

117TH CONGRESS  
2D SESSION

# H. R. 8510

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.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2022

Mr. PAPPAS (for himself and Mr. MANN) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## 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. SHORT TITLE.**

4 This Act may be cited as the “Strengthening Whistle-  
5 blower Protections at the Department of Veterans Affairs  
6 Act”.

1 **SEC. 2. COUNSEL OF OFFICE OF ACCOUNTABILITY AND**  
2 **WHISTLEBLOWER PROTECTION.**

3 Subsection (e) of section 323 of title 38, United  
4 States Code, is amended—

5 (1) by inserting “(1)” before “The Office”; and

6 (2) by adding at the end the following new  
7 paragraph:

8 “(2) The Assistant Secretary shall appoint a Counsel  
9 of the Office, who shall be a career appointee in the Senior  
10 Executive Service and shall report to the Assistant Sec-  
11 retary. The Counsel shall provide the Assistant Secretary  
12 with legal advice on all matters relating to the Office. In  
13 accordance with subsection (e), the Assistant Secretary  
14 may hire the appropriate staff for the Counsel to provide  
15 such legal advice.”.

16 **SEC. 3. MODIFICATIONS TO FUNCTIONS OF OFFICE OF AC-**  
17 **COUNTABILITY AND WHISTLEBLOWER PRO-**  
18 **TECTION.**

19 Subsection (c)(1) of such section is amended—

20 (1) by striking subparagraphs (A) and (B);

21 (2) by redesignating subparagraphs (C) through  
22 (G) as subparagraphs (A) through (E), respectively;

23 (3) in subparagraph (A), as so redesignated, by  
24 inserting “and allegations of whistleblower retalia-  
25 tion” after “disclosures”;

1 (4) by striking subparagraph (B), as so redesignated,  
2 nated, and inserting the following new subparagraph:  
3 graph:

4 “(B) Referring employees of the Department  
5 to the Office of Special Counsel so the Office of Special  
6 Counsel may receive whistleblower disclosures and allegations of  
7 whistleblower retaliation.”; and  
8

9 (5) by striking subparagraphs (H) and (I).

10 **SEC. 4. EXPANSION OF WHISTLEBLOWER PROTECTIONS.**

11 (a) **CLARIFICATION OF PROHIBITED PERSONNEL ACTION.**—Section 731(c) of such title is amended—  
12

13 (1) in paragraph (1)—

14 (A) in the matter preceding subparagraph (A), by inserting “, or threatening to take or  
15 (A), by inserting “, or threatening to take or  
16 fail to take,” after “failing to take”; and

17 (B) in subparagraph (A), by inserting “, or  
18 with respect to an allegation of such a disclosure” before the semicolon; and  
19

20 (2) in paragraph (3), by inserting “, making a  
21 referral to boards of licensure,” after “negative peer  
22 review”.

23 (b) **FUNCTION OF OFFICE OF ACCOUNTABILITY AND  
24 WHISTLEBLOWER PROTECTION.**—Section 323(g) of such

1 title is amended by adding at the end the following new  
2 paragraph:

3           “(4) The term ‘prohibited personnel action’ has  
4 the meaning given such term in section 731(c) of  
5 this title.”.

6 **SEC. 5. TRACKING AND ENFORCEMENT OF RECOMMENDA-**  
7 **TIONS AND SETTLEMENT AGREEMENTS RE-**  
8 **GARDING WHISTLEBLOWERS.**

9           Subsection (c) of section 323 of such title, as amend-  
10 ed by section 4, is further amended—

11           (1) in paragraph (1), by adding at the end the  
12 following new subparagraphs:

13           “(I) Tracking the negotiation, implementation,  
14 and enforcement of settlement agreements entered  
15 into by the Secretary regarding claims of retaliation,  
16 including with respect to the work of the General  
17 Counsel of the Department regarding such settle-  
18 ments.

19           “(J) Tracking the determinations made by the  
20 Special Counsel regarding claims of retaliation, in-  
21 cluding—

22           “(i) any disciplinary action for the indi-  
23 vidual who engaged in retaliation; and

1           “(ii) the need for, and scope of, the Sec-  
2           retary to enter into a settlement agreement  
3           with the whistleblower.”; and

4           (2) by adding at the end the following new  
5           paragraph:

6           “(4)(A) In carrying out subparagraph (I) of para-  
7           graph (1), the Assistant Secretary shall, in consultation  
8           with the General Counsel, establish metrics and standards  
9           regarding—

10           “(i) the timely negotiation and implementation  
11           of settlement agreements entered into by the Sec-  
12           retary regarding retaliation; and

13           “(ii) reasonable restitution and restoration of  
14           employment, and other relief for whistleblowers.

15           “(B) The Assistant Secretary shall establish a secure  
16           electronic system to carry out subparagraphs (I) and (J)  
17           of paragraph (1) in a manner that ensures the confiden-  
18           tiality of the identity of a whistleblower.”.

19   **SEC. 6. TRAINING AND INFORMATION.**

20           Section 323 of such title is further amended—

21           (1) in subsection (c)(2), by striking “receive  
22           anonymous whistleblower disclosures” and inserting  
23           “provide information to employees of the Depart-  
24           ment regarding the rights of and procedures for  
25           whistleblowers”;

1           (2) by redesignating subsection (g) as sub-  
2           section (i); and

3           (3) by inserting after subsection (f) the fol-  
4           lowing new subsections:

5           “(g) TRAINING.—The Assistant Secretary shall—

6           “(1) develop, in consultation with the Special  
7           Counsel, annual training on whistleblower protection  
8           and related issues;

9           “(2) provide and make such training available  
10          to employees of the Department; and

11          “(3) disseminate training materials and infor-  
12          mation to employees on whistleblower rights, whistle-  
13          blower disclosures, and allegations of whistleblower  
14          retaliation, including any materials created pursuant  
15          to section 733 of this title.”.

16 **SEC. 7. IMPROVEMENTS TO ANNUAL REPORTS.**

17          Subsection (f) of section 323 of such title is amend-  
18          ed—

19               (1) in paragraph (1)(B)(ii), by striking “sub-  
20               section (C)(1)(G)” and inserting “subsection  
21               (c)(1)(E)”;

22               (2) in paragraph (2)—

23                       (A) by striking “under subsection  
24                       (c)(1)(I)” and inserting “by the Special Coun-  
25                       sel”; and

1 (B) by inserting “not later than 60 days  
2 after such date” before “the Secretary shall”;  
3 and

4 (3) by adding at the end the following new  
5 paragraph:

6 “(3) Not later than June 30, 2023, and semiannually  
7 thereafter, the Secretary shall submit to the Committees  
8 on Veterans’ Affairs of the House of Representatives and  
9 the Senate a report on settlements described in paragraph  
10 (1)(I) of subsection (c), including, with respect to the pe-  
11 riod covered by the report—

12 “(A) the number of settlements initiated, the  
13 disposition of each settlement that was resolved, and  
14 the number of settlements that are pending or have  
15 not been implemented;

16 “(B) the status of each such pending settle-  
17 ment, including any progress or lack of progress to-  
18 ward settlement and the implementation of such a  
19 settlement;

20 “(C) a description of the metrics described in  
21 paragraph (4)(A) of such subsection; and

22 “(D) identification of settlement agreements  
23 that are not meeting such metrics and standards, or

1 for which there has been any breach of the agree-  
2 ment.”.

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