

Calendar No. 597

117TH CONGRESS
2D SESSION**S. 3196**

To enhance the policies, procedures, and training for midshipmen at the United States Merchant Marine Academy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 2021

Mr. WICKER (for himself, Mrs. GILLIBRAND, Ms. COLLINS, Mr. MORAN, Mr. PETERS, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 7, 2022

Reported by Ms. CANTWELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To enhance the policies, procedures, and training for midshipmen at the United States Merchant Marine Academy, 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 “Improving Protections
5 for Midshipmen Act”.

1 **SEC. 2. SUSPENSION OR REVOCATION OF MERCHANT MAR-**
 2 **INER CREDENTIALS FOR PERPETRATORS OF**
 3 **SEXUAL HARASSMENT OR SEXUAL ASSAULT.**

4 (a) IN GENERAL.—Chapter 77 of title 46, United
 5 States Code, is amended—

6 (1) in section 7701(b), by striking “section
 7 7703” and inserting “section 7703, 7704, or
 8 7704a,”; and

9 (2) by inserting after section 7704 the fol-
 10 lowing:

11 **“§ 7704a. Sexual harassment or sexual assault as**
 12 **grounds for suspension or revocation**

13 “If it is shown at a hearing under this chapter that
 14 a holder of a license, certificate of registry, or merchant
 15 mariner’s document issued under this part, within 10
 16 years before the beginning of the proceedings, is the sub-
 17 ject of a claim, that is—

18 “(1) a claim of—

19 “(A) sexual harassment as defined in sec-
 20 tion 1561(c)(1) of title 10; or

21 “(B) sexual assault as described by section
 22 920 of title 10 (article 120 of the Uniform Code
 23 of Military Justice); and

24 “(2) substantiated, meaning that either—

1 “(A) the employer of the accused deter-
 2 mines that it is more likely than not that the
 3 harassment or assault has taken place; or

4 “(B) a finding by any Federal, State, local,
 5 or Tribal administrative or legal proceeding
 6 that the harassment or assault has taken place;
 7 the license, certificate, or document shall be sus-
 8 pended or revoked.”.

9 (b) ~~CLERICAL AMENDMENT.~~—The table of sections
 10 of chapter 77 of title 46, United States Code, is amended
 11 by inserting after the item relating to section 7704 the
 12 following:

 “7704a. Sexual harassment or sexual assault as grounds for suspension or rev-
 ocation.”.

13 **SEC. 3. SUPPORTING THE UNITED STATES MERCHANT MA-**
 14 **RINE ACADEMY.**

15 (a) ~~IN GENERAL.~~—Chapter 513 of title 46, United
 16 States Code, is amended by adding at the end the fol-
 17 lowing:

18 **“§ 51323. Sexual assault and sexual harassment pre-**
 19 **vention information management system**

20 “(a) ~~INFORMATION MANAGEMENT SYSTEM.~~—Not
 21 later than January 1, 2023, the Maritime Administrator
 22 shall establish an information management system—

23 “(1) to track and maintain—

1 “(A) the overall number of sexual assault
2 or sexual harassment incidents per fiscal year
3 at the United States Merchant Marine Academy;
4 emy;

5 “(B) the location of each such incident;

6 “(C) the names and ranks of the individuals
7 involved in each such incident;

8 “(D) the general nature of each such incident;
9 dent;

10 “(E) the type of inquiry made into each
11 such incident;

12 “(F) a determination as to whether each
13 such incident is substantiated; and

14 “(G) any accountability taken for misconduct
15 related to the incident; and

16 “(2) that is maintained in a secure fashion and
17 ensures the protection of privacy for any individuals
18 involved in such incidents.

19 “(b) SEA YEAR PROGRAM.—The Maritime Administrator shall provide for the establishment of in-person and
20 virtual confidential exit interviews for midshipmen from
21 the Academy upon completion of Sea Year and following
22 completion by the midshipmen of the survey under section
23 51322(d).
24

1 **“§ 51324. Sexual assault advisory council**

2 “(a) ESTABLISHMENT.—The Secretary of Transpor-
3 tation shall establish a Sexual Assault Advisory Council
4 (in this section referred to as the ‘Council’).

5 “(b) MEMBERSHIP.—The Council shall be composed
6 of not fewer than eight and not more than 14 individuals
7 selected by the President who are alumni or current mid-
8 shipmen of the United States Merchant Marine Academy
9 (including midshipmen or alumni who were victims of sex-
10 ual assault and midshipmen or alumni who were not vic-
11 tims of sexual assault) and governmental and nongovern-
12 mental experts and professionals in the sexual assault
13 field. At least one member shall be licensed in the field
14 of mental health and have prior experience working as a
15 counselor or therapist providing mental health care to sur-
16 vivors of sexual assault in a victim services agency or orga-
17 nization. No employee of the Department of Transpor-
18 tation shall be a member of the Council. The number of
19 governmental experts appointed to the Council shall not
20 exceed the number of nongovernmental experts.

