AMENDMENT NO._____ Calendar No._____
Purpose: To protect abuse victims from retaliation.


S.2330

To amend the Ted Stevens Olympic and Amateur Sports Act to provide for congressional oversight of the board of directors of the United States Olympic and Paralympic Committee and to protect amateur athletes from emotional, physical, and sexual abuse, and for other purposes.

Referred to the Committee on _______ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by
_____) proposed by__________

Viz:

1 In lieu of the amendments proposed, the following:

2 On page 26, strike line 24 and insert the following:

3 plan for improvement, as necessary

4 “(G) A detailed description of any complaint of retaliation made during such calendar year, including the entity involved, the number of allegations of retaliation, and the outcome of such allegations.
On page 51, strike line 7 and insert the following:

lobbying or fundraising expenses.

“(h) RETALIATION.—

“(1) PROHIBITION.—The Center (or any officer, employee, contractor, subcontractor, or agent of the Center) may not retaliate against any protected individual because of any protected disclosure.

“(2) REPORTING, INVESTIGATION AND ARBITRATION.—The Center shall establish mechanisms for the reporting, investigation, and resolution (through binding third-party arbitration) of complaints of alleged retaliation against a protected individual.

“(3) DISCIPLINARY ACTION.—If the Center finds that an officer or employee of the Center (or any contractor, subcontractor, or agent of the Center) has retaliated against a protected individual, the Center shall take appropriate disciplinary action with respect to any such individual found to have retaliated against the protected individual.

“(4) REMEDIES.—

“(A) IN GENERAL.—If the Center finds that an officer or employee of the Center (or contractor, subcontractor, or agent of the Cen-
ter) has retaliated against a protected individual, the Center shall promptly—

“(i) take affirmative action to abate the violation;

“(ii) reinstate the complainant to the former position with the same pay and terms and privileges; and

“(iii) pay compensatory damages, including economic damages (including back-pay with interest) and any special damages sustained as a result of the retaliation, including damages for pain and suffering, reasonable attorney fees, and costs.

“(5) ENFORCEMENT ACTION AND PROCEDURES.—

“(A) IN GENERAL.—If the Center 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.

“(C) RELIEF.—The court shall have jurisdiction to grant all relief under paragraph (4).

“(6) STATUTE OF LIMITATIONS.—An action under paragraph (2) shall be commenced not later than 2 years after the date on which the violation occurs, or after the date on which the protected individual became aware of the violation.

“(7) BURDENS OF PROOF.—An action under paragraph (2) or (5) shall be governed as follows:

“(A) REQUIRED SHOWING BY COMPLAINANT.—The Center shall dismiss a complaint filed under this subsection and shall not conduct an investigation unless the complainant makes a prima facie showing that any retaliation was a contributing factor in the action alleged in the complaint.

“(B) CRITERIA FOR DETERMINATION BY ARBITRATION.—The arbitration may determine that a violation of paragraph (1) has occurred only if the complainant demonstrates that the retaliation was a contributing factor in the action alleged in the complaint.
“(C) PROHIBITION.—Relief may not be ordered under paragraph (4) if the Center demonstrates by clear and convincing evidence that the Center would have taken the same action in the absence of that behavior.

“(8) REVIEW.—Any person adversely affected or aggrieved by an order issued under paragraph (4) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the arbitration decision of the Center. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

“(9) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.
“(10) NONENFORCEABILITY OF CERTAIN PRO-
visions waiviNG RIGHTS AND REMEDIES.—The
rights and remedies provided for in this section may
not be waived by any agreement, policy form, or con-
dition of employment.

“(11) PROTECTED INDIVIDUAL.—For purposes
of this subsection, a protected individual includes
any official or employee of the Center and any con-
tractor or subcontractor of the Center.”.

On page 59, between lines 16 and 17, insert the fol-
lowing:

“(6) a detailed description of any complaint of
retaliation made during the preceding year by an of-
ficer or employee of the Center or a contractor or
subcontractor of the Center that includes—

“(A) the number of such complaints; and

“(B) the outcome of each such complaint;

At the end, add the following:

SEC. 12. PROTECTING ABUSE VICTIMS FROM RETALIATION.

(a) DEFINITIONS.—Section 220501(b) of title 36,
United States Code, as amended by section 6(a)(2), is fur-
ther amended—
(1) by redesignating paragraphs (8), (9), and
(10) as paragraphs (9), (10), and (14), respectively;
and
(2) by inserting after paragraph (7) the fol-
lowing:

"(8) 'covered entity' means—

  "(A) an officer or employee of the Center;
  "(B) a coach, trainer, manager, adminis-
  trator, or other employee or official associated
  with the corporation or a national governing
  body;
  "(C) the Department of Justice;
  "(D) a Federal or State law enforcement
  authority;
  "(E) a Federal or State entity responsible
  for receiving reports of child abuse;
  "(F) the Equal Employment Opportunity
  Commission or other State or Federal entity
  with responsibility over claims of sexual harass-
  ment; or
  "(G) any other person who the protected
  individual reasonably believes has authority to
  investigate or act on information relating to
  abuse, including—"
“(i) emotional, physical, or sexual abuse; and
“(ii) sexual harassment.”; and
(3) by inserting after paragraph (10), as so redesignated, the following:
“(11) ‘protected disclosure’ means any lawful act of a protected individual, or in the case of a protected individual who is a minor, an individual acting on behalf of a protected individual—
“(A) to provide information to, cause information to be provided to, or otherwise assist in an investigation by a covered entity (or be perceived as providing information to, causing information to be provided to, or otherwise assisting in such an investigation) relating to abuse, including—
“(i) emotional, physical, or sexual abuse;
“(ii) sexual harassment; and
“(iii) a violation of anti-abuse policies, practices and procedures established pursuant to paragraph (3) of section 220541(a) and paragraph (2) of section 220542(a);
“(B) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (or be perceived as filing, causing to be filed, testifying, participating in, or otherwise assisting in such an investigation) relating to abuse, including—

“(i) emotional, physical, or sexual abuse;

“(ii) sexual harassment; and

“(iii) a violation of anti-abuse policies and procedures established pursuant to paragraph (3) of section 220541(a) and paragraph (2) of section 220542(a);

“(C) in communication with Congress; or

“(D) in the case of an amateur athlete, in communication with the Office of the Athlete Ombudsman.

