

117TH CONGRESS
1ST SESSION

H. R. 2172

To amend title 18, United States Code, to prohibit law enforcement officers from engaging in sexual activity with persons in custody, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2021

Ms. SPEIER (for herself, Mr. JOYCE of Ohio, Ms. LEE of California, Ms. NORTON, Mrs. AXNE, Ms. SCANLON, Mr. RASKIN, Mr. ESPAILLAT, Mr. LANGEVIN, Ms. MOORE of Wisconsin, Mr. MCGOVERN, Ms. CHU, Mr. KILMER, Mr. BLUMENAUER, Mr. GONZALEZ of Ohio, Ms. ADAMS, Ms. ESHOO, Ms. VELÁZQUEZ, Mrs. HAYES, Mr. MEEKS, Mr. SAN NICOLAS, Mr. GARCÍA of Illinois, Mr. CASTEN, Ms. HOULAHAN, and Mr. KATKO) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to prohibit law enforcement officers from engaging in sexual activity with persons in custody, 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 “Closing the Law En-
5 forcement Consent Loophole Act of 2021”.

1 **SEC. 2. PROHIBITION ON ENGAGING IN SEXUAL ACTS**
2 **WHILE ACTING UNDER COLOR OF LAW.**

3 (a) IN GENERAL.—Section 2243 of title 18, United
4 States Code, is amended—

5 (1) in the section heading, by adding at the end
6 the following: “**or by any person acting**
7 **under color of law**”;

8 (2) by redesignating subsections (c) and (d) as
9 subsections (d) and (e), respectively;

10 (3) by inserting after subsection (b) the fol-
11 lowing:

12 “(c) OF AN INDIVIDUAL BY ANY PERSON ACTING
13 UNDER COLOR OF LAW.—

14 “(1) IN GENERAL.—Whoever, acting under
15 color of law, knowingly engages in a sexual act with
16 an individual who is under arrest, in detention, or
17 otherwise in the actual custody of any Federal law
18 enforcement officer, shall be fined under this title,
19 imprisoned not more than 15 years, or both.

20 “(2) DEFINITION.—In this subsection, the term
21 ‘sexual act’ has the meaning given the term in sec-
22 tion 2246.”; and

23 (4) in subsection (d), as so redesignated, by
24 adding at the end the following:

1 “(3) In a prosecution under subsection (c), it is not
2 a defense that the other individual consented to the sexual
3 act.”.

4 (b) DEFINITION.—Section 2246 of title 18, United
5 States Code, is amended—

6 (1) in paragraph (5), by striking “and” at the
7 end;

8 (2) in paragraph (6), by striking the period at
9 the end and inserting “; and”; and

10 (3) by inserting after paragraph (6) the fol-
11 lowing:

12 “(7) the term ‘Federal law enforcement officer’
13 has the meaning given the term in section 115.”.

14 (c) CLERICAL AMENDMENT.—The table of sections
15 for chapter 109A of title 18, United States Code, is
16 amended by amending the item related to section 2243
17 to read as follows:

“2243. Sexual abuse of a minor or ward or by any person acting under color
of law.”.

18 **SEC. 3. ENACTMENT OF LAWS PENALIZING ENGAGING IN**
19 **SEXUAL ACTS WHILE ACTING UNDER COLOR**
20 **OF LAW.**

21 (a) IN GENERAL.—Beginning in the first fiscal year
22 that begins after the date that is one year after the date
23 of enactment of this Act, in the case of a State or unit
24 of local government that does not have in effect a law de-

1 scribed in subsection (b), if that State or unit of local gov-
2 ernment that would otherwise receive funds under the
3 COPS grant program, that State or unit of local govern-
4 ment shall not be eligible to receive such funds. In the
5 case of a multi-jurisdictional or regional consortium, if any
6 member of that consortium is a State or unit of local gov-
7 ernment that does not have in effect a law described in
8 subsection (b), if that consortium would otherwise receive
9 funds under the COPS grant program, that consortium
10 shall not be eligible to receive such funds.

11 (b) DESCRIPTION OF LAW.—A law described in this
12 subsection is a law that—

13 (1) makes it a criminal offense for any person
14 acting under color of law of the State or unit of local
15 government to engage in a sexual act with an indi-
16 vidual who is under arrest, in detention, or otherwise
17 in the actual custody of any law enforcement officer;
18 and

19 (2) prohibits a person charged with an offense
20 described in paragraph (1) from asserting the con-
21 sent of the other individual as a defense.

22 (c) REPORTING REQUIREMENT.—A State or unit of
23 local government that receives a grant under the COPS
24 grant program shall submit to the Attorney General, on
25 an annual basis, information on—

1 (1) the number of reports made to law enforce-
2 ment agencies in that State or unit of local govern-
3 ment regarding persons engaging in a sexual act
4 while acting under color of law during the previous
5 year; and

6 (2) the disposition of each case in which sexual
7 misconduct by a person acting under color of law
8 was reported during the previous year.

9 **SEC. 4. REPORTS TO CONGRESS.**

10 (a) REPORT BY ATTORNEY GENERAL.—Not later
11 than 1 year after the date of enactment of this Act, and
12 each year thereafter, the Attorney General shall submit
13 to Congress a report containing—

14 (1) the information required to be reported to
15 the Attorney General under section 403(b); and

16 (2) information on—

17 (A) the number of reports made, during
18 the previous year, to Federal law enforcement
19 agencies regarding persons engaging in a sexual
20 act while acting under color of law; and

21 (B) the disposition of each case in which
22 sexual misconduct by a person acting under
23 color of law was reported.

24 (b) REPORT BY GAO.—Not later than 1 year after
25 the date of enactment of this Act, and each year there-

1 after, the Comptroller General of the United States shall
2 submit to Congress a report on any violations of section
3 2243(e) of title 18, United States Code, as amended by
4 section 402, committed during the 1-year period covered
5 by the report.

6 **SEC. 5. DEFINITION.**

7 In this Act, the term “sexual act” has the meaning
8 given the term in section 2246 of title 18, United States
9 Code.

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