the WAR HORSE

Military Sexual Trauma Survivors Can't Sue the Government. A New Bill Could Change That

Survivors of military sexual trauma have long been barred from suing the government over assaults and the failures that allowed them to happen. A bipartisan bill would give them a path to court.

Aug. 13, 2026

Sonner Kehrt

When Mayra Diaz opened the door of her Army barracks room in 2022, she didn't realize it was the beginning of the end of her military career.

She had never met the soldier standing in front of her, Sgt. Greville Clarke. She didn't know he had sexually assaulted three other women on base over the past 15 months, including one he threatened at knifepoint.

Diaz remembers Clarke lifting his uniform top to show he was armed with a handgun. She can't recall much else after he forced his way into the room, where she lived alone, and assaulted her. It wasn't until a full day later that a friend found her on the floor with fresh bruises on her neck. Clarke went on to attack a fifth woman before he was finally caught.

In April 2025, Clarke was convicted in a court martial at Fort Hood, Texas, on 29 specifications—including rape, attempted premeditated murder, and kidnapping—for attacking five women. Not long after he was given a life sentence, in September, he died of **an apparent suicide in his** cell at the Army's prison in Fort Leavenworth, Kansas, according to Stars & Stripes.

Meanwhile, Diaz soured on her dream to serve until retirement, leaving the Army just two years after she joined.

"I wanted to make it far in the military," she said. "But I couldn't stand being in the same uniform."

This year, Diaz filed a claim against the Army, accusing Fort Hood leadership of failing to provide a safe environment on base. Historically, lawsuits from service members against the military have faced a near-insurmountable barrier: a legal principle known as the **Feres doctrine**, which bars troops from suing the government for harms incurred during military service.

A new bill in Congress could change that. The **Military Sexual Trauma Accountability Act**, which has bipartisan support, would allow service members to sue the military for sexual misconduct and related

issues, such as failing to investigate reports of misconduct or for negligence in creating an unsafe environment where sexual assault or harassment is allowed to fester.

In 2024, the military received more than 8,000 reports of sexual assault, the majority allegedly committed by service members. That's a decline of about 4% from the previous year. But researchers with Brown University's Costs of War project **estimate that the total number of sexual assault cases** is two to four times higher than the reported cases.

"Accountability doesn't end with the perpetrator being found guilty and going to jail," said Josh Connolly, senior vice president of Protect Our Defenders, a nonprofit group that works to end sexual misconduct in the military.

"If the military was on the hook for millions, if not billions, of dollars," he said, "I think that would create an incentive for the military to take this more seriously."

'Be Careful. It's Fort Hood'

When Diaz joined the Army in 2021, she was excited to see the world beyond her hometown of Fresno, California.

"I wanted to go to Germany. I wanted to go to Korea," she said. "I wanted to do all that the military had to offer."

Her first duty station, however, was closer to home. At basic training, Diaz learned that she would be stationed in Texas at one of the Army's largest bases.

"Be careful," a drill sergeant warned, ominously. "It's **Fort Hood**."

Roughly two years earlier, the dismembered remains of **Spc. Vanessa Guillén** had been found near a river not far from the base next to Killeen. A fellow soldier had murdered Guillén inside an armory at Fort Hood, not long after she confided to her mother that she was being sexually harassed. Guillén's death spurred a public outcry for greater accountability and protection of women in the ranks, which led to changes in how the military prosecuted sexual misconduct cases.

But when Diaz reported to the base in 2022, she noticed that fellow soldiers still didn't take rape and sexual harassment seriously. The **culture of the Army** apparently hadn't changed much. After her own assault, for instance, a fellow soldier asked why she had opened her door.

"We're talking about an institution that has had a tendency to blame victims," Connolly said.

Diaz found some measure of justice within the military system when Clarke was arrested and convicted. But she still thinks the military could have done more to keep her safe. **Army criminal investigators** did not investigate Clarke's first attack, and military police on base closed the case after DNA evidence proved inconclusive. But even after Clarke attacked two other women, none of Diaz's leaders warned anyone in the barracks about the assaults, according to her legal claim.

“If we were warned properly, [then] maybe this wouldn’t have happened to me,” Diaz said. “They failed to take accountability for where they went wrong.”

Under the Federal Tort Claims Act, citizens can sue the government for negligence or wrongdoing. But Feres limits service members from bringing claims against the military for harms that are “incident to service.”

The principle, according to experts, is rooted in the idea that service members must accept some risk to join the armed forces, and that a lawsuit could undermine the military command structure. But advocates bristle at the persistent denial of claims from military sexual assault survivors due to Feres.

