

116TH CONGRESS  
2D SESSION

# H. R. 6636

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, 2020

Ms. BONAMICI (for herself, Mr. YOUNG, Mr. HUFFMAN, Miss GONZÁLEZ-COLÓN of Puerto Rico, Mr. NEGUSE, Mr. CASE, Mrs. DINGELL, and Mr. COX of California) introduced the following bill; which was referred to the Committee on Natural Resources

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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 2020”.

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 (130  
 7 Stat. 2800 et seq.; 33 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) (130  
 13 Stat. 2800) 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 (16  
4 U.S.C. 1801 et seq.);

5 “(ii) protected species or endangered  
6 species observation required by the Marine  
7 Mammal Protection Act of 1972 (16  
8 U.S.C. 1361 et seq.) or the Endangered  
9 Species Act of 1973 (16 U.S.C. 1531 et  
10 seq.); or

11 “(iii) platform removal observation.

12 “(B) Voting members and executive and  
13 administrative staff of regional fishery manage-  
14 ment councils established by section 302 of the  
15 Magnuson-Stevens Fishery Conservation and  
16 Management Act (16 U.S.C. 1852).”.

17 (b) MECHANISM FOR ANONYMOUS REPORTING OF  
18 INCIDENTS.—Section 3541(b)(3)(B) (130 Stat. 2800) is  
19 amended to read as follows:

20 “(B) incidents of sexual harassment can be  
21 anonymously reported to the Office of Inclusion  
22 and Civil Rights of the National Oceanic and  
23 Atmospheric Administration or to the program  
24 established under section 3541(b)(1); and”.

1 (c) INCLUSION OF EQUAL EMPLOYMENT IN QUAR-  
2 TERLY REPORTS.—Section 3541(f) (130 Stat. 2801) is  
3 amended—

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

6 (2) in paragraph (2)—

7 (A) by redesignating subparagraphs (C)  
8 and (D) as subparagraphs (D) and (E), respec-  
9 tively; and

10 (B) by inserting after subparagraph (B)  
11 the following:

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

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

16 (a) COVERED PERSONNEL.—Section 3542(a) (130  
17 Stat. 2801) is amended—

18 (1) by striking “Not later” and inserting the  
19 following:

20 “(1) IN GENERAL.—Not Later”; and

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

22 “(2) INCLUDED PERSONNEL.—The individuals  
23 who work with or conduct business on behalf of the  
24 Administration referred to in paragraph (1) include  
25 the individuals described in section 3541(a)(2).”.

1 (b) MECHANISM FOR ANONYMOUS REPORTING OF  
2 INCIDENTS.—Section 3542(b)(5)(B) (130 Stat. 2801) is  
3 amended to read as follows:

4 “(B) incidents of sexual assault can be  
5 anonymously reported to the program estab-  
6 lished under section 3541(b)(1).”.

7 (c) VICTIM ADVOCATES.—

8 (1) IN GENERAL.—Section 3542(c)(2) (130  
9 Stat. 2802) is amended to read as follows:

10 “(2) VICTIM ADVOCATES.—For purposes of this  
11 subsection, a victim advocate is a full-time perma-  
12 nent employee of the Administration trained in and  
13 responsible solely for matters relating to sexual as-  
14 sault and the comprehensive policy developed under  
15 subsection (a).”.

16 (2) LOCATION.—Section 3542(c)(4) (130 Stat.  
17 2802) is amended by inserting “full-time” after  
18 “stationed”.

19 **SEC. 5. INVESTIGATION AND CRIMINAL REFERRAL RE-**  
20 **QUIREMENTS.**

21 (a) REDESIGNATION.—Sections 3546 and 3547 (130  
22 Stat. 2804, 2805) are redesignated as sections 3551 and  
23 3552, respectively.

24 (b) IN GENERAL.—Inserting the following after sec-  
25 tion 3545:

1   **“SEC. 3546. INVESTIGATION REQUIREMENT.**

2       “(a) REQUIREMENT TO INVESTIGATE.—

3           “(1) IN GENERAL.—The Secretary of Com-  
4       merce, acting through the Under Secretary for  
5       Oceans and Atmosphere, shall ensure that each alle-  
6       gation of sexual harassment reported under section  
7       3541 and each allegation of sexual assault reported  
8       under section 3542 is investigated thoroughly and  
9       promptly.

10          “(2) SENSE OF CONGRESS ON COMMENCEMENT  
11       OF INVESTIGATION.—It is the sense of Congress  
12       that the Secretary should ensure that an investiga-  
13       tion of an alleged incident of sexual harassment re-  
14       ported under section 3541 or sexual assault reported  
15       under section 3542 commences not later than 48  
16       hours after the time at which the allegation was re-  
17       ported.

18          “(b) NOTIFICATION OF DELAY.—In any case in  
19       which the time between the reporting of an alleged inci-  
20       dent of sexual harassment or sexual assault under section  
21       3541 or 3542, respectively, and commencement of an in-  
22       vestigation of the allegation under this section exceeds 48  
23       hours, the Secretary shall notify the Committee on Com-  
24       merce, Science, and Transportation of the Senate and the  
25       Committee on Natural Resources of the House of Rep-  
26       resentatives of the delay.

