

116TH CONGRESS
1ST SESSION

S. 2838

To amend the Ted Stevens Olympic and Amateur Sports Act to improve the transparency of the United States Center for Safe Sport, to provide grant accountability, and to protect victims of abuse from retaliation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 12, 2019

Mr. GRASSLEY (for himself, Ms. ERNST, Mrs. BLACKBURN, Mr. SULLIVAN, Ms. MURKOWSKI, and Mr. PERDUE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Ted Stevens Olympic and Amateur Sports Act to improve the transparency of the United States Center for Safe Sport, to provide grant accountability, and to protect victims of abuse from retaliation, 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,*

1 **SECTION 1. IMPROVING TRANSPARENCY OF THE UNITED**
2 **STATES CENTER FOR SAFE SPORT.**

3 (a) **FUNDING ACCOUNTABILITY.**—Section 220541 of
4 title 36, United States Code, is amended by adding at the
5 end the following:

6 “(e) **FUNDING ACCOUNTABILITY.**—

7 “(1) **IN GENERAL.**—Amounts transferred to the
8 Center by the corporation or a national governing
9 body shall be used primarily for the investigation
10 and resolution of allegations of sexual misconduct,
11 or other misconduct, made by amateur athletes af-
12 filiated with the corporation, a national governing
13 body, or a paralympic sports organization, in accord-
14 ance with section 220503(15).

15 “(2) **USE OF FUNDS.**—

16 “(A) **IN GENERAL.**—Of the amounts made
17 available to the Center by the corporation or a
18 national governing body in a fiscal year for the
19 purpose described in section 220503(15)—

20 “(i) not less than 50 percent shall be
21 used for processing the investigation and
22 resolution of allegations described in para-
23 graph (1);

24 “(ii) not more than 10 percent may be
25 used for executive compensation of officers
26 and directors of the Center; and

1 “(iii) not more than 20 percent may
2 be used for administrative expenses of the
3 Center, except that the reasonable travel
4 expenses of investigative personnel of the
5 Center and litigation expenses of the Cen-
6 ter shall not be counted toward such
7 amount.

8 “(B) RESERVE FUNDS.—

9 “(i) IN GENERAL.—If, after the Cen-
10 ter uses the amounts as allocated under
11 subparagraph (A), the Center does not use
12 the entirety of the remaining amounts for
13 the purpose described in paragraph (1),
14 the Center may retain not more than 25
15 percent of such amounts as reserve funds.

16 “(ii) RETURN OF FUNDS.—The Cen-
17 ter shall return to the corporation and na-
18 tional governing bodies any amounts, pro-
19 portional to the contributions of the cor-
20 poration and national governing bodies,
21 that remain after the retention described
22 in clause (i).

23 “(C) LOBBYING AND FUNDRAISING.—

24 Amounts made available to the Center under

1 this paragraph may not be used for lobbying or
2 fundraising expenses.

3 “(3) CONFERENCES AND TRAINING.—The Cen-
4 ter shall, to the maximum extent practicable, seek
5 reimbursement for the reasonable expenses associ-
6 ated with hosting or supporting conferences for, and
7 providing training or technical assistance to, individ-
8 uals who are not employees of the Center.”.

9 (b) RECORDS, AUDITS, AND REPORTS.—Section
10 220543 of title 36, United States Code, is amended—

11 (1) by striking subsection (b) and inserting the
12 following:

13 “(b) AUDITS AND TRANSPARENCY.—

14 “(1) ANNUAL AUDIT.—

15 “(A) IN GENERAL.—Not less frequently
16 than annually, the financial statements of the
17 Center for the preceding fiscal year shall be au-
18 dited by an independent auditor in accordance
19 with generally accepted accounting principles—

20 “(i) to ensure the adequacy of the in-
21 ternal controls of the Center; and

22 “(ii) to prevent waste, fraud, or mis-
23 use of funds transferred to the Center by
24 the corporation or the national governing
25 bodies.

1 “(B) LOCATION.—An audit under sub-
2 paragraph (A) shall be conducted at the loca-
3 tion at which the financial statements of the
4 Center normally are kept.

5 “(C) REPORT.—Not later than 180 days
6 after the date on which an audit under sub-
7 paragraph (A) is completed, the independent
8 auditor shall issue an audit report.

9 “(D) CORRECTIVE ACTION PLAN.—

10 “(i) IN GENERAL.—On completion of
11 the audit report under subparagraph (C)
12 for a fiscal year, the Center shall prepare,
13 in a separate document, a corrective action
14 plan that responds to any corrective action
15 recommended by the independent auditor.