“What they’re saying is that being raped is somehow incident to your military service,” said Christine Dunn, Diaz’s lawyer. “Which is appalling.”

Unequal Justice

Although Feres has served for more than 70 years as a barrier to claims against the military, it hasn’t stopped some service members from trying. For decades, courts have cited Feres to dismiss most cases brought by service members against the government. But in recent years, Feres critics have sensed a shift.

In 2021, for example, the Supreme Court declined to hear a case from a West Point cadet who sued the Army for failing to keep her safe from being raped by a fellow cadet. The decision allowed the lower court’s decision to stand, which dismissed the cadet’s claim due to Feres. But Justice Clarence Thomas dissented.

“Under our precedent, if two Pentagon employees—one civilian and one a service member—are hit by a bus in the Pentagon parking lot and sue, it may be that only the civilian would have a chance to litigate his claim on the merits,” Thomas wrote, arguing that the Supreme Court should revisit the doctrine.

Then, two years later, the Ninth Circuit Court of Appeals agreed with a lower court’s decision on a **sexual assault case against Air Force Gen. John Hyten** that Feres did not apply because the assault could not be considered as “incident to [military] service.”

“It is not conceivable that his military duties would require him to sexually assault Plaintiff, or that such an assault would advance any conceivable military objective,” the lower court wrote.

The case settled out of court and the government paid the plaintiff, Col. Kathryn Spletstoser, nearly $1 million. It was the first known payment from the military in a sexual assault case against a service member.

That ruling could provide an opening to challenge the doctrine in court, said Dunn, Diaz’s lawyer. She also represents survivors in another high-profile case involving Dr. Blaine McGraw, a former gynecologist at Fort Hood and Tripler Army Medical Center in Hawaii, who is facing charges for allegedly abusing nearly 100 patients, many of whom he secretly recorded.

“When you have so many victims complaining about the exact same thing, it’s hard to argue there wasn’t some negligence,” Dunn said.

Dunn points out that Feres creates a parallel—and unequal—justice system. Both Army spouses and service members were victims of McGraw's alleged abuse. But only the civilian spouses are able to sue the military.

"Feres has so long protected the institution and not the service member," said Rita Graham, policy director at Service Women's Action Network, which advocates for women in the military.

The Path Ahead

Military justice reform advocates argue that relying on courts to limit the Feres doctrine is a slow and inefficient way for survivors to get justice. They see a better path through legislation.

In 2019, Congress passed the SFC Richard Stayskal Military Medical Accountability Act, which carved out an exception to Feres for service members harmed due to negligence or wrongdoing in the military medical system.

The Military Sexual Trauma Accountability Act builds on that idea, allowing sexual misconduct survivors in the military to sue the government.

"Service members give up a lot to defend this country, but they should not have to give up their right to hold the government accountable when its negligence contributes to sexual assault or harassment," said Republican Sen. John Kennedy of Louisiana, a cosponsor of the bill with Democratic Sen. Jeanne Shaheen of New Hampshire.

Military justice reformists hailed the passage of the Military Medical Accountability Act, but implementation of the law has been anything but smooth. The law allowed service members to submit malpractice claims to the military, which are reviewed by military lawyers. But fewer than 10% of claims filed since 2020 have been approved, according to recent reporting from the military news site Task & Purpose. Even the bill's namesake, Richard Stayskal, was denied his claim against the military for overlooking symptoms of Stage 4 lung cancer.

To avoid a similar fate, the new bill would allow sexual assault survivors to directly sue the government in civilian court, instead of filing a claim with the military.

"Just cleanly giving people the ability to go to court for an assault would be the best policy," said Connolly, who advised lawmakers on the bill.

Survivors hope that, if passed, the bill would force the Pentagon to root out sexual misconduct in the ranks or face serious financial and reputational consequences.

"If the perpetrators are never held accountable, if the people that convince you not to really press charges aren't held accountable, if you take it to court [martial] and they're still not held accountable, well, then the military should be held accountable," said Cairey Williams, a former soldier who said she had been sexually assaulted at all three bases where she was stationed after joining the Army in 2003.

"Until somebody is held accountable, it's just going to keep going," she said.

Ultimately, survivors and advocates say it isn't about the money. Instead, they hope the threat of financial penalties will force the military to do more to prevent sexual assault and harassment for future generations of Americans who decide to serve.

"Regardless of them giving me money, not giving me money, I still have to live with what happened to me for the rest of my life," Diaz said. "And as much as I could try, money can't buy off the trauma that I go through now."