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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To amend the National Defense Authorization Act for Fiscal Year 2017 to address sexual harassment involving National Oceanic and Atmospheric Administration personnel, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. BONAMICI introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the National Defense Authorization Act for Fiscal Year 2017 to address sexual harassment involving National Oceanic and Atmospheric Administration personnel, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Oceanic and
5 Atmospheric Administration Sexual Harassment and As-
6 sault Prevention Improvements Act of 2021”.

1 **SEC. 2. REFERENCES.**

2 Except as otherwise specifically provided, whenever in
3 this Act an amendment or repeal is expressed in terms
4 of an amendment to, or repeal of, a provision, the ref-
5 erence shall be considered to be made to a provision of
6 subtitle C of title XXXV of Public Law 114–328 (33
7 U.S.C. 894 et seq.).

8 **SEC. 3. POLICY ON THE PREVENTION OF AND RESPONSE**
9 **TO SEXUAL HARASSMENT INVOLVING NA-**
10 **TIONAL OCEANIC AND ATMOSPHERIC ADMIN-**
11 **ISTRATION PERSONNEL.**

12 (a) COVERED PERSONNEL.—Section 3541(a) (33
13 U.S.C. 894(a)) is amended—

14 (1) by striking “Not later” and inserting the
15 following:

16 “(1) *IN GENERAL.*—*Not later*”; and

17 (2) by adding at the end the following:

18 “(2) *INCLUDED PERSONNEL.*—*The individuals*
19 *who work with or conduct business on behalf of the*
20 *Administration referred to in paragraph (1) include*
21 *the following:*

22 “(A) *Observers and at-sea monitors required*
23 *by the National Marine Fisheries Service to be*
24 *aboard commercial fishing vessels and other pri-*
25 *vately owned vessels, barges, or platforms for—*

1 “(i) *commercial fisheries observation*
2 *required by the Magnuson-Stevens Fishery*
3 *Conservation and Management Act;*

4 “(ii) *protected species or endangered*
5 *species observation required by the Marine*
6 *Mammal Protection Act of 1972 or the En-*
7 *dangered Species Act of 1973; or*

8 “(iii) *platform removal observation.*

9 “(B) *Voting members and executive and ad-*
10 *ministrative staff of regional fishery manage-*
11 *ment councils established by section 302 of the*
12 *Magnuson-Stevens Fishery Conservation and*
13 *Management Act.*”.

14 (b) INCLUSION OF EQUAL EMPLOYMENT IN QUAR-
15 TERLY REPORTS.—Section 3541(f) (33 U.S.C. 894(f)) is
16 amended—

17 (1) by inserting “and equal employment” after
18 “sexual harassment” each place it appears; and

19 (2) in paragraph (2)—

20 (A) by redesignating subparagraphs (C)
21 and (D) as subparagraphs (D) and (E), respec-
22 tively; and

23 (B) by inserting after subparagraph (B)
24 the following:

1 “(C) *A synopsis of each case and the dis-*
2 *ciplinary action taken (if any) in each case.*”.

3 **SEC. 4. COMPREHENSIVE POLICY ON PREVENTION OF AND**
4 **RESPONSE TO SEXUAL ASSAULTS.**

5 (a) COVERED PERSONNEL.—Section 3542(a) (33
6 U.S.C. 894a(a)) is amended—

7 (1) by striking “Not later” and inserting the
8 following:

9 “(1) *IN GENERAL.*—*Not later*”; and

10 (2) by adding at the end the following:

11 “(2) *INCLUDED PERSONNEL.*—*The individuals*
12 *who work with or conduct business on behalf of the*
13 *Administration referred to in paragraph (1) include*
14 *the individuals described in section 3541(a)(2).*”.

15 (b) VICTIM ADVOCATES.—

16 (1) *IN GENERAL.*—Section 3542(c)(2) (33
17 U.S.C. 894a(c)(2)) is amended to read as follows:

18 “(2) *VICTIM ADVOCATES.*—*For purposes of this*
19 *subsection, a victim advocate is a full-time permanent*
20 *employee of the Administration trained in and re-*
21 *sponsible solely for matters relating to sexual assault*
22 *and the comprehensive policy developed under sub-*
23 *section (a).*”.

1 (2) LOCATION.—Section 3542(c)(4) (33 U.S.C.
2 894a(c)(4)) is amended by inserting “full time”
3 after “stationed”.

