

118TH CONGRESS  
1ST SESSION

# H. R. 2990

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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2023

Ms. BONAMICI (for herself, Mrs. GONZÁLEZ-COLÓN, Mr. HUFFMAN, and Ms. SALAZAR) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## 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 2023”.

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 Section 3541(f) (33 U.S.C. 894(f)) is amended—

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

15 (2) in paragraph (2)—

16 (A) by redesignating subparagraphs (C)  
17 and (D) as subparagraphs (D) and (E), respec-  
18 tively; and

19 (B) by inserting after subparagraph (B)  
20 the following:

21 “(C) A synopsis of each case and the dis-  
22 ciplinary action taken, if any, in each case.”.

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

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

1 (1) by striking the section heading and insert-  
2 ing the following: “**ANNUAL REPORT ON SEXUAL**  
3 **ASSAULTS, SEXUAL HARASSMENT, AND EQUAL**  
4 **EMPLOYMENT IN THE NATIONAL OCEANIC AND**  
5 **ATMOSPHERIC ADMINISTRATION.**”;

6 (2) in subsection (a), by striking “the sexual as-  
7 saults involving” and inserting “sexual assault and  
8 sexual harassment involving and the equal employ-  
9 ment of”; and

10 (3) in subsection (b)—

11 (A) in paragraph (4), by inserting “, in-  
12 cluding a synopsis of each case and the discipli-  
13 nary action taken, if any, in each case” before  
14 the period at the end; and

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

16 “(5) A summary of the number of change of  
17 station, unit transfer, and change of work location  
18 requests submitted to the Under Secretary under  
19 section 3544(a), including the number of such re-  
20 quests that were denied.

21 “(6) A summary of the number of cases re-  
22 ferred to the Coast Guard under this section.

23 “(7) The number of alleged sexual assaults and  
24 sexual harassment cases involving fisheries observ-

1       ers, protected species observers, and endangered spe-  
 2       cies observers, including—

3               “(A) a synopsis of each case and the sta-  
 4               tus of such case;

5               “(B) the disposition of any investigation;  
 6               and

7               “(C) a description of the fishery manage-  
 8               ment region and fishery or the geographic re-  
 9               gion and type of permitted operation in which  
 10              the sexual assault or sexual harassment is al-  
 11              leged to have occurred, as appropriate.”.

12 **SEC. 5. INVESTIGATION AND CRIMINAL REFERRAL RE-**  
 13 **QUIREMENTS.**

14       (a) **TECHNICAL AMENDMENT.**—Sections 3548 and  
 15       3549 (33 U.S.C. 894e and 894f) are redesignated as sec-  
 16       tions 3551 and 3552, respectively.

17       (b) **IN GENERAL.**—Subtitle C of title XXXV (33  
 18       U.S.C. 894 et seq.) is amended by inserting after section  
 19       3547 (33 U.S.C. 894d–2) the following:

20 **“SEC. 3548. EXCEPTIONS REGARDING ANONYMITY OF SUR-**  
 21 **VIVORS IN CERTAIN CASES.**

22       “(a) **IN GENERAL.**—In any case in which an em-  
 23       ployee, member of the commissioned officer corps of the  
 24       Administration, or covered personnel elects restricted or  
 25       unrestricted reporting under section 3541(b)(3)(B) or

1 3542(b)(5)(B), disclosure of the personally identifying in-  
2 formation of such individual is authorized to the following  
3 persons or organizations when disclosure would be for the  
4 following reasons:

5           “(1) To Administration staff or law enforce-  
6 ment personnel, if authorized by the survivor in  
7 writing.

8           “(2) To Administration staff or law enforce-  
9 ment personnel to prevent or lessen a serious or im-  
10 minent threat to the health or safety of the survivor  
11 or another person.

12           “(3) To a survivor advocate or healthcare pro-  
13 vider, if required for the provision of survivor serv-  
14 ices.

15           “(4) To a State or Federal court, if pursuant  
16 to a court order or if disclosure is required by Fed-  
17 eral or State statute.

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

21           “(1) make reasonable attempts to provide no-  
22 tice to the individual whose personally identifying in-  
23 formation is disclosed; and

24           “(2) take such action as is necessary to protect  
25 the privacy and safety of the individual.

1 **“SEC. 3549. RESTRICTED REPORTING.**

2 “(a) IN GENERAL.—Not later than 3 years after the  
3 date of the enactment of the National Oceanic and Atmos-  
4 pheric Administration Sexual Harassment and Assault  
5 Prevention Improvements Act of 2023, the Secretary of  
6 Commerce, acting through the Under Secretary for  
7 Oceans and Atmosphere, shall develop a mechanism to  
8 provide a system of restricted reporting.

9 “(b) RESTRICTED REPORTING DEFINED.—In this  
10 section the term ‘restricted reporting’ means a system of  
11 reporting that allows employees of the Administration,  
12 members of the commissioned officer corps of the Admin-  
13 istration, and covered personnel who allege that they have  
14 been sexually harassed or sexually assaulted to confiden-  
15 tially disclose the details of such sexual harassment or sex-  
16 ual assault to specified individuals and receive the services  
17 outlined in this subtitle—

18 “(1) without the dissemination of the personally  
19 identifying information of such individual except as  
20 necessary for the provision of such services and as  
21 provided by section 3548(a); and

22 “(2) without automatically triggering an inves-  
23 tigative process.

