AMENDMENT TO RULES COMMITTEE PRINT 117–13

OFFERED BY MS. SPEIER OF CALIFORNIA

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

SEC. 5. AUTHORIZATION OF CLAIMS BY MEMBERS OF THE ARMED FORCES AGAINST THE UNITED STATES THAT ARISE FROM SEX-RELATED OFFENSES.

(a) Establishment.—

(1) In general.—Chapter 163 of title 10, United States Code, is amended by inserting after section 2733a the following new section:

"§ 2733b. Claims arising from sex-related offenses

"(a) In general.—Consistent with this section and under such regulations as the Secretary of Defense shall prescribe under subsection (d), the Secretary may allow, settle, and pay a claim against the United States for personal injury or death of a claimant arising from—

"(1) a sex-related offense committed by a covered individual; and

"(2)(A) the negligent failure to prevent such sex-related offense; or
“(B) the negligent failure to investigate such sex-related offense.

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

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

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

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

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

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

“(c) PAYMENT OF CLAIMS.—(1) If the Secretary of Defense determines, pursuant to regulations prescribed by the Secretary under subsection (d), that a claim under this section in excess of $100,000 is meritorious, and the claim is otherwise payable under this section, the Secretary may
pay the claimant $100,000 and report any meritorious amount in excess of $100,000 to the Secretary of the Treasury for payment under section 1304 of title 31.

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

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

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

“(A) Policies and procedures to ensure the timely, efficient, and effective processing and administration of claims under this section, including—

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

“(ii) the negotiation, settlement, and payment of a claim; and

“(iii) such other matters relating to the processing and administration of a claim, including an administrative appeals process, as the Secretary considers appropriate.

“(B) A process through which any claimant who pursues an administrative appeal of a claim will be provided with an opportunity to participate in a live hearing regarding such appeal, which may be at-
tended by the claimant in-person or remotely through electronic means.

“(C) Uniform standards consistent with generally accepted standards used in a majority of States in adjudicating claims under chapter 171 of title 28 (commonly known as the ‘Federal Tort Claims Act’) to be applied to the evaluation, settlement, and payment of claims under this section without regard to the place of occurrence of the sex-related offense giving rise to the claim or the military department of the covered individual, and without regard to foreign law in the case of claims arising in foreign countries, including uniform standards to be applied to determinations with respect to—

“(i) whether an act or omission by a covered individual was negligent or wrongful, considering the specific facts and circumstances;

“(ii) whether the personal injury or death of the claimant was caused by a negligent or wrongful act or omission of a covered individual;

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

“(iv) calculation of damages, except that any standard establishing a maximum limit on noneconomic damages may not limit such damages to less than $800,000.

“(D) A requirement that any maximum limit on noneconomic damages shall be not less than $800,000.

“(E) Such other matters as the Secretary considers appropriate.

“(3) In order to implement expeditiously the provisions of this section, the Secretary may prescribe the regulations under this subsection—

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

“(B) not later than one year after prescribing such interim final rule and considering public comments with respect to such interim final rule, by prescribing a final rule.

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

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

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

“(f) ANNUAL REPORT.—Not less frequently than an-
ually until 2026, the Secretary of Defense shall submit
to the Committees on Armed Services of the Senate and
the House of Representatives a report—

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

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

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

“(g) DEFINITIONS.—In this section:

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

“(2) The term ‘sex-related offense’ has the
meaning given that term in section 834 of this
title.”.
(2) Clerical Amendment.—The table of sections at the beginning of chapter 163 of such title is amended by inserting after the item relating to section 2733a the following new item:

“2733b. Claims arising from sex-related offenses.”.

(b) Interim Briefing on Development of Regulations.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall provide to the Committees on Armed Services of the Senate and the House of Representatives a briefing on the development of regulations under section 2733b(d) of title 10, United States Code, as added by subsection (a)(1).

(c) Conforming Amendments.—

(1) Section 2735 of such title is amended by inserting “2733b,” after “2733a,”.

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

(d) Effective Date and Transition Provision.—

(1) Effective date.—The amendments made by this section shall apply to any claim filed under section 2733b of such title, as added by subsection (a)(1), on or after January 1, 2022.

(2) Transition.—Any claim filed in calendar year 2021 shall be deemed to be filed within the
time period specified in section 2733b(b)(2) of such
title, as so added, if it is filed within three years
after it accrues.