“(12) ‘protected individual’ means any—

“(A) amateur athlete, coach, medical professional, or trainer associated with the corporation or a national governing body; or

“(B) any official or employee of the corporation, a national governing body, or a contractor or sub contractor of the corporation or a national governing body.
“(13) ‘retaliation’ means any adverse or discriminatory action, or the threat of an adverse or discriminatory action, carried out against a protected individual because of any protected disclosure, including—

“(A) discipline;

“(B) discrimination regarding pay, terms, or privileges;

“(C) removal from a training facility;

“(D) reduced coaching or training;

“(E) reduced meals or housing; and

“(F) removal from competition.”.

(b) RESOLUTION OF DISPUTES.—Section 220509 of title 36, United States Code, is amended—

(1) in subsection (a), in the first sentence, by inserting “complaints of retaliation or” after “relating to”;

(2) by adding at the end the following:

“(e) RETALIATION.—

“(1) IN GENERAL.—The corporation, the national governing bodies, or any officer, employee, contractor, subcontractor, or agent of the corporation or a national governing body may not retaliate against any protected individual because of any protected disclosure.
"(2) Reporting, Investigation and Arbitration.—The corporation shall establish mechanisms for the reporting, investigation, and resolution (through binding third-party arbitration) of complaints of alleged retaliation.

"(3) Disciplinary Action.—If the corporation finds that an officer or employee of the corporation or a national governing body (or any contractor, subcontractor, or agent of the corporation or a national governing body) has retaliated against a protected individual, the corporation or national governing body, as applicable, shall take appropriate disciplinary action with respect to any such individual found to have retaliated against the protected individual.

"(4) Remedies.—

"(A) In General.—If the corporation finds that an officer or employee of the corporation or a national governing body (or contractor, subcontractor, or agent of the corporation or a national governing body) has retaliated against a protected individual, the corporation or national governing body, as applicable, shall promptly—
“(i) take affirmative action to abate the violation;

“(ii) reinstate the complainant to the former position with the same pay and terms and privileges; and

“(iii) pay compensatory damages, including economic damages (including back-pay with interest) and any special damages sustained as a result of the retaliation, including damages for pain and suffering, reasonable attorney fees, and costs.

“(B) REIMBURSEMENT FROM NATIONAL GOVERNING BODY.—In the case of a national governing body found to have retaliated against a protected individual, the corporation may demand reimbursement from the national governing body 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 ac-
tion without regard to the amount in con-
troversy.

"(B) JURY TRIAL.—A party to an action
brought under paragraph (A) shall be entitled
to trial by jury.

"(C) RELIEF.—The court shall have juris-
diction to grant all relief under paragraph (4).

"(6) STATUTE OF LIMITATIONS.—An action
under paragraph (2) shall be commenced not later
than 2 years after the date on which the violation
occurs, or after the date on which the protected indi-
vidual became aware of the violation.

"(7) BURDENS OF PROOF.— An action under
paragraph (2) or (5) shall be governed as follows:

"(A) REQUIRED SHOWING BY COMPLAIN-
ANT.—The corporation shall dismiss a com-
plaint filed under this subsection and shall not
conduct an investigation unless the complainant
makes a prima facie showing that any retaliation
was a contributing factor in the action al-
leged in the complaint.
“(B) CRITERIA FOR DETERMINATION BY
THE ARBITRATION.—The arbitration may deter-
mine that a violation of paragraph (1) has oc-
curred only if the complainant demonstrates
that the retaliation was a contributing factor in
the action alleged in the complaint.

“(C) PROHIBITION.—Relief may not be or-
dered under paragraph (4) if the corporation or
national governing body, as applicable, dem-
onstrates by clear and convincing evidence that
the corporation or national governing body
would have taken the same action in the ab-
sence of that behavior.

“(8) REVIEW.—Any person adversely affected
or aggrieved by an order issued under paragraph (4)
may obtain review of the order in the United States
Court of Appeals for the circuit in which the viola-
tion, with respect to which the order was issued, al-
legedly occurred or the circuit in which the com-
plainant resided on the date of such violation. The
petition for review shall be filed not later than 60
days after the date of the issuance of the arbitration
decision of the corporation. Review shall conform to
chapter 7 of title 5, United States Code. The com-
mencement of proceedings under this paragraph
shall not, unless ordered by the court, operate as a stay of the order.

“(9) RIGHTS RETAINED.—Nothing in this subsection shall be deemed to diminish the rights, privileges, or remedies of any employee or other individual under any Federal or State law, or under any collective bargaining agreement.

“(10) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES.—The rights and remedies provided for in this subsection may not be waived by any agreement, policy form, or condition of employment or association with the corporation or a national governing body.”.

(c) ELIGIBILITY REQUIREMENTS FOR NATIONAL GOVERNING BODIES.—Section 220522 of title 36, United States Code, as amended by section 6(b), is further amended—

(1) in paragraph (16), by striking “; and” and inserting a semicolon;

(2) in paragraph (17), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

“(18) provides protection from retaliation to protected individuals.”.