21 “(c) FUNCTIONS; MEETINGS.—The Council shall
22 meet not less often than annually to review the policy on
23 sexual harassment, dating violence, domestic violence, sex-
24 ual assault, and stalking under section 51318, and such
25 other matters related to sexual assault and sexual harass-
26 ment the Council views as appropriate; to ensure that such

1 policy and such matters conform to the extent practicable
 2 to best practices in the sexual assault field. To carry out
 3 this subsection, the Council may conduct case reviews and
 4 have access, including through interviews, to current and
 5 former midshipmen of the United States Merchant Marine
 6 Academy (to the extent that such midshipmen provide the
 7 Department of Transportation express consent to be inter-
 8 viewed by the Council), to Sea Year surveys under section
 9 51323(b), to all data collected from restricted reporting,
 10 and to any other information necessary to conduct such
 11 case reviews, except that the Council may not have access
 12 to any personally identifying information associated with
 13 such interviews, surveys, data, or information.

14 “(d) REPORTS.—On an annual basis for each of the
 15 5 years after the date of enactment of this section, and
 16 at the discretion of the Council thereafter, the Council
 17 shall submit, to the President and the Committee on Com-
 18 merce, Science, and Transportation and the Committee on
 19 Appropriations of the Senate and the Committee on
 20 Transportation and Infrastructure and the Committee on
 21 Appropriations of the House of Representatives, a report
 22 on its findings based on the reviews conducted pursuant
 23 to subsection (c).

24 “(e) EMPLOYEE STATUS.—Members of the Council
 25 shall not be considered employees of the United States

1 Government for any purpose and shall not receive com-
 2 pensation other than reimbursement of travel expenses
 3 and per diem allowance in accordance with section 5703
 4 of title 5.

5 “(f) NONAPPLICABILITY OF FACA.—The Federal
 6 Advisory Committee Act (5 U.S.C. App.) shall not apply
 7 to the Council.

8 “(g) SUNSET.—This section shall cease to be effective
 9 on the date that is 10 years after the date of enactment
 10 of this section.

11 **“§ 51325. Diversity and inclusion action plan**

12 “(a) IN GENERAL.—Not later than January 1, 2023,
 13 the Maritime Administrator shall promulgate a Diversity
 14 and Inclusion Action Plan for the United States Merchant
 15 Marine Academy (referred to in this section as the ‘Plan’).
 16 The Plan shall—

17 “(1) increase recruiting efforts in historically
 18 underrepresented communities, including through
 19 partnerships with historically black colleges and uni-
 20 versities and maritime centers of excellence des-
 21 ignated under section 51706;

22 “(2) promulgate and make available a set of re-
 23 sources to—

1 “(A) establish responsibilities for mid-
2 shipmen, faculty, and staff of the Academy with
3 respect to diversity and inclusion;

4 “(B) create standards of—

5 “(i) training that require inter-
6 personal dialogue on diversity and inclu-
7 sion;

8 “(ii) setting behavioral boundaries
9 with others; and

10 “(iii) specific processes for the report-
11 ing and documentation of misconduct re-
12 lated to hazing, bullying, hate, and harass-
13 ment;

14 “(C) hold leaders and other individuals at
15 the Academy accountable for violations of such
16 standards;

17 “(D) equip midshipmen, faculty, and staff
18 of the Academy with the resources and mate-
19 rials to promote a diverse and inclusive working
20 environment; and

21 “(E) address how concepts of diversity and
22 inclusion can be integrated into the curriculum
23 and training of the Academy;

24 “(3) require a biannual survey of midshipmen,
25 faculty, and staff of the Academy assessing—

4 “(4) require an annual survey of faculty and
5 staff of the Academy assessing the inclusiveness of
6 the environment of the Sea Year program.

(b) CONFORMING AMENDMENTS.—The chapter analysis for chapter 513 of title 46, United States Code, is amended by adding at the end the following:

~~“51325. Diversity and inclusion action plan”.~~

(1) STUDENT SUPPORT PLAN.—Not later than January 1, 2023, the Maritime Administrator shall promulgate a Student Support Plan for the United States Merchant Marine Academy. Such plan shall—

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1 (B) establish a tracking system for suicidal
2 ideations and suicide attempts;

3 (C) create an option for midshipmen to ob-
4 tain assistance from a professional care pro-
5 vider virtually; and

6 (D) require an annual survey of faculty
7 and staff assessing the adequacy of mental
8 health resources for midshipmen of the Acad-
9 emy, both on campus and during Sea Year.

