

117TH CONGRESS
1ST SESSION

H. R. 2865

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

APRIL 28, 2021

Ms. BONAMICI (for herself, Mr. YOUNG, Mr. HUFFMAN, and Miss GONZÁLEZ-COLÓN) introduced the following bill; which was referred to the Committee on Natural Resources

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 re-
23 quired by the National Marine Fisheries Service
24 to be aboard commercial fishing vessels and
25 other privately owned vessels, barges, or plat-
26 forms 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
 7 Endangered Species Act of 1973; or

8 “(iii) platform removal observation.

9 “(B) Voting members and executive and
 10 administrative 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 perma-
20 nent employee of the Administration trained in and
21 responsible solely for matters relating to sexual as-
22 sault and the comprehensive policy developed under
23 subsection (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
22 station, unit transfer, and change of work location
23 requests submitted to the Under Secretary under
24 section 3544(a), including the number of such re-
25 quests that were denied.

1 “(6) A summary of the number of cases re-
2 ferred to the Coast Guard under section 5 of Na-
3 tional Oceanic and Atmospheric Administration Sex-
4 ual Harassment and Assault Prevention Improve-
5 ments Act of 2021.

6 “(7) The number of alleged sexual assaults and
7 sexual harassment cases involving fisheries, pro-
8 tected species, and endangered species observers, in-
9 cluding—

10 “(A) a synopsis of each case and the sta-
11 tus;

12 “(B) the disposition of any investigation;
13 and

14 “(C) a description of the fishery manage-
15 ment region and fishery or the geographic re-
16 gion and type of permitted operation in which
17 the assault or harassment is alleged to have oc-
18 curred, as appropriate.”.

19 **SEC. 6. INVESTIGATION AND CRIMINAL REFERRAL RE-**
20 **QUIREMENTS.**

21 (a) **TECHNICAL AMENDMENT.**—Sections 3548 (as
22 amended by section 5) and 3549 (33 U.S.C. 894e and
23 894f) are redesignated as sections 3551 and 3552, respec-
24 tively.

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

4 **“SEC. 3548. EXCEPTIONS REGARDING ANONYMITY OF SUR-**
5 **VIVORS IN CERTAIN CASES.**

6 “(a) IN GENERAL.—In any case in which an em-
7 ployee, member of the commissioned officer corps, or indi-
8 vidual conducting business on behalf of the administration
9 elects anonymous reporting under section 3541(b)(3)(B)
10 or 3542(b)(5)(B), disclosure of such person’s personally
11 identifying information is authorized to the following per-
12 sons or organizations when disclosure would be for the fol-
13 lowing reasons:

14 “(1) To National Oceanic and Atmospheric Ad-
15 ministration staff or law enforcement personnel,
16 when authorized by the survivor in writing.

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

21 “(3) To a victim advocate or healthcare pro-
22 vider, when required for the provision of victim serv-
23 ices.

1 “(4) To a State or Federal court, when ordered
2 by such court or if disclosure is required by Federal
3 or State statute.

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

7 “(1) make reasonable attempts to provide no-
8 tice to the employee, member, or individual whose
9 personally identifying information is disclosed; and

10 “(2) take such action as is necessary to protect
11 the privacy and safety of the employee, member, or
12 individual.

13 **“SEC. 3549. RESTRICTED REPORTING.**

14 “(a) IN GENERAL.—Not later than 3 years after the
15 date of enactment of the National Oceanic and Atmos-
16 pheric Administration Sexual Harassment and Assault
17 Prevention Improvements Act of 2021, the Secretary of
18 Commerce, acting through the Under Secretary for
19 Oceans and Atmosphere, shall develop a mechanism to
20 provide a system of restricted reporting.

21 “(b) RESTRICTED REPORTING DEFINED.—In this
22 section the term ‘restricted reporting’ means a system of
23 reporting that allows employees of the National Oceanic
24 and Atmospheric Administration, members of the Com-
25 missioned Officer Corps of the Administration, and indi-

1 viduals who work with or conduct business on behalf of
2 the Administration who are sexually assaulted to confiden-
3 tially disclose the details of such person’s assault to speci-
4 fied individuals and receive the services outlined in this
5 subtitle title—

6 “(1) without the dissemination of such
7 persons’s personally identifying information except
8 as necessary for the provision of such services; and

9 “(2) without automatically triggering an inves-
10 tigative process.

11 **“SEC. 3550. MARINER REFERRAL.**

12 “The Under Secretary of Commerce for Oceans and
13 Atmosphere, acting through the Director of the Office of
14 Marine and Aviation Operations and in consultation with
15 the Commandant of the Coast Guard, shall, not later than
16 180 days after the date of the enactment of the National
17 Oceanic and Atmospheric Administration Sexual Harass-
18 ment and Assault Prevention Improvements Act of 2021,
19 develop and implement a policy to report to the Coast
20 Guard Suspension and Revocation National Center of Ex-
21 pertise, the names of personnel of the National Oceanic
22 and Atmospheric Administration who—

23 “(1) are the subject of a claim of an act or of-
24 fense detrimental to good discipline and safety at
25 sea, such as sexual harassment or sexual assault

1 that is substantiated by an investigation under sec-
2 tion 3546, or any other substantiated claim of an
3 act or offense for which suspension or revocation of
4 a credential is either mandatory or sought pursuant
5 to part 5 of title 46 of the Code of Federal Regula-
6 tions; and

7 “(2) are—

8 “(A) employees or contractors of the Ad-
9 ministration required to hold a valid merchant
10 mariner credential as a condition of employ-
11 ment; or

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

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

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

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

21 (2) in section 3541(b)(2)(B), by striking “vic-
22 tim” and inserting “target of sexual harassment”;

23 (3) in section 3542(c)(5)(A), by striking “vic-
24 tim of” and inserting “survivor of”;

25 (4) in section 3543—

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

3 (B) by striking “victim” and inserting
 4 “survivor”;

5 (5) in section 3544—

6 (A) in subsection (a)—

7 (i) by striking “VICTIMS” and insert-
 8 ing “SURVIVORS”; and

9 (ii) in paragraph (1), by striking
 10 “was” each place such term appears and
 11 inserting “is”; and

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

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

17 (1) by striking the item relating to section 3543
 18 and inserting the following:

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

19 (2) by striking the items relating to sections
 20 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
 employment in the National Oceanic and Atmospheric Adminis-
 tration.

“Sec. 3552. Sexual assault defined.”.

1 **SEC. 8. PROHIBITED ACTS.**

2 Section 307(1)(L) of the Magnuson-Stevens Fishery
3 Conservation and Management Act (16 U.S.C.
4 1857(1)(L)) is amended—

5 (1) by striking “forcibly”; and

6 (2) by striking “on a vessel”.

7 **SEC. 9. PROHIBITION ON SERVICE IN THE NATIONAL OCE-
8 ANIC AND ATMOSPHERIC ADMINISTRATION
9 COMMISSIONED OFFICER CORPS BY INDIVID-
10 UALS CONVICTED OF CERTAIN SEXUAL OF-
11 FENSES.**

12 Section 261(a) of the National Oceanic and Atmos-
13 pheric Administration Commissioned Officer Corps Act of
14 2002 (33 U.S.C. 3071(a)) is amended—

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

18 (2) by inserting after paragraph (3) the fol-
19 lowing:

20 “(4) Section 657, relating to prohibition on
21 service by individuals convicted of certain sexual of-
22 fenses.”.

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