

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.

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## 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

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## 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.

“(B) REIMBURSEMENT FROM NATIONAL GOVERNING BODY.—In the case of a national governing body or a paralympic sports organization found to have retaliated against a protected individual, the corporation may demand reimbursement from the national governing body or paralympic sports organization for damages paid by the corporation under subparagraph (A).

“(5) ENFORCEMENT ACTION AND PROCEDURES.—

“(A) IN GENERAL.—If the corporation has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the complainant, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

“(B) JURY TRIAL.—A party to an action brought under paragraph (A) shall be entitled 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.”.

○