10 (2) REPORT TO CONGRESS.—Not later than 30
11 days after the date of enactment of this Act, the
12 Maritime Administrator shall provide Congress with
13 a report on the resources necessary to properly im-
14 plement this subsection.

15 **SEC. 4. SPECIAL VICTIMS COUNSEL.**

16 Section 51319 of title 46, United States Code, is
17 amended—

18 (1) by redesignating subsection (e) as sub-
19 section (d);

20 (2) by inserting after subsection (b) the fol-
21 lowing:

22 “(e) SPECIAL VICTIMS COUNSEL.—The Secretary
23 shall designate legal counsel (to be known as ‘Special Vic-
24 tims’ Counsel’) for the purpose of providing legal assist-
25 ance to any cadet of the Academy who is the victim of

1 an alleged sex-related offense, regardless of whether the
 2 report of that offense is restricted or unrestricted.”; and

3 ~~(3)~~ by adding at the end the following:

4 “(e) UNFILLED VACANCIES.—In the event of an un-
 5 filled vacancy for any position under this section, the Sec-
 6 retary may appoint, without regard to the provisions of
 7 subchapter I of chapter 33 of title 5, other than sections
 8 3303 and 3328 of that title, a qualified candidate for the
 9 purposes of filling such position.”.

10 **SEC. 5. CATCH A SERIAL OFFENDER ASSESSMENT.**

11 Not later than 1 year after the date of enactment
 12 of this Act, the Commandant of the Coast Guard, in con-
 13 sultation with the Maritime Administrator, shall conduct
 14 an assessment of the feasibility and process necessary to
 15 implement a program for the United States Merchant Ma-
 16 rine Academy and United States Merchant Marine mod-
 17 eled off of the Catch a Serial Offender program of the
 18 Department of Defense using the information manage-
 19 ment system required under subsection (a) of section
 20 51323 of title 46, United States Code, and the exit inter-
 21 views under subsection (b) of such section.

22 **SEC. 6. SHIPBOARD TRAINING.**

23 Section 51322(a) of title 46, United States Code, is
 24 amended by adding at the end the following:

25 “(3) TRAINING.—

1 “(A) IN GENERAL.—As part of training
 2 provided to all midshipmen of the Academy, the
 3 Maritime Administrator shall develop and im-
 4 plement comprehensive in-person sexual assault
 5 risk-reduction and response training that, to
 6 the extent practicable, conforms to best prac-
 7 tices in the sexual assault field and includes ap-
 8 propriate scenario-based training.

9 “(B) DEVELOPMENT AND CONSULTATION
 10 WITH EXPERTS.—In developing the sexual as-
 11 sault risk-reduction and response training
 12 under subparagraph (A), the Maritime Admin-
 13 istrator shall consult with and incorporate, as
 14 appropriate, the recommendations and views of
 15 experts in the sexual assault field.”.

16 **SEC. 7. UNITED STATES MARITIME TRANSPORTATION SYS-**
 17 **TEM WORKFORCE DIVERSITY AND INCLU-**
 18 **SION TASK FORCE.**

19 Section 55501 of title 46, United States Code, is
 20 amended by adding at the end the following:

21 “(g) MARITIME TRANSPORTATION SYSTEM DIVER-
 22 SITY AND INCLUSION TASK FORCE.—

23 “(1) IN GENERAL.—Not later than 120 days
 24 after the date of enactment of this subsection, the
 25 Secretary of Transportation shall establish within

1 the Committee a task force to provide an inter-
 2 agency forum for the identification, discussion, and
 3 sharing of tools and practices that promote diversity
 4 and inclusiveness within the maritime transportation
 5 system workforce.

6 “(2) RESPONSIBILITIES.—The task force estab-
 7 lished under this subsection shall share best prac-
 8 tices with the Committee toward enhancing rep-
 9 resentation in the maritime transportation system
 10 workforce.

11 “(3) DIVERSITY AND INCLUSION ACTION
 12 PLAN.—Not later than January 1, 2023, the Sec-
 13 retary of Transportation shall promulgate a Diver-
 14 sity and Inclusion Action Plan for the maritime
 15 transportation system workforce. Such plan shall es-
 16 tablish measurable parameters to assess recruiting,
 17 retention, training, and support for women and his-
 18 torically underrepresented racial and ethnic minori-
 19 ties within the United States maritime community.”.

