

115TH CONGRESS
1ST SESSION

H. R. 4503

To amend the Congressional Accountability Act of 1995 to prohibit the imposition of nondisclosure agreements as a condition of the payment of an award or settlement in connection with a violation of such Act, to require Members of Congress to reimburse the Treasury for amounts paid as awards and settlements under such Act in cases of sexual harassment and sexual assault, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 30, 2017

Mr. MESSER introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committees on Oversight and Government Reform, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Congressional Accountability Act of 1995 to prohibit the imposition of nondisclosure agreements as a condition of the payment of an award or settlement in connection with a violation of such Act, to require Members of Congress to reimburse the Treasury for amounts paid as awards and settlements under such Act in cases of sexual harassment and sexual assault, 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 “Empowering Victims
3 of Sexual Misconduct Act”.

4 **SEC. 2. PROHIBITING IMPOSITION AND ENFORCEMENT OF**
5 **CERTAIN NONDISCLOSURE AGREEMENTS IN-**
6 **VOLVING MEMBERS OF CONGRESS.**

7 (a) NONDISCLOSURE AGREEMENTS AS CONDITION
8 OF AWARD OR SETTLEMENT UNDER CONGRESSIONAL AC-
9 COUNTABILITY ACT OF 1995.—

10 (1) PROHIBITION.—Section 401 of the Congres-
11 sional Accountability Act of 1995 (2 U.S.C. 1401)
12 is amended—

13 (A) by striking “Except as otherwise pro-
14 vided” and inserting “(a) PROCEDURES AVAIL-
15 ABLE.—Except as otherwise provided”; and

16 (B) by adding at the end the following new
17 subsection:

18 “(b) PROHIBITING IMPOSITION OF NONDISCLOSURE
19 AGREEMENTS.—A nondisclosure agreement may not be
20 imposed on any party as a condition of the payment of
21 any award or settlement in connection with a violation of
22 part A of title II.”.

23 (2) PERMITTING INDIVIDUALS SUBJECT TO EX-
24 ISTING NONDISCLOSURE AGREEMENTS TO MAKE IN-
25 FORMATION PUBLIC.—Any individual who received
26 an award or settlement prior to the date of the en-

1 actment of this Act in connection with a violation of
2 part A of title II of the Congressional Accountability
3 Act of 1995 and who signed a nondisclosure agree-
4 ment as a condition of receiving the award or settle-
5 ment may, notwithstanding the terms of the agree-
6 ment, make public any information relating to the
7 award or settlement.

8 (3) EFFECTIVE DATE.—The amendment made
9 by paragraph (1) shall apply with respect to awards
10 and settlements paid in connection with the Con-
11 gressional Accountability Act of 1995 on or after the
12 date of the enactment of this Act.

13 (b) OTHER NONDISCLOSURE AGREEMENTS INVOLV-
14 ING ALLEGATIONS OF SEXUAL HARASSMENT OR SEXUAL
15 ASSAULT.—

16 (1) PROHIBITING ENFORCEMENT OF AGREE-
17 MENT AGAINST VICTIM.—Any individual who entered
18 into a nondisclosure agreement as a condition of re-
19 ceiving a settlement in connection with an allegation
20 of sexual misconduct committed by another indi-
21 vidual who, at the time of the agreement, was a
22 Member of Congress, may make public any informa-
23 tion relating to the settlement or the allegation, not-
24 withstanding the terms of the agreement.

1 (2) SEXUAL MISCONDUCT DEFINED.—In this
2 subsection, the term “sexual misconduct” means any
3 of the following:

4 (A) Any act which would be rape under
5 section 920(a) of title 10, United States Code,
6 if committed by an individual subject to chapter
7 47 of such title (commonly referred to as the
8 Uniform Code of Military Justice).

9 (B) Any act which would be sexual assault
10 under section 920(b) of title 10, United States
11 Code, if committed by an individual subject to
12 chapter 47 of such title.

13 (C) Sexual harassment, as described in
14 section 1604.11 of title 29, Code of Federal
15 Regulations.

16 (3) MEMBER OF CONGRESS DEFINED.—In this
17 subsection, a “Member of Congress” means any of
18 the following individuals:

19 (A) A Member of the House of Represent-
20 atives, including a Delegate or Resident Com-
21 missioner to the Congress.

22 (B) A Senator.

23 (C) An individual who, for purposes of the
24 Federal Election Campaign Act of 1971, is a
25 candidate for election for the office of Member

1 of the House of Representatives (including the
2 office of a Delegate or Resident Commissioner
3 to the Congress) or the office of Senator.

