

117TH CONGRESS  
1ST SESSION

# S. 3196

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

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 2021

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

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## 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(e)(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 Acad-  
4 emy;

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

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

8           “(D) the general nature of each such inci-  
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 mis-  
15 conduct 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 Adminis-  
20 trator shall provide for the establishment of in-person and  
21 virtual confidential exit interviews for midshipmen from  
22 the Academy upon completion of Sea Year and following  
23 completion by the midshipmen of the survey under section  
24 51322(d).

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—



1           “(A) the inclusiveness of the environment  
2 of the Academy; and

3           “(B) the effectiveness of the Plan; and

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.

7           “(b) REPORT TO CONGRESS.—Not later than 30 days  
8 after the date of enactment of this section, the Maritime  
9 Administrator shall provide Congress with a report on the  
10 resources necessary to properly implement this section.”.

11           (b) CONFORMING AMENDMENTS.—The chapter anal-  
12 ysis for chapter 513 of title 46, United States Code, is  
13 amended by adding at the end the following:

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

“51324. Sexual assault advisory council

“51325. Diversity and inclusion action plan”.

14           (c) UNITED STATES MERCHANT MARINE ACADEMY  
15 STUDENT SUPPORT PLAN.—

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

21           (A) address the mental health resources  
22 available to midshipmen, both on-campus and  
23 during Sea Year;

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 (c) as sub-  
19 section (d);

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

22 “(c) 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.”.

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