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Improving Protections*
 22 *for Midshipmen Act”.*

1 **SEC. 2. SUSPENSION OR REVOCATION OF MERCHANT MAR-**
 2 **INER CREDENTIALS FOR PERPETRATORS OF**
 3 **SEXUAL HARASSMENT OR SEXUAL ASSAULT.**

4 (a) *IN GENERAL.*—Chapter 77 of title 46, United
 5 States Code, is amended by inserting after section 7704 the
 6 following:

7 **“§ 7704a. Sexual harassment or sexual assault as**
 8 **grounds for suspension or revocation**

9 “(a) *SEXUAL HARASSMENT.*—Subject to subsection
 10 (c)(3), if it is shown at a hearing under this chapter that
 11 a holder of a license, certificate of registry, or merchant
 12 mariner’s document issued under this part, within 10 years
 13 before the beginning of the suspension and revocation pro-
 14 ceedings, is the subject of a substantiated claim of sexual
 15 harassment, then the license, certificate of registry, or mer-
 16 chant mariner’s document shall be suspended or revoked.

17 “(b) *SEXUAL ASSAULT.*—Subject to subsection (c)(3),
 18 if it is shown at a hearing under this chapter that a holder
 19 of a license, certificate of registry, or merchant mariner’s
 20 document issued under this part, within 20 years before the
 21 beginning of the suspension and revocation proceedings, is
 22 the subject of a substantiated claim of sexual assault, then
 23 the license, certificate of registry, or merchant mariner’s
 24 document shall be revoked.

25 “(c) *SUBSTANTIATED CLAIM.*—

1 “(1) *IN GENERAL.*—*The term ‘substantiated*
2 *claim’ means—*

3 “(A) *a legal proceeding, or a final agency*
4 *action in any administrative proceeding, that*
5 *determines the individual committed sexual har-*
6 *assment or sexual assault in violation of any*
7 *Federal, State, local, or Tribal law or regulation*
8 *and for which all appeals have been exhausted;*
9 *or*

10 “(B) *a determination after an investigation*
11 *by the Coast Guard that it is more likely than*
12 *not the individual committed sexual harassment*
13 *or sexual assault as defined in subsection (d), if*
14 *the determination affords appropriate due proc-*
15 *ess rights to the subject of the investigation.*

16 “(2) *INVESTIGATION BY THE COAST GUARD.*—*An*
17 *investigation by the Coast Guard under paragraph*
18 *(1)(B) shall include evaluation of the following mate-*
19 *rials that shall be provided to the Coast Guard:*

20 “(A) *Any inquiry or determination made*
21 *by the employer of the individual as to whether*
22 *the individual committed sexual harassment or*
23 *sexual assault.*

24 “(B) *Upon request from the Coast Guard,*
25 *any investigative materials, documents, records,*

1 *or files in the possession of an employer or*
 2 *former employer of the individual that are re-*
 3 *lated to the claim of sexual harassment or sexual*
 4 *assault by the individual.*

5 “(3) *ADDITIONAL REVIEW.*—*A license, certificate*
 6 *of registry, or merchant mariner’s document shall not*
 7 *be suspended or revoked under subsection (a) or (b)*
 8 *unless the substantiated claim is reviewed and af-*
 9 *firmed, in accordance with the applicable definition*
 10 *in subsection (d), by an administrative law judge at*
 11 *the same suspension or revocation hearing under this*
 12 *chapter described in subsection (a) or (b), as applica-*
 13 *ble.*

14 “(d) *DEFINITIONS.*—

15 “(1) *SEXUAL HARASSMENT.*—*The term ‘sexual*
 16 *harassment’ means any of the following:*

17 “(A) *Conduct that—*

18 “(i) *involves unwelcome sexual ad-*
 19 *vances, requests for sexual favors, or delib-*
 20 *erate or repeated offensive comments or ges-*
 21 *tures of a sexual nature, when—*

22 “(I) *submission to such conduct is*
 23 *made either explicitly or implicitly a*
 24 *term or condition of a person’s job,*
 25 *pay, or career;*

1 “(II) submission to or rejection of
2 such conduct by a person is used as a
3 basis for career or employment deci-
4 sions affecting that person;

5 “(III) such conduct has the pur-
6 pose or effect of unreasonably inter-
7 fering with an individual’s work per-
8 formance or creates an intimidating,
9 hostile, or offensive working environ-
10 ment; or

11 “(IV) conduct may have been by a
12 person’s supervisor, a supervisor in an-
13 other area, a co-worker, or another
14 credentialed mariner; and

15 “(ii) is so severe or pervasive that a
16 reasonable person would perceive, and the
17 victim does perceive, the environment as
18 hostile or offensive.

19 “(B) Any use or condonation, by any per-
20 son in a supervisory or command position, of
21 any form of sexual behavior to control, influence,
22 or affect the career, pay, or job of a subordinate.

23 “(C) Any deliberate or repeated unwelcome
24 verbal comment or gesture of a sexual nature by
25 any fellow employee of the complainant.

