CONGRESSIONAL POLICY PROPOSAL

Military Accountability and Service Member Protection Act

A proposed framework for accountability, investigative integrity, service member protection, and measured congressional oversight.

Prepared by: The Formation Accountability Project
Status: Unintroduced legislative discussion proposal
Purpose: Preliminary congressional and expert review

"The integrity of military leadership depends not only on the authority to command, but also on the obligation to exercise that authority lawfully."

Executive proposition

The proposed Act seeks to address serious unlawful maltreatment, retaliation, intentional falsification of official military records, and credible conflicts in military accountability processes. It pairs proposed legal reforms with safeguards for lawful leadership, due process, evidentiary reliability, privacy, and independent assessment.

The proposal does not presume that every allegation is substantiated, that every adverse command action is unlawful, or that military workplace conditions caused any particular suicide death or attempt.

01 | THE POLICY CASE

Problem Statement

Military effectiveness depends upon trust in lawful authority, confidence in reporting channels, and fair treatment of complainants, witnesses, and accused personnel. When serious allegations are mishandled—or perceived to be mishandled—the consequences can extend beyond an individual case to morale, retention, unit cohesion, and confidence in military justice.

Questions requiring congressional examination

- Serious maltreatment: whether existing law and enforcement practice adequately address severe abuse among peers and abuses of authority.
- Reporting and retaliation: whether service members can report credible concerns without unlawful career consequences.
- Integrity of records: whether intentional, material falsification of evaluations or investigative records receives consistent scrutiny.
- Investigative independence: whether case referral and review pathways appropriately manage conflicts of interest.
- Suicide-related learning: whether reviews examine credible indicators of related unlawful conduct while respecting the limits of causal inference.
- Retention and veteran outcomes: whether the government collects useful evidence about separation decisions and longer-term consequences.

Human stakes and evidence limits

The Formation Accountability Project has circulated a five-year figure of 2,017 military suicide deaths and 5,925 reported suicide attempts. Before these totals are used as formal congressional evidence, the underlying reporting periods, covered components, source tables, definitions, and arithmetic must be reconciled and attached. The figures alone cannot establish a causal connection between command conduct and suicide outcomes.

A separate 38% workplace-difficulties statistic requires verification of its source and denominator before it is presented as a finding.

02 | LEGISLATIVE PURPOSE

Objectives and Governing Principles

Five objectives

- Accountability: establish sufficiently precise standards for identifying and addressing severe unlawful conduct.
- Fairness: protect due process, lawful command judgment, exculpatory evidence, and the rights of all parties.
- Institutional independence: clarify who receives, investigates, refers, and makes disposition decisions in serious cases.
- Prevention and learning: improve review and data systems without presuming outcomes or assigning unsupported blame.
- Measurable implementation: define oversight, fiscal requirements, performance indicators, and evaluation periods.

A dual commitment

The Act should protect service members from unlawful conduct and protect responsible commanders from unsupported allegations or criminalization of legitimate leadership. Lawful orders, training, counseling, good-faith evaluations, and appropriate disciplinary action must remain protected.

What the Act is not

It is not a substitute for independent investigations, not an assertion that existing military justice systems uniformly fail, and not a claim that a proposed statutory amendment will necessarily improve outcomes. Each provision requires a legal-gap assessment, an implementation analysis, and a method for evaluating results.

03 | PROPOSED STATUTORY FRAMEWORK

Seven Reform Titles

Title I — Serious Maltreatment and Article 93

Examine a narrowly defined response to severe peer-on-peer maltreatment and abuses of military authority. Specify culpable mental states, severity thresholds, relevant aggravators, and proportionate penalties. Exclude ordinary disagreements and lawful military leadership.

Title II — Retaliation and Official-Record Integrity

Evaluate Articles 132 and 107 concerning retaliation and knowing, material falsification of official military records. Distinguish deliberate falsification from honest error, professional disagreement, and protected good-faith judgment.

Title III — Independent Investigations and Accountability

Define referral, screening, review, and disposition responsibilities among military criminal investigative organizations, special trial counsel, commanders, Inspectors General, and equal-opportunity channels. Preserve their distinct legal authorities and appropriate procedural protections.

Title IV — Suicide-Related Investigative Review

Consider independent review where credible evidence suggests unlawful maltreatment, retaliation, or other relevant offenses in connection with suicide deaths, undetermined deaths, or serious nonfatal attempts. Do not presume a particular cause of death or attempt.

Title V — Court-Martial Voting Safeguards

Evaluate prospective unanimous findings of guilt under Article 52, including constitutional questions, comparative practice, panel administration, and possible operational effects.

Title VI — Implementation, Reporting, and Oversight

Provide transition rules, training requirements, reporting duties, privacy controls, data definitions, oversight mechanisms, and effective dates.

Title VII — Separation, Retention, and Veteran Outcomes

Study voluntary separation reasons, experienced or witnessed misconduct, competing explanations, reenlistment patterns, and longer-term veteran outcomes through ethically governed data collection.