24 **“SEC. 3550. MARINER REFERRAL.**

25 “The Under Secretary of Commerce for Oceans and  
26 Atmosphere, acting through the Director of the Office of

1 Marine and Aviation Operations and in consultation with  
2 the Commandant of the Coast Guard, shall, not later than  
3 180 days after the date of the enactment of the National  
4 Oceanic and Atmospheric Administration Sexual Harass-  
5 ment and Assault Prevention Improvements Act of 2023,  
6 develop and implement a policy to report to the Com-  
7 mandant of the Coast Guard, in accordance with section  
8 10104 of title 46, United States Code, the names of per-  
9 sonnel of the Administration who—

10           “(1) are the subject of a claim of an act or of-  
11           fense detrimental to good discipline and safety at  
12           sea, such as sexual harassment or sexual assault  
13           that is substantiated by an investigation under sec-  
14           tion 3546, or any other substantiated claim of an  
15           act or offense for which suspension or revocation of  
16           a credential is either mandatory or sought pursuant  
17           to part 5 of title 46, Code of Federal Regulations;  
18           and

19           “(2) are—

20                   “(A) employees or contractors of the Ad-  
21                   ministration required to hold a valid merchant  
22                   mariner credential as a condition of employ-  
23                   ment; or

1           “(B) crew of a vessel that, at the time of  
2           such act or offense, was operating under a con-  
3           tract with the Administration.”.

4 **SEC. 6. DEFINITIONS.**

5       Section 3552 is amended to read as follows:

6 **“SEC. 3552. DEFINITIONS.**

7       “In this subtitle:

8           “(1) ADMINISTRATION.—The term ‘Administra-  
9           tion’ means the National Oceanic and Atmospheric  
10          Administration.

11          “(2) COVERED PERSONNEL.—The term ‘cov-  
12          ered personnel’ means an individual who works with  
13          or conducts business on behalf of the Administration  
14          and includes—

15               “(A) observers, at-sea monitors, and catch  
16               monitors required by the National Marine Fish-  
17               eries Service to operate on or in commercial  
18               fishing vessels, other privately owned vessels,  
19               barges, or platforms, and shoreside processing  
20               facilities for—

21                       “(i) commercial fisheries observation  
22                       required by the Magnuson-Stevens Fishery  
23                       Conservation and Management Act (16  
24                       U.S.C. 1801 et seq.);



1           “(ii) protected species or endangered  
2 species observation required by the Marine  
3 Mammal Protection Act of 1972 (16  
4 U.S.C. 1361 et seq.) or the Endangered  
5 Species Act of 1973 (16 U.S.C. 1351 et  
6 seq.); or

7           “(iii) platform removal observation;  
8 and

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 (16 U.S.C. 1852).

14           “(3) SEXUAL ASSAULT.—The term ‘sexual as-  
15 sault’ has the meaning given the term in section  
16 40002(a) of the Violence Against Women Act of  
17 1994 (42 U.S.C. 13925(a)).”.

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

19           (a) CONFORMING AMENDMENTS.—Subtitle C of title  
20 XXXV (33 U.S.C. 894 et seq.) is amended—

21           (1) by striking “individuals who work with or  
22 conduct business on behalf of the Administration”  
23 each place it appears and inserting “covered per-  
24 sonnel”;

1           (2) by striking “National Oceanic and Atmos-  
2           pheric” each place it appears, except—

3                   (A) when it appears as “National Oceanic  
4                   and Atmospheric Administration Sexual Har-  
5                   assment and Assault Prevention Improvements  
6                   Act of 2023”;

7                   (B) in section 3551, in the section head-  
8                   ing; and

9                   (C) in section 3552(1);

10           (3) by striking the term “victims” each place it  
11           appears and inserting “survivors”;

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

14           (5) in section 3542—

15                   (A) in subsection (b)(9)—

16                           (i) by striking “Victim” and inserting  
17                           “Survivor”; and

18                           (ii) by striking “victim” and inserting  
19                           “survivor”; and

20                   (B) in subsection (c)—

21                           (i) in the heading, by striking “VIC-  
22                           TIM” and inserting “SURVIVOR”;

23                           (ii) in paragraph (2), in the heading,  
24                           by striking “VICTIM” and inserting “SUR-  
25                           VIVOR”; and

1 (iii) by striking the term “victim”  
 2 each place it appears and inserting “sur-  
 3 vivor”;

4 (6) in section 3543—

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

7 (B) by striking “victim” and inserting  
 8 “survivor”; and

9 (7) in section 3544—

10 (A) in subsection (a)—

11 (i) by striking “VICTIMS” and insert-  
 12 ing “SURVIVORS”; and

13 (ii) in paragraph (1), by striking  
 14 “was” each place it appears and inserting  
 15 “is”; and

16 (B) by striking “victim” each place it ap-  
 17 pears and inserting “survivor”.

18 (b) CLERICAL AMENDMENT.—Each of the tables of  
 19 contents in section 2(b) and at the beginning of title  
 20 XXXV of Public Law 114–328 are amended—

21 (1) by striking the item relating to section 3543  
 22 and inserting the following:

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

23 (2) by striking the items relating to sections  
 24 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 Administration.

“Sec. 3552. Definitions.”.

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 COMMISSIONED**  
8 **OFFICER CORPS OF THE NATIONAL OCEANIC**  
9 **AND ATMOSPHERIC ADMINISTRATION BY IN-**  
10 **DIVIDUALS CONVICTED OF CERTAIN SEXUAL**  
11 **OFFENSES.**

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 paragraph (26) as para-  
16 graph (27); and

17 (2) by inserting after paragraph (25) the fol-  
18 lowing:

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

1 **SEC. 10. DEFINITION OF RESPONSIBLE ENTITY OF A VES-**  
2 **SEL.**

3 Section 10104(g) of title 46, United States Code, is  
4 amended—

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

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

9 (3) by adding at the end the following:

10 “(3) the Director of the Office of Marine and  
11 Aviation Operations, with respect to each vessel  
12 owned or operated by the National Oceanic and At-  
13 mospheric Administration.”.

○