1 “(2) *SEXUAL ASSAULT.*—The term ‘sexual as-
 2 sault’ means any form of abuse or contact as defined
 3 in chapter 109A of title 18.

4 “(e) *REGULATIONS.*—The Secretary of the department
 5 in which the Coast Guard is operating may issue further
 6 regulations as necessary to update the definitions in this
 7 section, consistent with descriptions of sexual harassment
 8 and sexual assault addressed in titles 10 and 18, to imple-
 9 ment this section.”.

10 (b) *CLERICAL AMENDMENT.*—The chapter analysis of
 11 chapter 77 of title 46, United States Code, is amended by
 12 inserting after the item relating to section 7704 the fol-
 13 lowing:

 “7704a. Sexual harassment or sexual assault as grounds for suspension or revoca-
 tion.”.

14 **SEC. 3. SUPPORTING THE UNITED STATES MERCHANT MA-**
 15 **RINE ACADEMY.**

16 (a) *IN GENERAL.*—Chapter 513 of title 46, United
 17 States Code, is amended by adding at the end the following:

18 **“§51323. Sexual assault and sexual harassment pre-**
 19 **vention information management system**

20 “(a) *INFORMATION MANAGEMENT SYSTEM.*—

21 “(1) *IN GENERAL.*—Not later than January 1,
 22 2023, the Maritime Administrator shall establish an
 23 information management system to track and main-
 24 tain, in such a manner that patterns can be reason-

ably identified, information regarding claims and incidents involving cadets that are reportable pursuant to subsection (d) of section 51318 of this chapter.

“(2) *INFORMATION MAINTAINED IN THE SYSTEM.*—Information maintained in the system shall include the following information, to the extent that information is available:

“(A) *The overall number of sexual assault or sexual harassment incidents per fiscal year.*

“(B) *The location of each such incident, including vessel name and the name of the company operating the vessel, if applicable.*

“(C) *The names and ranks of the individuals involved in each such incident.*

“(D) *The general nature of each such incident, to include copies of any associated reports completed on the incidents.*

“(E) *The type of inquiry made into each such incident.*

“(F) *A determination as to whether each such incident is substantiated.*

“(G) *Any informal and formal accountability measures taken for misconduct related to the incident, including decisions on whether to prosecute the case.*

1 “(3) *PAST INFORMATION INCLUDED.*—*The infor-*
2 *mation management system under this section shall*
3 *include the relevant data listed in this subsection re-*
4 *lated to sexual assault and sexual harassment that the*
5 *Maritime Administrator possesses, and shall not be*
6 *limited to data collected after January 1, 2023.*

7 “(4) *PRIVACY PROTECTIONS.*—*The Maritime Ad-*
8 *ministrator and the Department of Transportation*
9 *Chief Information Officer shall coordinate to ensure*
10 *that the information management system under this*
11 *section shall be established and maintained in a se-*
12 *cure fashion to ensure the protection of the privacy of*
13 *any individuals whose information is entered in such*
14 *system.*

15 “(5) *CYBERSECURITY AUDIT.*—*Ninety days after*
16 *the implementation of the information management*
17 *system, the Office of Inspector General of the Depart-*
18 *ment of Transportation shall commence an audit of*
19 *the cybersecurity of the system and shall submit a re-*
20 *port containing the results of that audit to the Com-*
21 *mittee on Commerce, Science, and Transportation of*
22 *the Senate and the Committee on Transportation and*
23 *Infrastructure of the House of Representatives.*

24 “(6) *CORRECTING RECORDS.*—*In establishing the*
25 *information management system, the Maritime Ad-*

1 *ministrator shall create a process to ensure that if*
 2 *any incident report results in a final agency action*
 3 *or final judgement that acquits an individual of*
 4 *wrongdoing, all personally identifiable information*
 5 *about the acquitted individual is removed from that*
 6 *incident report in the system.*

7 *“(b) SEA YEAR PROGRAM.—The Maritime Adminis-*
 8 *trator shall provide for the establishment of in-person and*
 9 *virtual confidential exit interviews, to be conducted by per-*
 10 *sonnel who are not involved in the assignment of the mid-*
 11 *shipmen to a Sea Year vessel, for midshipmen from the*
 12 *Academy upon completion of Sea Year and following com-*
 13 *pletion by the midshipmen of the survey under section*
 14 *51322(d).*

15 **“§51324. Student advisory board at the United States**
 16 ***Merchant Marine Academy***

17 *“(a) IN GENERAL.—The Maritime Administrator shall*
 18 *establish at the United States Merchant Marine Academy*
 19 *an advisory board to be known as the Advisory Board to*
 20 *the Secretary of Transportation (referred to in this section*
 21 *as the ‘Advisory Board’).*