16 “(ii) MATTERS TO BE INCLUDED.—A
17 corrective action plan under clause (i) shall
18 include the following for each such correc-
19 tive action:

20 “(I) The name of the person re-
21 sponsible for the corrective action.

22 “(II) A description of the
23 planned corrective action.

24 “(III) The anticipated completion
25 date of the corrective action.

1 “(IV) In the case of a rec-
 2 ommended corrective action based on
 3 a finding in the audit report with
 4 which the Center disagrees, or for
 5 which the Center determines that cor-
 6 rective action is not required, an ex-
 7 planation and a specific reason for
 8 noncompliance with the recommenda-
 9 tion.

10 “(2) ACCESS TO RECORDS AND PERSONNEL.—
 11 With respect to an audit under paragraph (1), the
 12 Center shall provide the independent auditor access
 13 to all records, documents, and personnel and finan-
 14 cial statements of the Center necessary to carry out
 15 the audit.

16 “(3) PUBLIC AVAILABILITY.—

17 “(A) IN GENERAL.—The Center shall
 18 make available to the public on an easily acces-
 19 sible internet website of the Center—

20 “(i) each audit report under para-
 21 graph (1)(C); and

22 “(ii) the Internal Revenue Service
 23 Form 990 of the Center for each year filed
 24 under section 501(c) of the Internal Rev-
 25 enue Code of 1986.

1 “(B) PERSONALLY IDENTIFIABLE INFOR-
2 MATION.—An audit report or the minutes made
3 available under subparagraph (A) shall not in-
4 clude the personally identifiable information of
5 any individual.

6 “(4) RULE OF CONSTRUCTION.—For purposes
7 of this subsection, the Center shall be considered a
8 private entity.

9 “(c) PETITIONS FOR EQUITABLE RELIEF.—The At-
10 torney General may petition in the United States District
11 Court for the District of Columbia for removal of officers
12 and directors of the Center, as may be necessary or appro-
13 priate, if the Center—

14 “(1) engages in, or threatens to engage in, any
15 act, practice, or policy that is materially inconsistent
16 with the purpose described in section 220503(15); or

17 “(2) refuses, fails, or neglects to discharge, or
18 threatens to refuse, fail, or neglect to discharge, the
19 obligations of the Center to protect the safety of
20 amateur athletes under this chapter.

21 “(d) REPORT.—The Center shall submit an annual
22 report to Congress, including—

23 “(1) a strategic plan with respect to the man-
24 ner in which the Center shall fulfill its duties under
25 sections 220541 and 220542;

1 “(2) a detailed description of the efforts made
2 by the Center to comply with such strategic plan
3 during the preceding year;

4 “(3) any financial statement necessary to
5 present fairly the assets, liabilities, and surplus or
6 deficit of the Center for the preceding year;

7 “(4) an analysis of the changes in the amounts
8 of such assets, liabilities, and surplus or deficit dur-
9 ing the preceding year;

10 “(5) a detailed description of Center activities,
11 including—

12 “(A) the number and nature of misconduct
13 complaints referred to the Center;

14 “(B) the total number and type of pending
15 misconduct complaints under investigation by
16 the Center;

17 “(C) the number of misconduct complaints
18 for which an investigation was terminated or
19 otherwise closed by the Center; and

20 “(D) the number of such misconduct com-
21 plaints reported to law enforcement agencies by
22 the Center for further investigation;

23 “(6) information relating to the educational ac-
24 tivities and trainings conducted by the office of edu-
25 cation and outreach of the Center during the pre-

ceding year, including the number of educational activities and trainings developed and provided; and

“(7) a description of the activities of the Center.

“(e) DEFINITIONS.—In this section—

“(1) ‘audit report’ means a report by an independent auditor that includes—

“(A) an opinion or a disclaimer of opinion that presents the assessment of the independent auditor with respect to the financial records of the Center, including whether such records are accurate and have been maintained in accordance with generally accepted accounting principles;

“(B) an assessment of the internal controls used by the Center that describes the scope of testing of the internal control and the results of such testing; and

“(C) a compliance assessment that includes an opinion or a disclaimer of opinion as to whether the Center has complied with the terms and conditions of subsection (b); and

“(2) ‘independent auditor’ means an independent certified public accountant or independent licensed public accountant, certified or licensed by a

1 regulatory authority of a State or a political subdivi-
 2 sion of a State, who meets the standards specified
 3 in generally accepted accounting principles.”.