1 **“SEC. 3547. CRIMINAL REFERRAL.**

2 “If the Secretary of Commerce finds, pursuant to an  
3 investigation under section 3546, evidence that a crime  
4 may have been committed, the Secretary shall refer the  
5 matter to the appropriate law enforcement authorities, in-  
6 cluding the appropriate United States Attorney.

7 **“SEC. 3548. EXCEPTIONS REGARDING ANONYMITY OF SUR-**  
8 **VIVORS IN CERTAIN CASES.**

9 “(a) IN GENERAL.—In any case in which an em-  
10 ployee, member of the commissioned officer corps, or indi-  
11 vidual conducting business on behalf of the administration  
12 elects anonymous reporting under section 3541(b)(3)(B)  
13 or 3542(b)(5)(B), disclosure of their personally identifying  
14 information is authorized to the following persons or orga-  
15 nizations when disclosure would be for the following rea-  
16 sons:

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

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

24 “(3) To a victim advocate or healthcare pro-  
25 vider, when required for the provision of victim serv-  
26 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 2020, 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 their assault to specified indi-  
4 viduals and receive the services outlined in this subtitle  
5 title—

6 “(1) without the dissemination of their person-  
7 ally identifying information except as necessary for  
8 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, within 180  
16 days after the date of the enactment of the National Oce-  
17 anic and Atmospheric Administration Sexual Harassment  
18 and Assault Prevention Improvements Act of 2020, de-  
19 velop and implement a policy to report to the Coast Guard  
20 Suspension and Revocation National Center of Expertise,  
21 the names of personnel of the National Oceanic and At-  
22 mospheric 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. 6. ANNUAL REPORT ON SEXUAL ASSAULTS, SEXUAL**  
16 **HARASSMENT, AND EQUAL EMPLOYMENT.**

17 Section 3551, as redesignated by section 5 of this Act  
18 (130 Stat. 2804), is amended—

19 (1) by striking the section heading and insert-  
20 ing the following: “**ANNUAL REPORT ON SEXUAL**  
21 **ASSAULTS, SEXUAL HARASSMENT, AND EQUAL**  
22 **EMPLOYMENT IN THE NATIONAL OCEANIC AND**  
23 **ATMOSPHERIC ADMINISTRATION.**”;

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

4 (3) in subsection (b)—

5 (A) in paragraph (4), by inserting “, in-  
6 cluding a synopsis of each case and the discipli-  
7 nary action taken, if any, in each case” before  
8 the period at the end; and

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

10 “(5) A summary of the number of change of  
11 station, unit transfer, and change of work location  
12 requests submitted to the Under Secretary under  
13 section 3544(a), including the number of such re-  
14 quests that were denied.

15 “(6) A summary of the number of cases re-  
16 ferred to the Coast Guard under section 5 of Na-  
17 tional Oceanic and Atmospheric Administration Sex-  
18 ual Harassment and Assault Prevention Improve-  
19 ments Act of 2020.

20 “(7) The number of alleged sexual assaults and  
21 sexual harassment cases involving fisheries, pro-  
22 tected species, and endangered species observers, in-  
23 cluding—

24 “(A) a synopsis of each case and the sta-  
25 tus;

1           “(B) the disposition of any investigation;  
 2           and  
 3           “(C) a description of the fishery manage-  
 4           ment region and fishery or the geographic re-  
 5           gion and type of permitted operation in which  
 6           the assault or harassment is alleged to have oc-  
 7           curred, as appropriate.”.

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

9           (a) CONFORMING AMENDMENTS.—Subtitle C of title  
 10 XXXV of Public Law 114–328 (130 Stat. 2800 et seq.;  
 11 33 U.S.C. 894 et seq.) 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 1(b) and at the beginning of title  
 10 XXXV of Public Law 114–328 (130 Stat. 2000, 2773)  
 11 is amended by striking the items relating to sections 3546  
 12 and 3547 and inserting the following:

“3546. Investigation requirement.

“3547. Criminal referral.

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

“3549. Restricted reporting.

“3550. Mariner Referral.

“3551. Annual report on sexual assaults, sexual harassment, and equal employ-  
 ment in the National Oceanic and Atmospheric Administration.

“3552. Sexual assault defined.”.

### 13 **SEC. 8. PROHIBITED ACTS.**

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

17 (1) by striking “forcibly”; and

18 (2) by striking “on a vessel”.

1 **SEC. 9. PROHIBITION ON SERVICE IN THE NOAA COMMIS-**  
2 **SIONED OFFICER CORPS BY INDIVIDUALS**  
3 **CONVICTED OF CERTAIN SEXUAL OFFENSES.**

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

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

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

12 “(4) Section 657, relating to prohibition on  
13 service by individuals convicted of certain sexual of-  
14 fenses.”.

○