22 *“(b) MEMBERSHIP.—The Advisory Board shall be*
 23 *composed of not fewer than 12 midshipmen of the Merchant*
 24 *Marine Academy who are enrolled at the Merchant Marine*

1 *Academy at the time of the appointment, including not*
 2 *fewer than 3 cadets from each class.*

3 “(c) *APPOINTMENT; TERM.*—*Midshipmen shall serve*
 4 *on the Advisory Board pursuant to appointment by the*
 5 *Maritime Administrator. Appointments shall be made not*
 6 *later than 60 days after the date of the swearing in of a*
 7 *new class of midshipmen at the Academy. The term of mem-*
 8 *bership of a midshipman on the Advisory Board shall be*
 9 *1 academic year.*

10 “(d) *REAPPOINTMENT.*—*The Maritime Administrator*
 11 *may reappoint not more than 6 cadets from the previous*
 12 *term to serve on the Advisory Board for an additional aca-*
 13 *demic year if the Maritime Administrator determines such*
 14 *reappointment to be in the best interests of the Merchant*
 15 *Marine Academy.*

16 “(e) *MEETINGS.*—*The Advisory Board shall meet with*
 17 *the Secretary of Transportation not less than once each aca-*
 18 *demic year to discuss the activities of the Advisory Board.*
 19 *The Advisory Board shall meet in person with the Maritime*
 20 *Administrator not less than 2 times each academic year to*
 21 *discuss the activities of the Advisory Board.*

22 “(f) *DUTIES.*—*The Advisory Board shall—*

23 “(1) *identify health and wellbeing, diversity, and*
 24 *sexual assault and harassment challenges and other*
 25 *topics considered important by the Advisory Board*

1 *facing midshipmen at the Merchant Marine Academy,*
 2 *off campus, and while aboard ships during Sea Year*
 3 *or other training opportunities;*

4 “(2) *discuss and propose possible solutions, in-*
 5 *cluding improvements to culture and leadership devel-*
 6 *opment at the Merchant Marine Academy; and*

7 “(3) *periodically review the efficacy of the pro-*
 8 *gram in section 51323(b), as appropriate, and pro-*
 9 *vide recommendations to the Maritime Administrator*
 10 *for improvement.*

11 “(g) *WORKING GROUPS.—The Advisory Board may es-*
 12 *tablish one or more working groups to assist the Advisory*
 13 *Board in carrying out its duties, including working groups*
 14 *composed in part of midshipmen at the Merchant Marine*
 15 *Academy who are not current members of the Advisory*
 16 *Board.*

17 “(h) *REPORTS AND BRIEFINGS.—The Advisory Board*
 18 *shall regularly provide the Secretary of Transportation and*
 19 *the Maritime Administrator reports and briefings on the*
 20 *results of its duties, including recommendations for actions*
 21 *to be taken in light of such results. Such reports and brief-*
 22 *ings may be provided in writing, in person, or both.*

1 **“§ 51325. Sexual Assault Advisory Council**

2 “(a) *ESTABLISHMENT.*—*The Secretary of Transpor-*
 3 *tation shall establish a Sexual Assault Advisory Council (in*
 4 *this section referred to as the ‘Council’).*

5 “(b) *MEMBERSHIP.*—

6 “(1) *IN GENERAL.*—*The Council shall be com-*
 7 *posed of not fewer than 8 and not more than 14 indi-*
 8 *viduals selected by the Secretary of Transportation*
 9 *who are alumni that have graduated within the last*
 10 *4 years or current midshipmen of the United States*
 11 *Merchant Marine Academy (including midshipmen or*
 12 *alumni who were victims of sexual assault and mid-*
 13 *shipmen or alumni who were not victims of sexual as-*
 14 *sault) and governmental and nongovernmental ex-*
 15 *perts and professionals in the sexual assault field.*

16 “(2) *EXPERTS INCLUDED.*—*The Council shall in-*
 17 *clude—*

18 “(A) *not less than 1 member who is licensed*
 19 *in the field of mental health and has prior expe-*
 20 *rience working as a counselor or therapist pro-*
 21 *viding mental health care to survivors of sexual*
 22 *assault in a victim services agency or organiza-*
 23 *tion; and*

24 “(B) *not less than 1 member who has prior*
 25 *experience developing or implementing sexual as-*

1 *sault or sexual harassment prevention and re-*
 2 *sponse policies in an academic setting.*

3 “(3) *RULES REGARDING MEMBERSHIP.*—No em-
 4 *ployee of the Department of Transportation shall be*
 5 *a member of the Council. The number of governmental*
 6 *experts appointed to the Council shall not exceed the*
 7 *number of nongovernmental experts.*