4 **SEC. 2. GRANT ACCOUNTABILITY.**

5 Section 220531 of title 36, United States Code, is
 6 amended by adding at the end the following:

7 “(e) GRANT ACCOUNTABILITY.—

8 “(1) LIMITATIONS ON FUNDING.—The Attorney
 9 General may not award a grant under this section
 10 to an entity that holds amounts in an offshore ac-
 11 count for the purpose of avoiding payment of the tax
 12 described in section 511(a) of the Internal Revenue
 13 Code of 1986.

14 “(2) TRANSPARENCY.—

15 “(A) IN GENERAL.—As a condition of re-
 16 ceiving funds under this section, an entity shall
 17 include in an application for a grant—

18 “(i) a description of the process by
 19 which the entity determines the compensa-
 20 tion of the officers, directors, trustees, and
 21 key employees of the entity, including any
 22 independent individual involved in review-
 23 ing and approving such compensation;

24 “(ii) the comparability data used in
 25 such process; and

1 “(iii) contemporaneous substantiation
2 of the deliberation and decision with re-
3 spect to such compensation.

4 “(B) PUBLIC AVAILABILITY.—On request,
5 the Attorney General shall make the informa-
6 tion disclosed under subparagraph (A) available
7 for public inspection.

8 “(3) LIMITATIONS ON CONFERENCE EXPENDI-
9 TURES.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), not more than \$50,000 of
12 grant funds provided to an entity under this
13 section may be used to host or support a con-
14 ference.

15 “(B) EXCEPTION.—An entity may use
16 more than \$50,000 of grant funds provided
17 under this section to host or support a con-
18 ference if the Director of the Office of Justice
19 Programs—

20 “(i) authorizes such additional ex-
21 pense in writing; and

22 “(ii) provides a written cost estimate
23 for the conference, including the cost of
24 food, beverages, audio-visual equipment,
25 honoraria for speakers, and entertainment.

1 “(4) AVOIDANCE OF DUPLICATIVE FEDERAL
2 GRANTS.—

3 “(A) IN GENERAL.—The Attorney General
4 shall assess whether a potential grant award to
5 an entity under this section would result in an
6 overlap or a duplication of Federal grant
7 awards.

8 “(B) REPORT.—If the Attorney General
9 awards a grant under this section to an entity
10 in a fiscal year for which the entity receives any
11 other Federal grant for a substantially similar
12 purpose, the Attorney General shall submit to
13 the Committee on the Judiciary of the Senate
14 and the Committee on the Judiciary of the
15 House of Representatives a report that in-
16 cludes—

17 “(i) a description of each grant
18 awarded to the entity in such fiscal year
19 that results in an overlap or a duplication
20 in Federal grant awards, including the
21 total amount of each such grant award;
22 and

23 “(ii) a justification for awarding an
24 overlapping or a duplicative grant.”.

1 **SEC. 3. PROTECTING ABUSE VICTIMS FROM RETALIATION.**

2 (a) DEFINITIONS.—Section 220501(b) of title 36,
3 United States Code, is amended—

4 (1) by redesignating paragraphs (7) through
5 (9) and (10) as paragraphs (8) through (10) and
6 (13), respectively;

7 (2) by inserting after paragraph (6) the fol-
8 lowing:

9 “(7) ‘covered entity’ means—

10 “(A) an officer or employee of the Center;

11 “(B) a coach, trainer, manager, adminis-
12 trator, or other employee or official associated
13 with the corporation, a national governing body,
14 or a paralympic sports organization;

15 “(C) the Department of Justice;

16 “(D) a Federal or State law enforcement
17 authority;

18 “(E) a Federal or State entity responsible
19 for receiving reports of child abuse;

20 “(F) the Equal Employment Opportunity
21 Commission or other State or Federal entity
22 with responsibility over claims of sexual harass-
23 ment; or

24 “(G) any other person who the protected
25 individual reasonably believes has authority to

1 investigate or act on information relating to
 2 abuse, including—

3 “(i) emotional, physical, or sexual
 4 abuse; and

5 “(ii) sexual harassment.”;

6 (3) by inserting after paragraph (10), as so re-
 7 designated, the following:

8 “(11) ‘protected disclosure’ means any lawful
 9 act of a protected individual, or in the case of a pro-
 10 tected individual who is a minor, an individual act-
 11 ing on behalf of a protected individual—

