

AMENDMENT TO RULES COMMITTEE PRINT 117-

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OFFERED BY MS. SPEIER OF CALIFORNIA

At the end of subtitle C 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.—

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

9 **“§ 2733b. Claims arising from sex-related offenses**

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

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

17 “(2)(A) the negligent failure to prevent such
18 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) A process through which any claimant
23 who pursues an administrative appeal of a claim will
24 be provided with an opportunity to participate in a
25 live hearing regarding such appeal, which may be at-

1 tended by the claimant in-person or remotely
2 through electronic means.

3 “(C) Uniform standards consistent with gen-
4 erally accepted standards used in a majority of
5 States in adjudicating claims under chapter 171 of
6 title 28 (commonly known as the ‘Federal Tort
7 Claims Act’) to be applied to the evaluation, settle-
8 ment, and payment of claims under this section
9 without regard to the place of occurrence of the sex-
10 related offense giving rise to the claim or the mili-
11 tary department of the covered individual, and with-
12 out regard to foreign law in the case of claims aris-
13 ing in foreign countries, including uniform standards
14 to be applied to determinations with respect to—

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

18 “(ii) whether the personal injury or death
19 of the claimant was caused by a negligent or
20 wrongful act or omission of a covered indi-
21 vidual;

22 “(iii) requirements relating to proof of
23 duty, breach of duty, and causation resulting in
24 compensable injury or loss, subject to such ex-

1 clusions as may be established by the Secretary
2 of Defense; and

3 “(iv) calculation of damages, except that
4 any standard establishing a maximum limit on
5 noneconomic damages may not limit such dam-
6 ages to less than \$800,000.

7 “(D) A requirement that any maximum limit on
8 noneconomic damages shall be not less than
9 \$800,000.

10 “(E) Such other matters as the Secretary con-
11 siders appropriate.

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

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

16 “(B) not later than one year after prescribing
17 such interim final rule and considering public com-
18 ments with respect to such interim final rule, by pre-
19 scribing a final rule.

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

24 “(2) Any attorney who charges, demands, receives,
25 or collects for services rendered in connection with a claim

1 under this section any amount in excess of the amount
2 allowed under paragraph (1), if recovery be had, shall be
3 fined not more than \$2,000, imprisoned not more than
4 one year, or both.

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

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

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

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

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

18 “(g) DEFINITIONS.—In this section:

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

22 “(2) The term ‘sex-related offense’ has the
23 meaning given that term in section 834 of this
24 title.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
2 tions at the beginning of chapter 163 of such title
3 is amended by inserting after the item relating to
4 section 2733a the following new item:

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

5 (b) INTERIM BRIEFING ON DEVELOPMENT OF REGU-
6 LATIONS.—Not later than 180 days after the date of the
7 enactment of this Act, the Secretary of Defense shall pro-
8 vide to the Committees on Armed Services of the Senate
9 and the House of Representatives a briefing on the devel-
10 opment of regulations under section 2733b(d) of title 10,
11 United States Code, as added by subsection (a)(1).

12 (c) CONFORMING AMENDMENTS.—

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

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

18 (d) EFFECTIVE DATE AND TRANSITION PROVI-
19 SION.—

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

24 (2) TRANSITION.—Any claim filed in calendar
25 year 2021 shall be deemed to be filed within the

1 time period specified in section 2733b(b)(2) of such
2 title, as so added, if it is filed within three years
3 after it accrues.