4 **SEC. 5. ANNUAL REPORT ON SEXUAL ASSAULTS, SEXUAL**
5 **HARASSMENT, AND EQUAL EMPLOYMENT.**

6 Section 3548 (33 U.S.C. 894e) is amended—

7 (1) by striking the section heading and insert-
8 ing the following: “**ANNUAL REPORT ON SEXUAL**
9 **ASSAULTS, SEXUAL HARASSMENT, AND EQUAL**
10 **EMPLOYMENT IN THE NATIONAL OCEANIC AND**
11 **ATMOSPHERIC ADMINISTRATION.**”;

12 (2) in subsection (a), by inserting “, sexual har-
13 assment, and equal employment” after “sexual as-
14 saults”; and

15 (3) in subsection (b)—

16 (A) in paragraph (4), by inserting “, in-
17 cluding a synopsis of each case and the discipli-
18 nary action taken, if any, in each case” before
19 the period at the end; and

20 (B) by adding at the end the following:

21 “(5) *A summary of the number of change of sta-*
22 *tion, unit transfer, and change of work location re-*
23 *quests submitted to the Under Secretary under section*
24 *3544(a), including the number of such requests that*
25 *were denied.*”

1 “(6) *A summary of the number of cases referred*
2 *to the Coast Guard under section 5 of National Oce-*
3 *anic and Atmospheric Administration Sexual Har-*
4 *assment and Assault Prevention Improvements Act of*
5 *2021.*

6 “(7) *The number of alleged sexual assaults and*
7 *sexual harassment cases involving fisheries, protected*
8 *species, and endangered species observers, including—*

9 “(A) *a synopsis of each case and the status;*

10 “(B) *the disposition of any investigation;*

11 *and*

12 “(C) *a description of the fishery manage-*
13 *ment region and fishery or the geographic region*
14 *and type of permitted operation in which the as-*
15 *sault or harassment is alleged to have occurred,*
16 *as appropriate.”.*

17 **SEC. 6. INVESTIGATION AND CRIMINAL REFERRAL RE-**
18 **QUIREMENTS.**

19 (a) **TECHNICAL AMENDMENT.**—Sections 3548 (as
20 amended by section 5) and 3549 (33 U.S.C. 894e and
21 894f) are redesignated as sections 3551 and 3552, respec-
22 tively.

23 (b) **IN GENERAL.**—Subtitle C of title XXXV of Pub-
24 lic Law 114–328 (33 U.S.C. 894 et seq.) is amended by
25 inserting after section 3547 the following:

1 **“SEC. 3548. EXCEPTIONS REGARDING ANONYMITY OF SUR-**
2 **VIVORS IN CERTAIN CASES.**

3 *“(a) IN GENERAL.—In any case in which an employee,*
4 *member of the commissioned officer corps, or individual*
5 *conducting business on behalf of the administration elects*
6 *anonymous reporting under section 3541(b)(3)(B) or*
7 *3542(b)(5)(B), disclosure of such person’s personally identi-*
8 *fying information is authorized to the following persons or*
9 *organizations when disclosure would be for the following*
10 *reasons:*

11 *“(1) To National Oceanic and Atmospheric Ad-*
12 *ministration staff or law enforcement personnel, when*
13 *authorized by the survivor in writing.*

14 *“(2) To National Oceanic and Atmospheric Ad-*
15 *ministration staff or law enforcement personnel to*
16 *prevent or lessen a serious or imminent threat to the*
17 *health or safety of the survivor or another person.*

18 *“(3) To a victim advocate or healthcare provider,*
19 *when required for the provision of victim services.*

20 *“(4) To a State or Federal court, when ordered*
21 *by such court or if disclosure is required by Federal*
22 *or State statute.*

23 *“(b) NOTICE OF DISCLOSURE AND PRIVACY PROTEC-*
24 *TION.—In any case in which information is disclosed under*
25 *subsection (a), the Secretary shall—*

1 “(1) *make reasonable attempts to provide notice*
2 *to the employee, member, or individual whose person-*
3 *ally identifying information is disclosed; and*

4 “(2) *take such action as is necessary to protect*
5 *the privacy and safety of the employee, member, or*
6 *individual.*

7 **“SEC. 3549. RESTRICTED REPORTING.**

8 “(a) *IN GENERAL.—Not later than 3 years after the*
9 *date of enactment of the National Oceanic and Atmospheric*
10 *Administration Sexual Harassment and Assault Prevention*
11 *Improvements Act of 2021, the Secretary of Commerce, act-*
12 *ing through the Under Secretary for Oceans and Atmos-*
13 *phere, shall develop a mechanism to provide a system of*
14 *restricted reporting.*

15 “(b) *RESTRICTED REPORTING DEFINED.—In this sec-*
16 *tion the term ‘restricted reporting’ means a system of re-*
17 *porting that allows employees of the National Oceanic and*
18 *Atmospheric Administration, members of the Commissioned*
19 *Officer Corps of the Administration, and individuals who*
20 *work with or conduct business on behalf of the Administra-*
21 *tion who are sexually assaulted to confidentially disclose*
22 *the details of such person’s assault to specified individuals*
23 *and receive the services outlined in this subtitle title—*

1 “(1) without the dissemination of such persons’s
2 personally identifying information except as nec-
3 essary for the provision of such services; and

4 “(2) without automatically triggering an inves-
5 tigative process.