12 “(A) to provide information to, cause in-
 13 formation to be provided to, or otherwise assist
 14 in an investigation by a covered entity (or be
 15 perceived as providing information to, causing
 16 information to be provided to, or otherwise as-
 17 sisting in such an investigation) relating to
 18 abuse, including—

19 “(i) emotional, physical, or sexual
 20 abuse;

21 “(ii) sexual harassment; and

22 “(iii) a violation of anti-abuse policies,
 23 practices, and procedures established pur-
 24 suant to paragraph (3) of section

1 220541(a) and paragraph (2) of section
2 220542(a);

3 “(B) to file, cause to be filed, testify, par-
4 ticipate in, or otherwise assist in a proceeding
5 filed or about to be filed (or be perceived as fil-
6 ing, causing to be filed, testifying, participating
7 in, or otherwise assisting in such an investiga-
8 tion) relating to abuse, including—

9 “(i) emotional, physical, or sexual
10 abuse;

11 “(ii) sexual harassment; and

12 “(iii) a violation of anti-abuse policies
13 and procedures established pursuant to
14 paragraph (3) of section 220541(a) and
15 paragraph (2) of section 220542(a);

16 “(C) in communication with Congress; or

17 “(D) in the case of an amateur athlete, in
18 communication with the Office of the Athlete
19 Ombudsman;

20 “(12) ‘protected individual’ means any—

21 “(A) amateur athlete, coach, medical pro-
22 fessional, or trainer associated with the cor-
23 poration, a national governing body, or a
24 paralympic sports organization; or

1 “(B) any official or employee of the cor-
 2 poration, a national governing body, a
 3 paralympic sports organization, or a grantee,
 4 contractor, or subcontractor of the corporation,
 5 a national governing body, or a paralympic
 6 sports organization”; and

7 (4) by inserting after paragraph (13), as so re-
 8 designated, the following:

9 “(14) ‘retaliation’ means any adverse or dis-
 10 criminatory action, or the threat of an adverse or
 11 discriminatory action, carried out against a pro-
 12 tected individual because of any protected disclosure,
 13 including—

14 “(A) discipline;

15 “(B) discrimination regarding pay, terms,
 16 or privileges;

17 “(C) removal from a training facility;

18 “(D) reduced coaching or training;

19 “(E) reduced meals or housing; and

20 “(F) removal from competition.”.

21 (b) RESOLUTION OF DISPUTES.—Section 220509 of
 22 title 36, United States Code, is amended—

23 (1) in subsection (a), in the first sentence, by
 24 inserting “complaints of retaliation or” after “relat-
 25 ing to”; and

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

2 “(c) RETALIATION.—

3 “(1) IN GENERAL.—The corporation, a national
4 governing body, a paralympic sports organization, or
5 any officer, employee, grantee, contractor, subcon-
6 tractor, or agent of the corporation, a national gov-
7 erning body, or a paralympic sports organization,
8 may not retaliate against any protected individual
9 because of any protected disclosure.

10 “(2) REPORTING, INVESTIGATION, AND ARBI-
11 TRATION.—The corporation shall establish mecha-
12 nisms for the reporting, investigation, and resolution
13 (through binding third-party arbitration) of com-
14 plaints of alleged retaliation.

15 “(3) DISCIPLINARY ACTION.—If the corporation
16 finds that an officer or employee of the corporation,
17 a national governing body, or a paralympic sports
18 organizations (or any grantee, contractor, subcon-
19 tractor, or agent of the corporation, a national gov-
20 erning body, or a paralympic sports organization)
21 has retaliated against a protected individual, the cor-
22 poration, national governing body, or paralympic
23 sports organization, as applicable, shall take appro-
24 priate disciplinary action with respect to any such

1 individual found to have retaliated against the pro-
2 tected individual.

3 “(4) REMEDIES.—

4 “(A) IN GENERAL.—If the corporation
5 finds that an officer or employee of the corpora-
6 tion, a national governing body, or a paralympic
7 sports organization (or a grantee, contractor,
8 subcontractor, or agent of the corporation, a
9 national governing body, or paralympic sports
10 organization) has retaliated against a protected
11 individual, the corporation, national governing
12 body, or paralympic sports organization, as ap-
13 plicable, shall promptly—

14 “(i) take affirmative action to abate
15 the violation;

16 “(ii) reinstate the complainant to the
17 former position with the same pay and
18 terms and privileges; and

19 “(iii) pay compensatory damages, in-
20 cluding economic damages (including back-
21 pay with interest) and any special damages
22 sustained as a result of the retaliation, in-
23 cluding damages for pain and suffering,
24 reasonable attorney fees, and costs.

