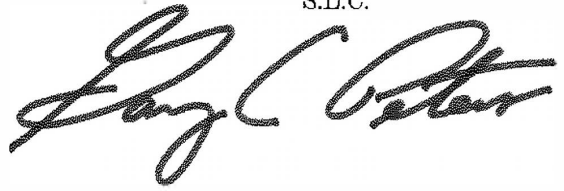


Peters_2 (Modified)



AMENDMENT NO. _____ Calendar No. _____

Purpose: To protect abuse victims from retaliation.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

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 _____ to the amendment (No. _____) 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 com-
- 5 plaint of retaliation made during such calendar
- 6 year, including the entity involved, the number
- 7 of allegations of retaliation, and the outcome of
- 8 such allegations.

1 On page 51, strike line 7 and insert the following:
2 lobbying or fundraising expenses.

3 “(h) RETALIATION.—

4 “(1) PROHIBITION.—The Center (or any offi-
5 cer, employee, contractor, subcontractor, or agent of
6 the Center) may not retaliate against any protected
7 individual because of any protected disclosure.

8 “(2) REPORTING, INVESTIGATION AND ARBI-
9 TRATION.—The Center shall establish mechanisms
10 for the reporting, investigation, and resolution
11 (through binding third-party arbitration) of com-
12 plaints of alleged retaliation against a protected in-
13 dividual.

14 “(3) DISCIPLINARY ACTION.—If the Center
15 finds that an officer or employee of the Center (or
16 any contractor, subcontractor, or agent of the Cen-
17 ter) has retaliated against a protected individual, the
18 Center shall take appropriate disciplinary action
19 with respect to any such individual found to have re-
20 taliated against the protected individual.

21 “(4) REMEDIES.—

22 “(A) IN GENERAL.—If the Center finds
23 that an officer or employee of the Center (or
24 contractor, subcontractor, or agent of the Cen-

1 ter) has retaliated against a protected indi-
2 vidual, the Center shall promptly—

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

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

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

14 “(5) ENFORCEMENT ACTION AND PROCE-
15 DURES.—

16 “(A) IN GENERAL.—If the Center has not
17 issued a final decision within 180 days of the
18 filing of the complaint and there is no showing
19 that such delay is due to the bad faith of the
20 complainant, the complainant may bring an ac-
21 tion at law or equity for de novo review in the
22 appropriate district court of the United States,
23 which shall have jurisdiction over such an ac-
24 tion without regard to the amount in con-
25 troversy.

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

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

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

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

13 “(A) REQUIRED SHOWING BY COMPLAIN-
14 ANT.—The Center shall dismiss a complaint
15 filed under this subsection and shall not con-
16 duct an investigation unless the complainant
17 makes a prima facie showing that any retali-
18 ation was a contributing factor in the action al-
19 leged in the complaint.

20 “(B) CRITERIA FOR DETERMINATION BY
21 ARBITRATION.—The arbitration may determine
22 that a violation of paragraph (1) has occurred
23 only if the complainant demonstrates that the
24 retaliation was a contributing factor in the ac-
25 tion alleged in the complaint.

1 “(C) PROHIBITION.—Relief may not be or-
2 dered under paragraph (4) if the Center dem-
3 onstrates by clear and convincing evidence that
4 the Center would have taken the same action in
5 the absence of that behavior.

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

20 “(9) RIGHTS RETAINED BY EMPLOYEE.—Noth-
21 ing in this section shall be deemed to diminish the
22 rights, privileges, or remedies of any employee under
23 any Federal or State law, or under any collective
24 bargaining agreement.

1 “(10) NONENFORCEABILITY OF CERTAIN PRO-
2 VISIONS WAIVING RIGHTS AND REMEDIES.—The
3 rights and remedies provided for in this section may
4 not be waived by any agreement, policy form, or con-
5 dition of employment.

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

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

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

16 “(A) the number of such complaints; and

17 “(B) the outcome of each such complaint;

18 At the end, add the following:

19 **SEC. 12. PROTECTING ABUSE VICTIMS FROM RETALIATION.**

20 (a) **DEFINITIONS.**—Section 220501(b) of title 36,
21 United States Code, as amended by section 6(a)(2), is fur-
22 ther amended—

1 (1) by redesignating paragraphs (8), (9), and
2 (10) as paragraphs (9), (10), and (14), respectively;
3 and

4 (2) by inserting after paragraph (7) the fol-
5 lowing:

6 “(8) ‘covered entity’ means—

7 “(A) an officer or employee of the Center;

8 “(B) a coach, trainer, manager, adminis-
9 trator, or other employee or official associated
10 with the corporation or a national governing
11 body;

12 “(C) the Department of Justice;

13 “(D) a Federal or State law enforcement
14 authority;

15 “(E) a Federal or State entity responsible
16 for receiving reports of child abuse;

17 “(F) the Equal Employment Opportunity
18 Commission or other State or Federal entity
19 with responsibility over claims of sexual harass-
20 ment; or

21 “(G) any other person who the protected
22 individual reasonably believes has authority to
23 investigate or act on information relating to
24 abuse, including—

1 “(i) emotional, physical, or sexual
2 abuse; and

3 “(ii) sexual harassment.”; and

4 (3) by inserting after paragraph (10), as so re-
5 designated, the following:

6 “(11) ‘protected disclosure’ means any lawful
7 act of a protected individual, or in the case of a pro-
8 tected individual who is a minor, an individual act-
9 ing on behalf of a protected individual—

10 “(A) to provide information to, cause in-
11 formation to be provided to, or otherwise assist
12 in an investigation by a covered entity (or be
13 perceived as providing information to, causing
14 information to be provided to, or otherwise as-
15 sisting in such an investigation) relating to
16 abuse, including—

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

19 “(ii) sexual harassment; and

20 “(iii) a violation of anti-abuse policies,
21 practices and procedures established pur-
22 suant to paragraph (3) of section
23 220541(a) and paragraph (2) of section
24 220542(a);

1 “(B) to file, cause to be filed, testify, par-
2 ticipate in, or otherwise assist in a proceeding
3 filed or about to be filed (or be perceived as fil-
4 ing, causing to be filed, testifying, participating
5 in, or otherwise assisting in such an investiga-
6 tion) relating to abuse, including—

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

9 “(ii) sexual harassment; and

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

14 “(C) in communication with Congress; or

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

18 “(12) ‘protected individual’ means any—

19 “(A) amateur athlete, coach, medical pro-
20 fessional, or trainer associated with the cor-
21 poration or a national governing body; or

22 “(B) any official or employee of the cor-
23 poration, a national governing body, or a con-
24 tractor or subcontractor of the corporation or a
25 national governing body.

1 “(13) ‘retaliation’ means any adverse or dis-
2 criminatory action, or the threat of an adverse or
3 discriminatory action, carried out against a pro-
4 tected individual because of any protected disclosure,
5 including—

6 “(A) discipline;

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

9 “(C) removal from a training facility;

10 “(D) reduced coaching or training;

11 “(E) reduced meals or housing; and

12 “(F) removal from competition.”.

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

15 (1) in subsection (a), in the first sentence, by
16 inserting “complaints of retaliation or” after “relat-
17 ing to”; and

18 (2) by adding at the end the following:

19 “(e) RETALIATION.—

20 “(1) IN GENERAL.—The corporation, the na-
21 tional governing bodies, or any officer, employee,
22 contractor, subcontractor, or agent of the corpora-
23 tion or a national governing body may not retaliate
24 against any protected individual because of any pro-
25 tected disclosure.

1 “(2) REPORTING, INVESTIGATION AND ARBI-
2 TRATION.—The corporation shall establish mecha-
3 nisms for the reporting, investigation, and resolution
4 (through binding third-party arbitration) of com-
5 plaints of alleged retaliation.

6 “(3) DISCIPLINARY ACTION.—If the corporation
7 finds that an officer or employee of the corporation
8 or a national governing body (or any contractor,
9 subcontractor, or agent of the corporation or a na-
10 tional governing body) has retaliated against a pro-
11 tected individual, the corporation or national gov-
12 erning body, as applicable, shall take appropriate
13 disciplinary action with respect to any such indi-
14 vidual found to have retaliated against the protected
15 individual.

16 “(4) REMEDIES.—

17 “(A) IN GENERAL.—If the corporation
18 finds that an officer or employee of the corpora-
19 tion or a national governing body (or con-
20 tractor, subcontractor, or agent of the corpora-
21 tion or a national governing body) has retali-
22 ated against a protected individual, the corpora-
23 tion or national governing body, as applicable,
24 shall promptly—

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

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

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

12 “(B) REIMBURSEMENT FROM NATIONAL
13 GOVERNING BODY.—In the case of a national
14 governing body found to have retaliated against
15 a protected individual, the corporation may de-
16 mand reimbursement from the national gov-
17 erning body for damages paid by the corpora-
18 tion under subparagraph (A).

19 “(5) ENFORCEMENT ACTION AND PROCE-
20 DURES.—

21 “(A) IN GENERAL.—If the corporation has
22 not issued a final decision within 180 days of
23 the filing of the complaint and there is no show-
24 ing that such delay is due to the bad faith of
25 the complainant, the complainant may bring an

1 action at law or equity for de novo review in the
2 appropriate district court of the United States,
3 which shall have jurisdiction over such an ac-
4 tion without regard to the amount in con-
5 troversy.

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

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

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

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

18 “(A) REQUIRED SHOWING BY COMPLAIN-
19 ANT.—The corporation shall dismiss a com-
20 plaint filed under this subsection and shall not
21 conduct an investigation unless the complainant
22 makes a prima facie showing that any retalia-
23 tion was a contributing factor in the action al-
24 leged in the complaint.

1 “(B) CRITERIA FOR DETERMINATION BY
2 THE ARBITRATION.—The arbitration may deter-
3 mine that a violation of paragraph (1) has oc-
4 curred only if the complainant demonstrates
5 that the retaliation was a contributing factor in
6 the action alleged in the complaint.

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

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

1 shall not, unless ordered by the court, operate as a
2 stay of the order.

3 “(9) RIGHTS RETAINED.—Nothing in this sub-
4 section shall be deemed to diminish the rights, privi-
5 leges, or remedies of any employee or other indi-
6 vidual under any Federal or State law, or under any
7 collective bargaining agreement.

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

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

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

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

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

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