6 **“SEC. 3550. MARINER REFERRAL.**

7 “The Under Secretary of Commerce for Oceans and At-
8 mosphere, acting through the Director of the Office of Ma-
9 rine and Aviation Operations and in consultation with the
10 Commandant of the Coast Guard, shall, not later than 180
11 days after the date of the enactment of the National Oceanic
12 and Atmospheric Administration Sexual Harassment and
13 Assault Prevention Improvements Act of 2021, develop and
14 implement a policy to report to the Coast Guard Suspen-
15 sion and Revocation National Center of Expertise, the
16 names of personnel of the National Oceanic and Atmos-
17 pheric Administration who—

18 “(1) are the subject of a claim of an act or of-
19 fense detrimental to good discipline and safety at sea,
20 such as sexual harassment or sexual assault that is
21 substantiated by an investigation under section 3546,
22 or any other substantiated claim of an act or offense
23 for which suspension or revocation of a credential is
24 either mandatory or sought pursuant to part 5 of title
25 46 of the Code of Federal Regulations; and

1 “(2) are—

2 “(A) employees or contractors of the Admin-
3 istration required to hold a valid merchant mar-
4 iner credential as a condition of employment; or

5 “(B) crew of a vessel that, at the time of
6 such act or offence, was operating under a con-
7 tract with the Administration.”.

8 **SEC. 7. CONFORMING AND CLERICAL AMENDMENTS.**

9 (a) CONFORMING AMENDMENTS.—Subtitle C of title
10 XXXV of Public Law 114–328 (33 U.S.C. 894 et seq.)
11 is amended—

12 (1) by striking the term “victims” each place it
13 appears and inserting “survivors”;

14 (2) in section 3541(b)(2)(B), by striking “vie-
15 tim” and inserting “target of sexual harassment”;

16 (3) in section 3542(c)(5)(A), by striking “vie-
17 tim of” and inserting “survivor of”;

18 (4) in section 3543—

19 (A) in the heading, by striking “**VICTIM**”
20 and inserting “**SURVIVOR**”; and

21 (B) by striking “victim” and inserting
22 “survivor”;

23 (5) in section 3544—

24 (A) in subsection (a)—

1 (i) by striking “VICTIMS” and insert-
2 ing “SURVIVORS”; and

3 (ii) in paragraph (1), by striking
4 “was” each place such term appears and
5 inserting “is”; and

6 (B) by striking “victim” each place such
7 term appears and inserting “survivor”.

8 (b) CLERICAL AMENDMENT.—Each of the tables of
9 contents in section 2(b) and at the beginning of title
10 XXXV of Public Law 114–328 is amended—

11 (1) by striking the item relating to section 3543
12 and inserting the following:

“Sec. 3543. Rights of the survivor of a sexual assault.”; and

13 (2) by striking the items relating to sections
14 3548 and 3549 and inserting the following:

“Sec. 3548. Exceptions regarding anonymity of survivors in certain cases.

“Sec. 3549. Restricted reporting.

“Sec. 3550. Mariner referral.

*“Sec. 3551. Annual report on sexual assaults, sexual harassment, and equal em-
ployment in the National Oceanic and Atmospheric Administra-
tion.*

“Sec. 3552. Sexual assault defined.”.

15 **SEC. 8. PROHIBITED ACTS.**

16 Section 307(1)(L) of the Magnuson-Stevens Fishery
17 Conservation and Management Act (16 U.S.C.
18 1857(1)(L)) is amended—

19 (1) by striking “forcibly”; and

20 (2) by striking “on a vessel”.

1 **SEC. 9. PROHIBITION ON SERVICE IN THE NATIONAL OCE-**
2 **ANIC AND ATMOSPHERIC ADMINISTRATION**
3 **COMMISSIONED OFFICER CORPS BY INDIVID-**
4 **UALS CONVICTED OF CERTAIN SEXUAL OF-**
5 **FENSES.**

6 Section 261(a) of the National Oceanic and Atmos-
7 pheric Administration Commissioned Officer Corps Act of
8 2002 (33 U.S.C. 3071(a)) is amended—

9 (1) by redesignating paragraphs (4) through
10 (16) as paragraphs (5) through (17), respectively;
11 and

12 (2) by inserting after paragraph (3) the fol-
13 lowing:

14 “(4) *Section 657, relating to prohibition on serv-*
15 *ice by individuals convicted of certain sexual of-*
16 *fenses.*”.