1 “(B) REIMBURSEMENT FROM NATIONAL
 2 GOVERNING BODY.—In the case of a national
 3 governing body or a paralympic sports organi-
 4 zation found to have retaliated against a pro-
 5 tected individual, the corporation may demand
 6 reimbursement from the national governing
 7 body or paralympic sports organization for
 8 damages paid by the corporation under sub-
 9 paragraph (A).

10 “(5) ENFORCEMENT ACTION AND PROCE-
 11 DURES.—

12 “(A) IN GENERAL.—If the corporation has
 13 not issued a final decision within 180 days of
 14 the filing of the complaint and there is no show-
 15 ing that such delay is due to the bad faith of
 16 the complainant, the complainant may bring an
 17 action at law or equity for de novo review in the
 18 appropriate district court of the United States,
 19 which shall have jurisdiction over such an ac-
 20 tion without regard to the amount in con-
 21 troversy.

22 “(B) JURY TRIAL.—A party to an action
 23 brought under paragraph (A) shall be entitled
 24 to trial by jury.

1 “(C) RELIEF.—The court shall have juris-
 2 diction to grant all relief under paragraph (4).

3 “(6) STATUTE OF LIMITATIONS.—An action
 4 under paragraph (2) shall be commenced not later
 5 than 2 years after the date on which the violation
 6 occurs, or after the date on which the protected indi-
 7 vidual became aware of the violation.

8 “(7) BURDENS OF PROOF.—An action under
 9 paragraph (2) or (5) shall be governed as follows:

10 “(A) REQUIRED SHOWING BY COMPLAIN-
 11 ANT.—The corporation shall dismiss a com-
 12 plaint filed under this subsection and shall not
 13 conduct an investigation unless the complainant
 14 makes a prima facie showing that any retalia-
 15 tion was a contributing factor in the unfavor-
 16 able personnel action alleged in the complaint.

17 “(B) CRITERIA FOR DETERMINATION BY
 18 THE ARBITRATION.—The arbitration may deter-
 19 mine that a violation of paragraph (1) has oc-
 20 curred only if the complainant demonstrates
 21 that the retaliation was a contributing factor in
 22 the unfavorable personnel action alleged in the
 23 complaint.

24 “(C) PROHIBITION.—Relief may not be or-
 25 dered under paragraph (4) if the corporation,

1 national governing body, or paralympic sports
2 organization, as applicable, demonstrates by
3 clear and convincing evidence that the corpora-
4 tion, national governing body, or paralympic
5 sports organization would have taken the same
6 unfavorable personnel action in the absence of
7 that behavior.

8 “(8) REVIEW.—Any person adversely affected
9 or aggrieved by an order issued under paragraph (4)
10 or (5) may obtain review of the order in the United
11 States Court of Appeals for the circuit in which the
12 violation, with respect to which the order was issued,
13 allegedly occurred or the circuit in which the com-
14 plainant resided on the date of such violation. The
15 petition for review shall be filed not later than 60
16 days after the date of the issuance of the arbitration
17 decision of the corporation. Review shall conform to
18 chapter 7 of title 5, United States Code. The com-
19 mencement of proceedings under this paragraph
20 shall not, unless ordered by the court, operate as a
21 stay of the order.

22 “(9) RIGHTS RETAINED.—Nothing in this sub-
23 section shall be deemed to diminish the rights, privi-
24 leges, or remedies of any employee or other indi-

1 vidual under any Federal or State law, or under any
2 collective bargaining agreement.

3 “(10) NONENFORCEABILITY OF CERTAIN PRO-
4 VISIONS WAIVING RIGHTS AND REMEDIES.—The
5 rights and remedies provided for in this subsection
6 may not be waived by any agreement, policy form,
7 or condition of employment or association with the
8 corporation, a national governing body, or a
9 paralympic sports organization.

10 “(11) RULE OF CONSTRUCTION.—Nothing in
11 this subsection shall be construed to mean that the
12 funds transferred by the national governing bodies
13 and paralympic sports organizations to the corpora-
14 tion and the Center qualify as a grant.”.

15 (c) ELIGIBILITY REQUIREMENTS FOR NATIONAL
16 GOVERNING BODIES.—Section 220522 of title 36, United
17 States Code, amended—

18 (1) in paragraph (14), by striking “; and” and
19 inserting a semicolon;

20 (2) in paragraph (15), by striking the period at
21 the end and inserting “; and”; and

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

23 “(16) provides protection from retaliation to
24 protected individuals.”.

○