

Calendar No. 154

117TH CONGRESS
1ST SESSION

S. 2293

[Report No. 117–44]

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide certain employment rights to reservists of the Federal Emergency Management Agency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2021

Mr. PETERS (for himself and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

OCTOBER 26, 2021

Reported by Mr. PETERS, with an amendment

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

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide certain employment rights to reservists of the Federal Emergency Management Agency, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Civilian Reservist
3 Emergency Workforce Act of 2021” or the “CREW Act”.

4 **SEC. 2. PERSONNEL PERFORMING SERVICE RESPONDING**
5 **TO PRESIDENTIALLY DECLARED MAJOR DIS-**
6 **ASTERS AND EMERGENCIES.**

7 Section 306 of the Robert T. Stafford Disaster Relief
8 and Emergency Assistance Act (42 U.S.C. 5149) is
9 amended by adding at the end the following:

10 “(d) PERSONNEL PERFORMING SERVICE RESPOND-
11 ING TO DISASTERS AND EMERGENCIES.—

12 “(1) USERRA EMPLOYMENT AND REEMPLOY-
13 MENT RIGHTS.—The Administrator shall, in a man-
14 ner similar to the program described in chapter 43
15 of title 38, United States Code, afford protections,
16 rights, benefits, and obligations to intermittent per-
17 sonnel appointed pursuant to subsection (b)(1) to
18 perform service to the Federal Emergency Manage-
19 ment Agency under sections 401 and 501 or to train
20 for such service.

21 “(2) NOTICE OF ABSENCE FROM POSITION OF
22 EMPLOYMENT.—Preclusion of giving notice of serv-
23 ice by necessity of service under subsection (b)(1) to
24 perform service to the Federal Emergency Manage-
25 ment Agency under sections 401 and 501 or to train
26 for such service shall be considered preclusion by

1 ~~‘military necessity’ for purposes the protections,~~
 2 ~~rights, benefits, and obligations afforded under para-~~
 3 ~~graph (1) pertaining to giving notice of absence from~~
 4 ~~a position of employment. A determination of such~~
 5 ~~necessity shall be made by the Administrator and~~
 6 ~~shall not be subject to review in any judicial or ad-~~
 7 ~~ministrative proceeding.’’.~~

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Civilian Reservist Emer-*
 10 *gency Workforce Act of 2021” or the “CREW Act”.*

11 **SEC. 2. PERSONNEL PERFORMING SERVICE RESPONDING**
 12 **TO PRESIDENTIALLY DECLARED MAJOR DIS-**
 13 **ASTERS AND EMERGENCIES.**

14 *Section 306 of the Robert T. Stafford Disaster Relief*
 15 *and Emergency Assistance Act (42 U.S.C. 5149) is amend-*
 16 *ed by adding at the end the following:*

17 “(d) *PERSONNEL PERFORMING SERVICE RESPONDING*
 18 *TO DISASTERS AND EMERGENCIES.—*

19 “(1) *USERRA EMPLOYMENT AND REEMPLOY-*
 20 *MENT RIGHTS.—The protections, rights, benefits, and*
 21 *obligations provided under chapter 43 of title 38,*
 22 *United States Code, shall apply to intermittent per-*
 23 *sonnel appointed pursuant to subsection (b)(1) to per-*
 24 *form service to the Federal Emergency Management*

1 *Agency under sections 401 and 501 or to train for*
 2 *such service.*

3 “(2) *NOTICE OF ABSENCE FROM POSITION OF*
 4 *EMPLOYMENT.—Preclusion of giving notice of service*
 5 *by necessity of service under subsection (b)(1) to per-*
 6 *form service to the Federal Emergency Management*
 7 *Agency under sections 401 and 501 or to train for*
 8 *such service shall be considered preclusion by ‘mili-*
 9 *tary necessity’ for purposes of section 4312(b) of title*
 10 *38, United States Code, pertaining to giving notice of*
 11 *absence from a position of employment. A determina-*
 12 *tion of such necessity shall be made by the Adminis-*
 13 *trator and shall not be subject to review in any judi-*
 14 *cial or administrative proceeding.”.*

15 **SEC. 3. EXTENSION OF CERTAIN EMPLOYMENT AND REEM-**
 16 **PLOYMENT RIGHTS TO FEMA RESERVISTS.**

17 *(a) IN GENERAL.—Section 4303 of title 38, United*
 18 *States Code, is amended—*

19 *(1) in paragraph (13), by inserting before “, and*
 20 *a period” the following: “, a period for which a per-*
 21 *son is absent from a position of employment due to*
 22 *an appointment into service in the Federal Emer-*
 23 *gency Management Agency as intermittent personnel*
 24 *under section 306(b)(1) of the Robert T. Stafford Dis-*

1 *aster Relief and Emergency Assistance Act (42 U.S.C.*
 2 *5149(b)(1))”;*

3 *(2) by redesignating the second paragraph (16)*
 4 *(relating to uniformed services) as paragraph (17);*
 5 *and*

6 *(3) in paragraph (17), as so redesignated, by in-*
 7 *serting before “and any other category” the following:*
 8 *“intermittent personnel who are appointed into Fed-*
 9 *eral Emergency Management Agency service under*
 10 *section 306(b)(1) of the Robert T. Stafford Disaster*
 11 *Relief and Emergency Assistance Act (42 U.S.C.*
 12 *5149(b)(1)) or to train for such service,”.*

13 *(b) MODIFICATION OF EXCEPTION FOR REQUIREMENT*
 14 *FOR MEMBERS OF UNIFORMED SERVICES TO PROVIDE NO-*
 15 *TICE TO EMPLOYERS TO OBTAIN CERTAIN EMPLOYMENT*
 16 *AND REEMPLOYMENT RIGHTS.—Section 4312(b) of title 38,*
 17 *United States Code, is amended—*

18 *(1) by striking the second sentence;*

19 *(2) by inserting “(1)” before “No notice”; and*

20 *(3) by adding at the end the following new para-*
 21 *graph:*

22 *“(2) A determination of military necessity for pur-*
 23 *poses of paragraph (1) shall be made—*

1 “(A) *except as provided in subparagraphs (B)*
 2 *and (C), pursuant to regulations prescribed by the*
 3 *Secretary of Defense;*

4 “(B) *for persons performing service to the Fed-*
 5 *eral Emergency Management Agency under section*
 6 *327 of the Robert T. Stafford Disaster Relief and*
 7 *Emergency Assistance Act (42 U.S.C. 5165f) and as*
 8 *intermittent personnel under section 306(b)(1) of such*
 9 *Act (42 U.S.C. 5149(b)(1)), by the Administrator of*
 10 *the Federal Emergency Management Agency as de-*
 11 *scribed in sections 327(j)(2) and 306(d)(2) of such Act*
 12 *(42 U.S.C. 5165f(j)(2) and 5149(d)(2)), respectively;*
 13 *or*

14 “(C) *for intermittent disaster-response ap-*
 15 *pointees of the National Disaster Medical System, by*
 16 *the Secretary of Health and Human Services as de-*
 17 *scribed in section 2812(d)(3)(B) of the Public Health*
 18 *Service Act (42 U.S.C. 300hh–11(d)(3)(B)).*

19 “(3) *A determination of military necessity under*
 20 *paragraph (1) shall not be subject to judicial review.”.*

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