

.....
(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R. _____

To amend title 38, United States Code, to make certain improvements to the Office of Accountability and Whistleblower Protection of the Department of Veterans Affairs, and for other purposes.

M____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title 38, United States Code, to make certain improvements to the Office of Accountability and Whistleblower Protection of the Department of Veterans Affairs, 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 “Strengthening Whistle-
5 blower Protections at the Department of Veterans Affairs
6 Act”.

1 **SEC. 2. COUNSEL OF OFFICE OF ACCOUNTABILITY AND**
2 **WHISTLEBLOWER PROTECTION.**

3 Subsection (e) of section 323 of title 38, United
4 States Code, is amended—

5 (1) by inserting “(1)” before “The Office”; and

6 (2) by adding at the end the following new
7 paragraph:

8 “(2) The Assistant Secretary shall appoint a Counsel
9 of the Office, who shall be a career appointee in the Senior
10 Executive Service and shall report to the Assistant Sec-
11 retary. The Counsel shall provide the Assistant Secretary
12 with legal advice on all matters relating to the Office. In
13 accordance with subsection (e), the Assistant Secretary
14 may hire the appropriate staff for the Counsel to provide
15 such legal advice.”.

16 **SEC. 3. MODIFICATIONS TO FUNCTIONS OF OFFICE OF AC-**
17 **COUNTABILITY AND WHISTLEBLOWER PRO-**
18 **TECTION.**

19 Subsection (c)(1) of such section is amended—

20 (1) by striking subparagraphs (A) and (B);

21 (2) by redesignating subparagraphs (C) through
22 (G) as subparagraphs (A) through (E), respectively;

23 (3) in subparagraph (A), as so redesignated, by
24 inserting “and allegations of whistleblower retalia-
25 tion” after “disclosures”;

1 (4) by striking subparagraph (B), as so redesignated, and inserting the following new subparagraph:
2
3

4 “(B) Referring employees of the Department to the Office of Special Counsel so the Office of Special Counsel may receive whistleblower disclosures and allegations of whistleblower retaliation.”; and
5
6
7
8

9 (5) by striking subparagraphs (H) and (I).

10 **SEC. 4. EXPANSION OF WHISTLEBLOWER PROTECTIONS.**

11 (a) CLARIFICATION OF PROHIBITED PERSONNEL ACTION.—Section 731(c) of such title is amended—
12

13 (1) in paragraph (1)—

14 (A) in the matter preceding subparagraph (A), by inserting “, or threatening to take or fail to take,” after “failing to take”; and
15
16

17 (B) in subparagraph (A), by inserting “, or with respect to an allegation of such a disclosure” before the semicolon;
18
19

20 (2) in paragraph (3), by inserting “, making a referral to boards of licensure,” after “negative peer review”.
21
22

23 (b) FUNCTION OF OFFICE OF ACCOUNTABILITY AND WHISTLEBLOWER PROTECTION.—Section 323(g) of such
24

1 title is amended by adding at the end the following new
2 paragraph:

3 “(4) The term ‘prohibited personnel action’ has
4 the meaning given such term in section 731(c) of
5 this title.”.

6 **SEC. 5. TRACKING AND ENFORCEMENT OF RECOMMENDA-**
7 **TIONS AND SETTLEMENT AGREEMENTS RE-**
8 **GARDING WHISTLEBLOWERS.**

9 Subsection (c) of section 323 of such title, as amend-
10 ed by section 4, is further amended—

11 (1) in paragraph (1), by adding at the end the
12 following new subparagraphs:

13 “(I) Tracking the negotiation, implementation,
14 and enforcement of settlement agreements entered
15 into by the Secretary regarding claims of retaliation,
16 including with respect to the work of the General
17 Counsel of the Department regarding such settle-
18 ments.

19 “(J) Tracking the determinations made by the
20 Special Counsel regarding claims of retaliation, in-
21 cluding—

22 “(i) any disciplinary action for the indi-
23 vidual who engaged in retaliation; and

1 “(ii) the need for, and scope of, the Sec-
2 retary to enter into a settlement agreement
3 with the whistleblower.”; and

4 (2) by adding at the end the following new
5 paragraph:

6 “(4)(A) In carrying out subparagraph (I) of para-
7 graph (1), the Assistant Secretary shall, in consultation
8 with the General Counsel, establish metrics and standards
9 regarding—

10 “(i) the timely negotiation and implementation
11 of settlement agreements entered into by the Sec-
12 retary regarding retaliation; and

13 “(ii) reasonable restitution and restoration of
14 employment, and other relief for whistleblowers; and

15 “(B) The Assistant Secretary shall establish a secure
16 electronic system to carry out subparagraphs (I) and (J)
17 of paragraph (1) in a manner that ensures the confiden-
18 tiality of the identity of a whistleblower.”.

19 **SEC. 6. TRAINING AND INFORMATION.**

20 Section 323 of such title is further amended—

21 (1) in subsection (c)(2), by striking “receive
22 anonymous whistleblower disclosures” and inserting
23 “provide information to employees of the Depart-
24 ment regarding the rights of and procedures for
25 whistleblowers”;

1 (2) by redesignating subsection (g) as sub-
2 section (i); and

3 (3) by inserting after subsection (f) the fol-
4 lowing new subsections:

5 “(g) TRAINING.—The Assistant Secretary shall—

6 “(1) develop, in consultation with the Special
7 Counsel, annual training on whistleblower protection
8 and related issues;

9 “(2) provide and make such training available
10 to employees of the Department; and

11 “(3) disseminate training materials and infor-
12 mation to employees on whistleblower rights, whistle-
13 blower disclosures, and allegations of whistleblower
14 retaliation, including any materials created pursuant
15 to section 733 of this title.”.

16 **SEC. 7. IMPROVEMENTS TO ANNUAL REPORTS.**

17 Subsection (f) of section 323 of such title is amend-
18 ed—

19 (1) in paragraph (1)(B)(ii), by striking “sub-
20 section (C)(1)(G)” and inserting “subsection
21 (c)(1)(E)”;

22 (2) in paragraph (2)—

23 (A) by striking “under subsection
24 (c)(1)(I)” and inserting “by the Special Coun-
25 sel”; and

1 (B) by inserting “not later than 60 days
2 after such date” before “the Secretary shall”;
3 and

4 (3) by adding at the end the following new
5 paragraph:

6 “(3) Not later than June 30, 2023, and semiannually
7 thereafter, the Secretary shall submit to the Committees
8 on Veterans’ Affairs of the House of Representatives and
9 the Senate a report on settlements described in paragraph
10 (1)(I) of subsection (c), including, with respect to the pe-
11 riod covered by the report—

12 “(A) the number of settlements initiated, the
13 disposition of each settlement that was resolved, and
14 the number of settlements that are pending or have
15 not been implemented;

16 “(B) the status of each such pending settle-
17 ment, including any progress or lack of progress to-
18 ward settlement and the implementation of such a
19 settlement;

20 “(C) a description of the metrics described in
21 paragraph (4)(A) of such subsection; and

22 “(D) identification of settlement agreements
23 that are not meeting such metrics and standards, or
24 for which there has been any breach of the agree-
25 ment.”.