

117TH CONGRESS
1ST SESSION

S. 2987

To amend title 5, United States Code, to deny Federal retirement benefits to individuals convicted of child sex abuse.

IN THE SENATE OF THE UNITED STATES

OCTOBER 18, 2021

Mr. DAINES introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend title 5, United States Code, to deny Federal retirement benefits to individuals convicted of child sex abuse.

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 “Denying Pensions to
5 Convicted Child Molesters Act of 2021”.

6 **SEC. 2. DENIAL OF RETIREMENT BENEFITS.**

7 (a) IN GENERAL.—Subchapter II of chapter 83 of
8 title 5, United States Code, is amended by inserting after
9 section 8312 the following:

1 **“§ 8312a. Convicted child molesters**

2 “(a) PROHIBITION.—

3 “(1) IN GENERAL.—An individual, or a survivor
4 or beneficiary of an individual, may not be paid an-
5 nuity or retired pay on the basis of the service of the
6 individual which is creditable toward the annuity or
7 retired pay, subject to the exceptions in section
8 8311(2) and (3) of this title and subsections (d) and
9 (e) of this section, if the individual is convicted of
10 an offense—

11 “(A) within the purview of section 2241(c),
12 section 2243(a), or paragraph (3) or (5) of sec-
13 tion 2244(a) of title 18; and

14 “(B) for which the conduct constituting
15 the offense is committed on or after the date of
16 enactment of this section, which shall include
17 any offense that includes conduct that contin-
18 ued on or after such date of enactment.

19 “(2) NOTICE.—If an individual entitled to an
20 annuity or retired pay is convicted of an offense de-
21 scribed in paragraph (1), the Attorney General shall
22 notify the head of the agency administering the an-
23 nuity or retired pay of the individual.

24 “(b) FOREIGN OFFENSES.—

25 “(1) IN GENERAL.—For purposes of subsection
26 (a), a conviction of an offense within the meaning of

1 such subsection may be established if the Attorney
2 General certifies to the agency administering the an-
3 nuity or retired pay concerned—

4 “(A) that an individual has been convicted
5 by an impartial court of appropriate jurisdiction
6 within a foreign country in circumstances in
7 which the conduct would constitute an offense
8 described in subsection (a)(1), had such con-
9 duct taken place within the United States, and
10 that such conviction is not being appealed or
11 that final action has been taken on such appeal;

12 “(B) that such conviction was obtained in
13 accordance with procedures that provided the
14 defendant due process rights comparable to
15 such rights provided by the United States Con-
16 stitution, and such conviction was based upon
17 evidence which would have been admissible in
18 the courts of the United States; and

19 “(C) that such conduct occurred after the
20 date of enactment of this section, which shall
21 include any offense that includes conduct that
22 continued on or after such date of enactment.

23 “(2) REVIEW.—Any certification made pursu-
24 ant to this subsection shall be subject to review by
25 the United States Court of Federal Claims based

1 upon the application of the individual concerned, or
2 his or her attorney, alleging that a condition set
3 forth in subparagraph (A), (B), or (C) of paragraph
4 (1), as certified by the Attorney General, has not
5 been satisfied in his or her particular circumstances.
6 Should the court determine that any of these condi-
7 tions has not been satisfied in such case, the court
8 shall order any annuity or retirement benefit to
9 which the individual concerned is entitled to be re-
10 stored and shall order that any payments which may
11 have been previously denied or withheld to be paid
12 by the department or agency concerned.

13 “(c) ABSENCE FROM THE UNITED STATES TO
14 AVOID PROSECUTION.—

15 “(1) IN GENERAL.—An individual, or a survivor
16 or beneficiary of an individual, may not be paid an-
17 nuity or retired pay on the basis of the service of the
18 individual in any position as an officer or employee
19 of the Federal Government which is creditable to-
20 ward the annuity or retired pay, subject to the ex-
21 ceptions in section 8311(2) and (3) of this title, if
22 the individual—

23 “(A) is under indictment for an offense de-
24 scribed in subsection (a); and

1 “(B) willfully remains outside the United
2 States, or its territories and possessions includ-
3 ing the Commonwealth of Puerto Rico, for more
4 than 1 year with knowledge of the indictment.

5 “(2) PERIOD.—The prohibition on payment of
6 annuity or retired pay under paragraph (1) applies
7 during the period—

8 “(A) beginning on the day after the end of
9 the 1-year period described in paragraph (1);
10 and

11 “(B) ending on the date on which—

12 “(i) a nolle prosequi to the entire in-
13 dictment is entered on the record or the
14 charges are dismissed by competent au-
15 thority;

16 “(ii) the individual returns and there-
17 after the indictment or charges is or are
18 dismissed; or

19 “(iii) after trial by court or court-mar-
20 tial, the accused is found not guilty of the
21 offense or offenses.

22 “(d) PARDONS.—

23 “(1) RESTORATION OF ANNUITY OR RETIRED
24 PAY.—If an individual who forfeits an annuity or re-
25 tired pay under this section is pardoned by the

1 President, the right of the individual and a survivor
2 or beneficiary of the individual to receive annuity or
3 retired pay previously denied under this section is
4 restored as of the date of the pardon.

5 “(2) LIMITATION.—Payment of annuity or re-
6 tired pay which is restored under paragraph (1)
7 based on pardon by the President may not be made
8 for a period before the date of pardon.

9 “(e) PAYMENTS TO VICTIMS.—

10 “(1) IN GENERAL.—Notwithstanding section
11 8346(a), section 8470(a), or any other provision of
12 law exempting an annuity or retired pay from execu-
13 tion, levy, attachment, garnishment, or other legal
14 process, if the annuity or retired pay of an indi-
15 vidual is subject to forfeiture under this section, the
16 head of the agency administering the annuity or re-
17 tired pay shall pay, from amounts that would have
18 been used to pay the annuity or retired pay,
19 amounts to a victim of an offense described in sub-
20 section (a) committed by the individual if and to the
21 extent payment of such amounts is expressly pro-
22 vided for in—

23 “(A) any court order of restitution to or
24 similar compensation of the victim; or

1 “(B) any court order or other similar proc-
 2 ess in the nature of garnishment for the en-
 3 forcement of a judgment rendered against such
 4 individual relating to the offense or the course
 5 of conduct constituting the offense.

6 “(2) MAXIMUM AMOUNT.—The total amount
 7 paid to a victim under paragraph (1) shall not ex-
 8 ceed the amount that is subject to forfeiture under
 9 this section.

10 “(3) LIMIT ON REFUNDS.—Contributions and
 11 deposits by an individual whose annuity or retired
 12 pay is subject to forfeiture under this section shall
 13 not be refunded under section 8316 to the extent the
 14 amount of such contributions or deposits are paid to
 15 a victim under paragraph (1).”.

16 (b) NONACCRUAL OF INTEREST ON REFUNDS.—Sec-
 17 tion 8316 of title 5, United States Code, is amended—

18 (1) in subsection (a), in the matter preceding
 19 paragraph (1), by inserting “under section 8312a
 20 or” before “because an individual”; and

21 (2) in subsection (b)—

22 (A) in paragraph (1), by striking “or” at
 23 the end;

24 (B) in paragraph (2), by striking the pe-
 25 riod at the end and inserting “or”; and

1 (C) by adding at the end the following:

2 “(3) if the individual is convicted of an offense
3 described in section 8312a(a), for the period after
4 the conviction.”.

5 (c) CONFORMING AMENDMENT.—The table of sec-
6 tions for chapter 83 of title 5, United States Code, is
7 amended by inserting after the item relating to section
8 8312 the following:

“8312a. Convicted child molesters.”.

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