8 “(c) *DUTIES; AUTHORIZED ACTIVITIES.*—

9 “(1) *IN GENERAL.*—The Council shall meet not
 10 *less often than semiannually to—*

11 “(A) *review—*

12 “(i) *the policies on sexual harassment,*
 13 *dating violence, domestic violence, sexual*
 14 *assault, and stalking under section 51318 of*
 15 *this title; and*

16 “(ii) *related matters the Council views*
 17 *as appropriate; and*

18 “(B) *develop recommendations designed to*
 19 *ensure that such policies and such matters con-*
 20 *form, to the extent practicable, to best practices*
 21 *in the field of sexual assault and sexual harass-*
 22 *ment response and prevention.*

23 “(2) *AUTHORIZED ACTIVITIES.*—To carry out
 24 *this subsection, the Council may—*

1 “(A) conduct case reviews, as appropriate
 2 and only with the consent of the victim of sexual
 3 assault or harassment;

4 “(B) interview current and former mid-
 5 shipmen of the United States Merchant Marine
 6 Academy (to the extent that such midshipmen
 7 provide the Department of Transportation ex-
 8 press consent to be interviewed by the Council);
 9 and

10 “(C) review—

11 “(i) exit interviews under section
 12 51323(b) and surveys under section
 13 51322(d);

14 “(ii) data collected from restricted re-
 15 porting; and

16 “(iii) any other information necessary
 17 to conduct such case reviews.

18 “(3) *PERSONALLY IDENTIFIABLE INFORMA-*
 19 *TION.*—In carrying out this subsection, the Council
 20 shall comply with the obligations of the Department
 21 of Transportation to protect personally identifiable
 22 information.

23 “(d) *REPORTS.*—On an annual basis for each of the
 24 5 years after the date of enactment of this section, and at
 25 the discretion of the Council thereafter, the Council shall

1 *submit, to the President and the Committee on Commerce,*
 2 *Science, and Transportation and the Committee on Appro-*
 3 *priations of the Senate and the Committee on Transpor-*
 4 *tation and Infrastructure and the Committee on Appro-*
 5 *priations of the House of Representatives, a report on the*
 6 *Council’s findings based on the reviews conducted pursuant*
 7 *to subsection (c) and related recommendations.*

8 “(e) *EMPLOYEE STATUS.—Members of the Council*
 9 *shall not be considered employees of the United States Gov-*
 10 *ernment for any purpose and shall not receive compensa-*
 11 *tion other than reimbursement of travel expenses and per*
 12 *diem allowance in accordance with section 5703 of title 5.*

13 “(f) *NONAPPLICABILITY OF FACA.—The Federal Advi-*
 14 *sory Committee Act (5 U.S.C. App.) shall not apply to the*
 15 *Council.*

16 **“§51326. Student support**

17 *“The Maritime Administrator shall—*

18 *“(1) require a biannual survey of midshipmen,*
 19 *faculty, and staff of the Academy assessing the inclu-*
 20 *siveness of the environment of the Academy; and*

21 *“(2) require an annual survey of faculty and*
 22 *staff of the Academy assessing the inclusiveness of the*
 23 *environment of the Sea Year program.”.*

24 “(b) *REPORT TO CONGRESS.—Not later than 30 days*
 25 *after the date of enactment of this section, the Maritime*

1 *Administrator shall provide Congress with a briefing on the*
 2 *resources necessary to properly implement section 51326 of*
 3 *title 46, United States Code, as added by this section.*

4 *(c) CONFORMING AMENDMENTS.—The chapter anal-*
 5 *ysis for chapter 513 of title 46, United States Code, is*
 6 *amended by adding at the end the following:*

“51323. Sexual assault and sexual harassment prevention information manage-
ment system.

“51324. Student advisory board at the United States Merchant Marine Academy.

“51325. Sexual Assault Advisory Council.

“51326. Student Support.”.

7 *(d) UNITED STATES MERCHANT MARINE ACADEMY*
 8 *STUDENT SUPPORT PLAN.—*

9 *(1) STUDENT SUPPORT PLAN.—Not later than*
 10 *January 1, 2023, the Maritime Administrator shall*
 11 *issue a Student Support Plan for the United States*
 12 *Merchant Marine Academy, in consultation with rel-*
 13 *evant mental health professionals in the Federal Gov-*
 14 *ernment or experienced with the maritime industry or*
 15 *related industries. Such plan shall—*

16 *(A) address the mental health resources*
 17 *available to midshipmen, both on-campus and*
 18 *during Sea Year;*

19 *(B) establish a tracking system for suicidal*
 20 *ideations and suicide attempts of midshipmen;*

21 *(C) create an option for midshipmen to ob-*
 22 *tain assistance from a professional care provider*
 23 *virtually; and*

1 (D) require an annual survey of faculty
 2 and staff assessing the adequacy of mental health
 3 resources for midshipmen of the Academy, both
 4 on campus and during Sea Year.

