

[DISCUSSION DRAFT]

117TH CONGRESS
1ST 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.

IN THE HOUSE OF REPRESENTATIVES

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. MODIFICATIONS AND IMPROVEMENTS TO OF-**
4 **FICE OF ACCOUNTABILITY AND WHISTLE-**
5 **BLOWER PROTECTION.**

6 Section 323 of title 38, United States Code, is
7 amended—

- 1 (1) in subsection (c)—
- 2 (A) in paragraph (1)—
- 3 (i) by striking subparagraphs (A) and
- 4 (B);
- 5 (ii) by redesignating subparagraphs
- 6 (C) through (G) as subparagraphs (A)
- 7 through (E), respectively;
- 8 (iii) in each of subparagraphs (A) and
- 9 (B), as so redesignated, by inserting “and
- 10 allegations of whistleblower retaliation”
- 11 after “disclosures”;
- 12 (iv) in subparagraph (B), as so reded-
- 13 igned—
- 14 (I) by striking “subparagraph
- 15 (C)” and inserting “subparagraph
- 16 (A)”; and
- 17 (II) by striking “the Office of the
- 18 Medical Inspector” and all that fol-
- 19 lows through the period at the end
- 20 and inserting “the Office of Special
- 21 Counsel.”; and
- 22 (v) by striking subparagraphs (H) and
- 23 (I); and

1 (B) in paragraph (2), by striking “a toll-
2 free telephone number and Internet” and in-
3 serting “an internet”;

4 (2) by striking subsection (f) and inserting the
5 following new subsection (f):

6 “(f) REPORTS.—(1) Not later than 90 days after the
7 last day of each fiscal year, the Assistant Secretary shall
8 submit to the Committee on Veterans’ Affairs of the Sen-
9 ate and the Committee on Veterans’ Affairs of the House
10 of Representatives a report on the activities of the Office
11 during that fiscal year.

12 “(2) Each report submitted under paragraph (1)
13 shall include, for the fiscal year covered by the report, the
14 following:

15 “(A) A full and substantive analysis of the ac-
16 tivities of the Office, including such statistical infor-
17 mation as the Assistant Secretary considers appro-
18 priate.

19 “(B) Identification of any issues reported to the
20 Secretary under subsection (c)(1)(G), including such
21 data as the Assistant Secretary considers relevant to
22 such issues and any trends the Assistant Secretary
23 may have identified with respect to such issues.

24 “(C) Identification of such concerns as the As-
25 sistant Secretary may have regarding the size, staff-

1 ing, and resources of the Office and such rec-
2 ommendations as the Assistant Secretary may have
3 for legislative or administrative action to address
4 such concerns.

5 “(D) Such recommendations as the Assistant
6 Secretary may have for legislative or administrative
7 action to improve—

8 “(i) the process by which concerns are re-
9 ported to the Office; and

10 “(ii) the protection of whistleblowers with-
11 in the Department.

12 “(E) Such other matters as the Assistant Sec-
13 retary considers appropriate regarding the functions
14 of the Office or other matters relating to the Of-
15 fice.”;

16 (3) by redesignating subsection (g) as sub-
17 section (h);

18 (4) by inserting after subsection (f) the fol-
19 lowing new subsection (g):

20 “(g) TRANSFER AUTHORITY.—(1) As the Secretary
21 determines appropriate, of the amounts made available for
22 the Department for any of fiscal years 2022 through
23 2026, the Secretary may transfer to the Office of Special
24 Counsel not more than \$5,000,000, to be available for the
25 purpose of addressing whistleblower and retaliation

1 claims, if the Comptroller General of the Office of Special
2 Counsel enters into an agreement with the Secretary
3 under which the Comptroller General agrees to ensure
4 that amounts transferred under this paragraph will only
5 be used—

6 “(A) to address whistleblower and retaliation
7 claims involving the Department of Veterans Affairs;
8 and

9 “(B) to supplement and not to supplant
10 amounts otherwise made available to the Office of
11 Special Counsel.

12 “(2) Not later than 90 days after the last day of any
13 fiscal year for which the Secretary transfers funds under
14 this subsection, the Special Counsel shall submit to the
15 Committees on Veterans’ Affairs of the Senate and House
16 of Representatives a report on the use of the funds trans-
17 ferred under this subsection during such fiscal year. Each
18 such report shall include, for the fiscal year covered by
19 the report—

20 “(A) the total amount transferred and an ac-
21 counting of the expenditure of such funds dem-
22 onstrating that such funds were used only to address
23 complaints related to the Department of Veterans
24 Affairs;

1 “(B) the number of whistleblower complaints
2 received by the Office of Special Counsel involving
3 the Department of Veterans Affairs;

4 “(C) the number of retaliation complaints re-
5 ceived by the Office of Special Counsel involving the
6 Department of Veterans Affairs;

7 “(D) the number of whistleblower complaints
8 investigated by the Office of Special Counsel involv-
9 ing the Department of Veterans Affairs;

10 “(E) the number of retaliation complaints
11 closed by the Office of Special Counsel involving the
12 Department of Veterans Affairs and disposition of
13 each such complaint, including whether each such
14 complaint was settled, closed without a finding of re-
15 tialiation, or received another disposition; and

16 “(F) data regarding the amount of time it took
17 the Office of Special Counsel to close whistleblower
18 and retaliation claims involving the Department of
19 Veterans Affairs, including a distribution of the
20 closed cases by type.”; and

21 (5) in subsection (h), as so redesignated—

22 (A) by striking paragraph (1);

23 (B) by redesignating paragraphs (2) and

24 (3) as paragraphs (1) and (2), respectively; and

1 (C) by adding at the end the following new
2 paragraph:

3 “(3) The term ‘whistleblower retaliation’ means
4 the taking or failure to take, or the threat to take
5 or not to take, by a supervisory employee (as such
6 term is defined in section 7103(a) of title 5), of a
7 personnel action because of a whistleblower disclo-
8 sure.”.