

AMENDMENT TO RULES COMMITTEE PRINT 119-8
OFFERED BY MS. GOODLANDER OF NEW
HAMPSHIRE

At the end of subtitle F of title V, add the following
new section:

1 **SEC. 5___ . AUTHORIZATION OF CLAIMS BY MEMBERS OF**
2 **THE ARMED FORCES AGAINST THE UNITED**
3 **STATES THAT ARISE FROM SEX-RELATED OF-**
4 **FENSES.**

5 (a) ESTABLISHMENT.—Chapter 163 of title 10,
6 United States Code, is amended by inserting after section
7 2733a the following new section:

8 **“§ 2733b. Claims arising from sex-related offenses**

9 “(a) IN GENERAL.—Consistent with this section and
10 under such regulations as the Secretary of Defense shall
11 prescribe under subsection (d), the Secretary may allow,
12 settle, and pay a claim against the United States for per-
13 sonal injury or death of a claimant arising from—

14 “(1) a sex-related offense committed by a cov-
15 ered individual; and

16 “(2)(A) the negligent failure to prevent such
17 sex-related offense; or

1 “(B) the negligent failure to investigate such
2 sex-related offense.

3 “(b) REQUIREMENT FOR CLAIMS.—A claim may be
4 allowed, settled, and paid under subsection (a) only if—

5 “(1) the claim is filed by the claimant who is
6 the victim of the sex-related offense, or by an au-
7 thorized representative on behalf of such claimant
8 who is deceased or otherwise unable to file the claim
9 due to incapacitation;

10 “(2) the claimant was a member of an armed
11 force under the jurisdiction of the Secretary of a
12 military department at the time of the sex-related
13 offense;

14 “(3) the claim is presented to the Department
15 in writing within two years after the claim accrues;

16 “(4) the claim is not allowed to be settled and
17 paid under any other provision of law; and

18 “(5) the claim is substantiated as prescribed in
19 regulations prescribed by the Secretary of Defense
20 under subsection (d).

21 “(c) PAYMENT OF CLAIMS.—(1) If the Secretary of
22 Defense determines, pursuant to regulations prescribed by
23 the Secretary under subsection (d), that a claim under this
24 section in excess of \$100,000 is meritorious, and the claim
25 is otherwise payable under this section, the Secretary may

1 pay the claimant \$100,000 and report any meritorious
2 amount in excess of \$100,000 to the Secretary of the
3 Treasury for payment under section 1304 of title 31.

4 “(2) Except as provided in paragraph (1), no claim
5 may be paid under this section unless the amount tendered
6 is accepted by the claimant in full satisfaction.

7 “(d) REGULATIONS.—(1) The Secretary of Defense
8 shall prescribe regulations to implement this section.

9 “(2) Regulations prescribed by the Secretary under
10 paragraph (1) shall include the following:

11 “(A) Policies and procedures to ensure the
12 timely, efficient, and effective processing and admin-
13 istration of claims under this section, including—

14 “(i) the filing, receipt, investigation, and
15 evaluation of a claim;

16 “(ii) the negotiation, settlement, and pay-
17 ment of a claim; and

18 “(iii) such other matters relating to the
19 processing and administration of a claim, in-
20 cluding an administrative appeals process, as
21 the Secretary considers appropriate.

22 “(B) Uniform standards consistent with gen-
23 erally accepted standards used in a majority of
24 States in adjudicating claims under chapter 171 of
25 title 28 (commonly known as the ‘Federal Tort

1 Claims Act') to be applied to the evaluation, settle-
2 ment, and payment of claims under this section
3 without regard to the place of occurrence of the sex-
4 related offense giving rise to the claim or the mili-
5 tary department of the covered individual, and with-
6 out regard to foreign law in the case of claims aris-
7 ing in foreign countries, including uniform standards
8 to be applied to determinations with respect to—

9 “(i) whether an act or omission by a cov-
10 ered individual was negligent or wrongful, con-
11 sidering the specific facts and circumstances;

12 “(ii) whether the personal injury or death
13 of the claimant was caused by a negligent or
14 wrongful act or omission of a covered indi-
15 vidual;

16 “(iii) requirements relating to proof of
17 duty, breach of duty, and causation resulting in
18 compensable injury or loss, subject to such ex-
19 clusions as may be established by the Secretary
20 of Defense; and

21 “(iv) calculation of damages.

22 “(C) Such other matters as the Secretary con-
23 siders appropriate.

1 “(3) In order to implement expeditiously the provi-
2 sions of this section, the Secretary may prescribe the regu-
3 lations under this subsection—

4 “(A) by prescribing an interim final rule; and

5 “(B) not later than one year after prescribing
6 such interim final rule and considering public com-
7 ments with respect to such interim final rule, by pre-
8 scribing a final rule.

9 “(e) LIMITATIONS ON ATTORNEY FEES.—(1) No at-
10 torney shall charge, demand, receive, or collect for services
11 rendered, fees in excess of 20 percent of any claim paid
12 pursuant to this section.

13 “(2) Any attorney who charges, demands, receives,
14 or collects for services rendered in connection with a claim
15 under this section any amount in excess of the amount
16 allowed under paragraph (1), if recovery be had, shall be
17 fined not more than \$2,000, imprisoned not more than
18 one year, or both.

19 “(3) The United States shall not be liable for any
20 attorney fees of a claimant under this section.