04 | LEGAL DESIGN

Safeguards and Statutory Fit

Existing legal authorities

Congressional counsel and independent military justice specialists should compare each provision against existing UCMJ offenses and procedures, including Articles 93, 107, 132, and 52, as well as 10 U.S.C. § 1034 and applicable constitutional protections. The analysis should distinguish missing legal authority from failures of implementation, training, investigation, or enforcement.

Protections that should be explicit

- Clear elements and proof requirements for any new or expanded offense; no vague criminalization of unpopular but lawful command decisions.
- Protection for lawful orders, military training, counseling, truthful evaluations, and good-faith personnel decisions.
- Meaningful rights of accused service members, including disclosure of exculpatory information and fair adjudicative procedures.
- Protection against retaliatory countercomplaints, malicious allegations, and improper influence on investigations.
- Distinct roles for criminal investigators, Inspectors General, equal-opportunity personnel, commanders, and prosecutors.

Independent review without predetermined conclusions

Outside experts should be free to identify legal overlap, constitutional risks, administrative burdens, or alternative approaches. Their role is to test the statutory design, not to endorse or oppose the project's mission. A provision supported by evidence may be retained; one found defective may be narrowed or revised.

05 | IMPLEMENTATION

Operational and Fiscal Considerations

Implementation sequence

Phase 1 — Baseline and legal review

Compile the authoritative statutory draft, existing-law comparison, verified source register, and a baseline of relevant investigative and disposition practices.

Phase 2 — Agency coordination and capacity

Assess military criminal investigative staffing, special trial counsel capacity, training needs, data architecture, command guidance, and interagency responsibilities.

Phase 3 — Transition and safeguards

Define prospective effective dates, procedural transition rules, privacy controls, records access, appeals, and oversight responsibilities.

Phase 4 — Evaluation and correction

Require periodic reporting on implementation, case handling, procedural fairness, operational effects, and measurable unintended consequences.

Budget questions for Congress

- Which requirements involve new positions, training, technology, legal services, or investigative capacity?
- Which costs are actual appropriations or expenditures, and which are modeled scenarios or beneficiary transfers?
- What implementation period is feasible across service branches and components?
- Which data can be collected without compromising case confidentiality, personal privacy, or ongoing investigations?

06 | EVIDENCE AND OVERSIGHT

Congressional Research Agenda

The Formation Accountability Project proposes a multidisciplinary study addressing 12 principal research questions across seven workstreams, with five prospective congressional-facing reports. These are planned research outputs, not completed or institutionally endorsed publications.

Five proposed reports

- Report I — State of Military Accountability: prevalence, underreporting, retaliation, investigative outcomes, and institutional gaps.
- Report II — UCMJ Legal Reform Analysis: statutory fit, Articles 93/107/132/52, due process, and alternatives.
- Report III — Military Suicide, Economics & Readiness: verified surveillance, workplace associations, family impacts, economic and readiness measures.
- Report IV — Independent Military Justice Systems: investigative independence, OSTC pathways, case screening, safeguards, and comparative outcomes.
- Report V — Legislative Impact Assessment: seven-title legal review, anticipated benefits and risks, costs, alternatives, and evaluation metrics.

Six tests for each provision

Documented problem · Legal necessity · Expected effectiveness · Constitutional and procedural safeguards · Cost and feasibility · Measurable outcomes.

Suggested performance indicators

Subject to research design and agency feasibility: timeliness of referrals, investigative completeness, substantiation and disposition rates, appeal and reversal patterns, reporting confidence, retention and separation measures, privacy incidents, and training completion. No single metric should be interpreted without context or a suitable denominator.

07 | REQUEST FOR CONGRESSIONAL ENGAGEMENT

Requested Next Steps

The Formation Accountability Project respectfully seeks an opportunity for preliminary dialogue with congressional staff and appropriate subject-matter experts regarding the policy questions raised by the proposed Military Accountability and Service Member Protection Act.

Proposed preliminary staff discussion

- Identify which concerns are already addressed by existing statutes, regulations, or enforcement mechanisms.
- Determine which proposed reforms merit further statutory drafting, oversight, or independent study.
- Review legal safeguards, command authority, operational feasibility, and the anticipated fiscal footprint.
- Discuss appropriate committee jurisdiction, evidence standards, and potential avenues for future consideration.

Materials to prepare before formal legislative consideration

A verified seven-title statutory draft; section-by-section analysis; source register; transparent suicide and attempt data reconciliation; legal-gap memorandum; independent research protocols; preliminary fiscal assumptions; and a record of material counterarguments and proposed safeguards.

ACCOUNTABILITY THROUGH EVIDENCE

The proposed Act begins with a principle that can be examined rather than merely asserted: those entrusted with military authority should be subject to clear legal standards, and those who serve should have access to fair, reliable, and independent processes when serious misconduct is alleged.

Document status: Unintroduced congressional policy discussion proposal. Not an enacted statute, official congressional publication, completed research report, or statement of endorsement by any university, government office, or military organization.