with the court.

Full-time civilian law enforcement officers employed by the Defense Criminal Investigative Service, Army Criminal Investigation Division, Naval Criminal Investigative Service, or Air Force Office of Special Investigations, who are empowered to effect an arrest with or without a warrant for violations of the United States Code and who are authorized to carry firearms in the performance of their duties are authorized under the substitute to act as an officer for the arrest of offenders against the laws of this State where the person reasonably believes that a crime of the first, second, or third degree is or is about to be committed or attempted in his presence, and where the person reasonably believes that a crime of the fourth degree, relating to criminal sexual contact, harassment, or stalking is or is about to be committed or attempted in his presence on a military installation, or off a military installation by a service member against another person, regardless of whether or not either person was on or off duty at the time of the alleged assault, while that officer is in the performance of official duties.

The substitute provides that a person subject to military discipline under State law who commits an offense of harassment prohibited under State law will be guilty of that offense in accordance with military discipline and be punished as a court martial may direct.

Pursuant to the substitute, an application for a claim to the Victims of Crime Compensation Office by a military personnel victim based on a sexual assault by another military personnel will

not be denied solely because it was not reported to a superior officer or law enforcement officer at the time of the crime and sets forth factors that will be considered for purposes of determining if a claim of military sexual assault qualifies for compensation.

The substitute provides that if a report is accepted as a credible allegation of domestic abuse or child abuse or neglect by the Department of Children and Families, the department will collect information concerning the military status of the spouse, intimate partner, parent, or guardian of the child who is the subject of the report and share information about the allegation with the appropriate military authorities in accordance with the memorandum of understanding with the military family advocacy program at a local military installation, with respect to interpersonal violence and child abuse and neglect investigations.

The State may, pursuant to the substitute, exercise concurrent jurisdiction with the United States over a military installation of the United States Department of Defense located within the State in a matter relating to a violation of federal law or the Uniform Code of Military Justice if certain conditions are met.

Lastly, the substitute provides that, upon acceptance or relinquishment of the United States by the Governor or any other State official, department, or agency, the State will exercise concurrent jurisdiction with the United States over a military installation of the United States within the State in and over land or lands ceded, in a matter related to a violation of federal or State law, upon any child or juvenile, within the limits and extent of lands so ceded and providing that the State will retain concurrent jurisdiction over a military installation of the United States in certain cases.