21 “(f) ANNUAL REPORT.—Not less frequently than an-
22 nually until 2030, the Secretary of Defense shall submit
23 to the Committees on Armed Services of the Senate and
24 the House of Representatives a report—

1 “(1) indicating the number of claims processed
2 under this section;

3 “(2) indicating the resolution of each such
4 claim; and

5 “(3) describing any other information that may
6 enhance the effectiveness of the claims process under
7 this section.

8 “(g) DEFINITIONS.—In this section:

9 “(1) The term ‘covered individual’ means a
10 member of the armed forces or an employee of the
11 Department of Defense.

12 “(2) The term ‘sex-related offense’ means any
13 of the following:

14 “(A) An offense covered by section 920,
15 920a, 920b, or 920c of this title (article 120,
16 120a, 120b, or 120c).

17 “(B) A conspiracy to commit an offense
18 specified in subparagraph (A) as punishable
19 under section 881 of this title (article 81).

20 “(C) A solicitation to commit an offense
21 specified in subparagraph (A) as punishable
22 under section 882 of this title (article 82).

23 “(D) An attempt to commit an offense
24 specified in subparagraphs (A) through (C) as

1 punishable under section 880 of this title (arti-
2 cle 80).

3 “(E) Sexual harassment.

4 “(3)(A) The term ‘sexual harassment’ means
5 conduct that takes place in a circumstance described
6 in subparagraph (B) that takes the form of—

7 “(i) a sexual advance;

8 “(ii) a request for sexual favors; or

9 “(iii) any other conduct of a sexual
10 nature.

11 “(B) A circumstance described in this subpara-
12 graph is a situation in which—

13 “(i) submission to the conduct involved is
14 made either explicitly or implicitly a term or
15 condition of employment;

16 “(ii) submission to or rejection of such
17 conduct is used as the basis for an employment
18 decision affecting an individual’s employment;
19 or

20 “(iii) such conduct unreasonably alters an
21 individual’s terms, conditions, or privileges of
22 employment, including by creating an intimi-
23 dating hostile, or offensive work environment,
24 as determined in accordance with subparagraph
25 (C).

1 “(C) In determining, for purposes of subpara-
2 graph (B)(iii) whether conduct constitutes sexual
3 harassment because the conduct unreasonably alters
4 an individual’s terms, conditions, or privileges of em-
5 ployment, including by creating an intimidating, hos-
6 tile, or offensive work environment, the following
7 rules shall apply:

8 “(i) The determination shall be made on
9 the basis of the record as a whole, according to
10 the totality of the circumstances. A single inci-
11 dent may constitute sexual harassment.

12 “(ii) Incidents that may be sexual harass-
13 ment shall be considered in the aggregate,
14 with—

15 “(I) conduct of varying types (such as
16 expressions of sex-based hostility, requests
17 for sexual favors, and denial of employ-
18 ment opportunities due to sexual orienta-
19 tion) viewed in totality, rather than in iso-
20 lation; and

21 “(II) conduct based on multiple pro-
22 tected characteristics (such as sex and
23 race) viewed in totality, rather than in iso-
24 lation.

1 “(iii) The factors specified in this clause
2 are among the factors to be considered in deter-
3 mining whether conduct constitutes sexual har-
4 assment and are not meant to be exhaustive.
5 No one of those factors shall be considered to
6 be determinative in establishing whether con-
7 duct constitutes sexual harassment. Such fac-
8 tors are each of the following:

9 “(I) The frequency of the conduct.

10 “(II) The duration of the conduct.

11 “(III) The location where the conduct
12 occurred.

13 “(IV) The number of individuals en-
14 gaged in the conduct.

15 “(V) The nature of the conduct, which
16 may include physical, verbal, pictorial, or
17 visual conduct, and conduct that occurs in
18 person or is transmitted, such as electroni-
19 cally.

20 “(VI) Whether the conduct is threat-
21 ening.

22 “(VII) Any power differential between
23 the alleged harasser and the person alleg-
24 edly harassed.

1 “(VIII) Any use of epithets, slurs, or
2 other conduct that is humiliating or de-
3 grading.

4 “(IX) Whether the conduct reflects
5 stereotypes about individuals in the pro-
6 tected class involved.”.

7 (b) INTERIM BRIEFING ON DEVELOPMENT OF REGU-
8 LATIONS.—Not later than 180 days after the date of the
9 enactment of this Act, the Secretary of Defense shall pro-
10 vide to the Committees on Armed Services of the Senate
11 and the House of Representatives a briefing on the devel-
12 opment of regulations under section 2733b(d) of title 10,
13 United States Code, as added by subsection (a).

14 (c) CONFORMING AMENDMENTS.—

15 (1) Section 2735 of such title is amended by in-
16 serting “2733b,” after “2733a,”.

17 (2) Section 1304(a)(3)(D) of title 31, United
18 States Code, is amended by inserting “2733b,” after
19 “2733a,”.

20 (d) EFFECTIVE DATE AND TRANSITION PROVI-
21 SION.—

22 (1) EFFECTIVE DATE.—The amendments made
23 by this section shall apply to any claim filed under
24 section 2733b of such title, as added by subsection
25 (a)(1), on or after January 1, 2026.

1 (2) TRANSITION.—Any claim filed in calendar
2 year 2025 shall be deemed to be filed within the
3 time period specified in section 2733b(b)(3) of such
4 title, as so added, if it is filed within three years
5 after it accrues.

