SEC. ___. INFORMATION REQUIRED TO COMPLY WITH POLICY ON RESPONSE TO JUVENILE-ON-JUVENILE PROBLEMATIC SEXUAL BEHAVIOR COMMITTED ON MILITARY INSTALLATIONS.

Section 1089 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 1781 note; 132 Stat. 1996) is amended by adding at the end the following new subsection:

"(c) PROVISION OF CERTAIN INFORMATION.—The provision of information from a juvenile delinquency proceeding, including any associated law enforcement investigation, for purposes of compliance with the policy required under this section, shall be treated as a release of records authorized under section 5038 of title 18, United States Code.".

[Please note: The "Changes to Existing Law" section below sets out in red-line format how the legislative text would amend existing law.]

Section-by-Section Analysis

This proposal would extend authority for the Department of Defense (DoD) to receive information from law enforcement investigations for inclusion in the centralized database on problematic sexual behavior in children and youth (PSB-CY) and fulfill DoD's statutory requirements as outlined in section 1089 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (NDAA for FY 2019).

The current statute requires DoD to establish and maintain a centralized database on incidents of PSB-CY reported to the Family Advocacy Program. The statute specifies categories of information that must be captured on such incidents, including data on investigations. However, per Department of Justice (DoJ) opinion, the privacy provisions of the Federal Juvenile Delinquency Act (JDA) (18 U.S.C. 5038) prohibit law enforcement from contributing such data. The JDA privacy provisions are intended to protect the identity of juveniles involved in the justice process and, as such, are in effect upon the start of any investigative activity involving an alleged juvenile offense. The JDA provides that information on investigations may be disclosed only to those entities defined by exception in the statute. The requirement to include investigative information on incidents of PSB-CY in the centralized database is, therefore, in direct conflict with the privacy protections applied to juvenile record information in the JDA.

This proposal would resolve the conflict between these statutory requirements by authorizing DoD, under section 5038 of title 18, United States Code, to receive information on incidents of

PSB-CY from law enforcement organizations. Subsequent DoD policy will clarify that information collected from juvenile delinquency proceedings under this proposal would be limited to data necessary to meet the requirements of section 1089(b)(7) of the NDAA for FY 2019.

Budget Implications: This proposal has no significant budgetary impact. Resources impacted are incidental in nature and amount and are included within the Fiscal Year (FY) 2021 President's Budget request. Adoption of this proposal would allow the Department to comply with existing requirements.

Changes to Existing Law: This proposal would amend section 1089 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 1781 note; 132 Stat. 1996) as follows:

§1089. POLICY ON RESPONSE TO JUVENILE-ON-JUVENILE PROBLEMATIC SEXUAL BEHAVIOR COMMITTED ON MILITARY INSTALLATIONS.

(a) POLICY REQUIRED.—The Secretary of Defense shall establish a policy, applicable across the military installations of the Department of Defense (including installations outside the United States), on the response of the Department to allegations of juvenile-on-juvenile problematic sexual behavior on military installations. The policy shall be designed to ensure a consistent, standardized response to such allegations across the Department.

(b) ELEMENTS.—The policy required by this section shall provide for the following:

(1) Any report or other allegation of juvenile-on-juvenile problematic sexual behavior on a military installation that is received by the installation commander, a law enforcement organization, a Family Advocacy Program, a child development center, a military treatment facility, or a Department school operating on the installation or otherwise under Department administration for the installation shall be reviewed by the Family Advocacy Program of the installation.

(2) Personnel of Family Advocacy Programs conducting reviews shall have appropriate training and experience in working with juveniles.

(3) Family Advocacy Programs conducting reviews shall conduct a multi-faceted, multi-disciplinary review and recommend treatment, counseling, or other appropriate interventions for complainants and respondents.

(4) Each review shall be conducted—

(A) with full involvement of appropriate authorities and entities, including parents or legal guardians of the juveniles involved (if practicable); and

(B) to the extent practicable, in a manner that protects the sensitive nature of the incident concerned, using language appropriate to the treatment of juveniles in written policies and communication with families.

(5) The requirement for investigation of a report or other allegation shall not be deemed to terminate or alter any otherwise applicable requirement to report or forward the report or allegation to appropriate Federal, State, or local authorities as possible criminal activity.

(6) There shall be established and maintained a centralized database of information on each incident of problematic sexual behavior that is reviewed by a Family Advocacy Program under the policy established under this section, with—

(A) the information in such database kept strictly confidential; and

(B) because the information involves alleged conduct by juveniles, additional special precautions taken to ensure the information is available only to persons who require access to the information.

(7) There shall be entered into the database, for each substantiated or unsubstantiated incident of problematic sexual behavior, appropriate information on the incident, including—

(A) a description of the allegation;

(B) whether or not the review is completed;

(C) whether or not the incident was subject to an investigation by a law enforcement organization or entity, and the status and results of such investigation; and

(D) whether or not action was taken in response to the incident, and the nature of the action, if any, so taken.

(c) PROVISION OF CERTAIN INFORMATION.—The provision of information from a juvenile delinquency proceeding, including any associated law enforcement investigation, for purposes of compliance with the policy required under this section, shall be treated as a release of records authorized under section 5038 of title 18, United States Code.