5 (2) REPORT TO CONGRESS.—Not later than 30
 6 days after the date of enactment of this section, the
 7 Maritime Administrator shall provide Congress with
 8 a report on the resources necessary to properly imple-
 9 ment this subsection.

10 (e) SPECIAL VICTIMS ADVISOR.—Section 51319 of title
 11 46, United States Code, is amended—

12 (1) by redesignating subsection (c) as subsection
 13 (d);

14 (2) by inserting after subsection (b) the fol-
 15 lowing:

16 “(c) SPECIAL VICTIMS ADVISOR.—

17 “(1) IN GENERAL.—The Secretary shall des-
 18 ignate an attorney (to be known as the ‘Special Vic-
 19 tims Advisor’) for the purpose of providing legal as-
 20 sistance to any cadet of the Academy who is the vic-
 21 tim of an alleged sex-related offense regarding admin-
 22 istrative and criminal proceedings related to such of-
 23 fense, regardless of whether the report of that offense
 24 is restricted or unrestricted.

1 “(2) *SPECIAL VICTIMS ADVISORY.*—*The Secretary*
 2 *shall ensure that the attorney designated as the Spe-*
 3 *cial Victims Advisor has knowledge of the Uniform*
 4 *Code of Military Justice, as well as criminal and*
 5 *civil law.*

6 “(3) *PRIVILEGED COMMUNICATIONS.*—*Any com-*
 7 *munications between a victim of an alleged sex-re-*
 8 *lated offense and the Special Victim Advisor, when*
 9 *acting in their capacity as such, shall have the same*
 10 *protection that applicable law provides for confiden-*
 11 *tial attorney-client communications.”; and*

12 (3) *by adding at the end the following:*

13 “(e) *UNFILLED VACANCIES.*—*The Administrator of the*
 14 *Maritime Administration may appoint qualified can-*
 15 *didates to positions under subsections (a) and (d) of this*
 16 *section without regard to sections 3309 through 3319 of title*
 17 *5.”.*

18 (f) *CATCH A SERIAL OFFENDER ASSESSMENT.*—

19 (1) *ASSESSMENT.*—*Not later than one year after*
 20 *the date of enactment of this section, the Com-*
 21 *mandant of the Coast Guard, in coordination with*
 22 *the Maritime Administrator, shall conduct an assess-*
 23 *ment of the feasibility and process necessary, and ap-*
 24 *propriate responsible entities to establish a program*
 25 *for the United States Merchant Marine Academy and*

1 *United States Merchant Marine modeled on the Catch*
 2 *a Serial Offender program of the Department of De-*
 3 *fense using the information management system re-*
 4 *quired under subsection (a) of section 51323 of title*
 5 *46, United States Code, and the exit interviews under*
 6 *subsection (b) of such section.*

7 (2) *LEGISLATIVE CHANGE PROPOSALS.—If, as a*
 8 *result of the assessment required by paragraph (1),*
 9 *the Commandant or the Administrator determines*
 10 *that additional authority is necessary to implement*
 11 *the program described in paragraph (1), the Com-*
 12 *mandant or the Administrator, as applicable, shall*
 13 *provide appropriate legislative change proposals to*
 14 *Congress.*

15 (g) *SHIPBOARD TRAINING.—Section 51322(a) of title*
 16 *46, United States Code, is amended by adding at the end*
 17 *the following:*

18 “(3) *TRAINING.—*

19 “(A) *IN GENERAL.—As part of training*
 20 *that shall be provided not less than semiannually*
 21 *to all midshipmen of the Academy, pursuant to*
 22 *section 51318, the Maritime Administrator shall*
 23 *develop and implement comprehensive in-person*
 24 *sexual assault risk-reduction and response train-*
 25 *ing that, to the extent practicable, conforms to*

1 *best practices in the sexual assault prevention*
2 *and response field and includes appropriate sce-*
3 *nario-based training.*

4 “(B) *DEVELOPMENT AND CONSULTATION*
5 *WITH EXPERTS.—In developing the sexual as-*
6 *sault risk-reduction and response training under*
7 *subparagraph (A), the Maritime Administrator*
8 *shall consult with and incorporate, as appro-*
9 *priate, the recommendations and views of experts*
10 *in the sexual assault field.”.*

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117TH CONGRESS
2^D Session

S. 3196

A BILL

To enhance the policies, procedures, and training
for midshipmen at the United States Merchant
Marine Academy, and for other purposes.

DECEMBER 7, 2022

Reported with an amendment