4 **SEC. 3. PERSONAL LIABILITY OF MEMBERS OF CONGRESS**
5 **TO REIMBURSE TREASURY FOR AMOUNTS**
6 **PAID AS SETTLEMENTS AND AWARDS IN**
7 **CASES OF SEXUAL HARASSMENT OR SEXUAL**
8 **ASSAULT.**

9 (a) MANDATING REIMBURSEMENT OF AMOUNTS
10 PAID.—

11 (1) IN GENERAL.—Section 415 of the Congres-
12 sional Accountability Act of 1995 (2 U.S.C. 1415)
13 is amended by adding at the end the following new
14 subsection:

15 “(d) PERSONAL LIABILITY OF MEMBERS OF CON-
16 GRESS FOR PAYMENT OF SETTLEMENTS AND AWARDS.—

17 “(1) IN GENERAL.—If a payment is made from
18 the account described in subsection (a) for an award
19 or settlement resulting from a violation of part A of
20 title II consisting of an act of sexual harassment or
21 sexual assault committed by a Member of the House
22 of Representatives or a Senator, the Member or Sen-
23 ator shall reimburse the account for the amount of
24 the award or settlement.

1 “(2) WITHHOLDING AMOUNTS FROM SALARY.—

2 If, by the expiration of the 90-day period which be-
3 gins on the date a payment is made from the ac-
4 count described in subsection (a) for an award or
5 settlement described in paragraph (1), a Member or
6 Senator has not reimbursed the account as required
7 under paragraph (1), the payroll administrator shall
8 withhold from the Member’s or Senator’s compensa-
9 tion and transfer to the account described in sub-
10 section (a) such amounts as may be necessary to re-
11 imburse the account for the payment, in accordance
12 with such timetable and procedures as may be estab-
13 lished by—

14 “(A) the Committee on House Administra-
15 tion of the House of Representatives, in the
16 case of a Member of the House; or

17 “(B) the Committee on Rules and Admin-
18 istration of the Senate, in the case of a Sen-
19 ator.

20 “(3) NOTIFICATION TO OFFICE OF PERSONNEL
21 MANAGEMENT AND SECRETARY OF THE TREAS-
22 URY.—If, at the time an individual is first no longer
23 receiving compensation as a Member or a Senator,
24 the amounts withheld under this subsection have not
25 been sufficient to reimburse the account described in

1 subsection (a) for an award or settlement described
2 in paragraph (1), the payroll administrator—

3 “(A) shall notify the Director of the Office
4 of Personnel Management, who shall take such
5 actions as the Director considers appropriate to
6 withhold from any annuity payable to the indi-
7 vidual under chapter 83 or chapter 84 of title
8 5, United States Code, and transfer to the ac-
9 count described in subsection (a), such amounts
10 as may be necessary to reimburse the account
11 for the payment; and

12 “(B) shall notify the Secretary of the
13 Treasury, who (if necessary) shall take such ac-
14 tions as the Secretary of the Treasury considers
15 appropriate to withhold from any payment to
16 the individual under title II of the Social Secu-
17 rity Act and transfer to the account described
18 in subsection (a), such amounts as may be nec-
19 essary to reimburse the account for the pay-
20 ment.

21 “(4) COORDINATION BETWEEN OPM AND
22 TREASURY.—The Director of the Office of Personnel
23 Management and the Secretary of the Treasury shall
24 carry out paragraph (3) in a manner that ensures
25 the coordination of the withholding and transferring

1 of amounts under such paragraph, in accordance
2 with regulations promulgated by the Director and
3 the Secretary.

4 “(5) PAYROLL ADMINISTRATOR DEFINED.—In
5 this section, the term ‘payroll administrator’
6 means—

7 “(A) in the case of a Member of the House
8 of Representatives, the Chief Administrative Of-
9 ficer of the House of Representatives, or an em-
10 ployee of the Office of the Chief Administrative
11 Officer who is designated by the Chief Adminis-
12 trative Officer to carry out this subsection; or

13 “(B) in the case of a Senator, the Sec-
14 retary of the Senate, or an employee of the Of-
15 fice of the Secretary of the Senate who is des-
16 ignated by the Secretary to carry out this sub-
17 section.”.

18 (2) EFFECTIVE DATE.—The amendments made
19 by paragraph (1) shall apply with respect to pay-
20 ments made on or after the date of the enactment
21 of this Act.

22 (b) REIMBURSEMENT OF AMOUNTS PAID PRE-
23 VIOUSLY.—

24 (1) REQUIRING REIMBURSEMENT.—If, prior to
25 the date of the enactment of this Act, a payment

1 was made from the account described in section
2 415(a) of the Congressional Accountability Act of
3 1995 for an award or settlement resulting from a
4 violation of part A of title II of such Act consisting
5 of an act of sexual harassment or sexual assault
6 committed by an individual who, at the time of com-
7 mitting the act, was a Member of the House of Rep-
8 resentatives or a Senator, the individual shall reim-
9 burse the account for the amount of the award or
10 settlement.

11 (2) WITHHOLDING OF AMOUNTS IN EVENT OF
12 FAILURE TO REIMBURSE.—If, by the expiration of
13 the 90-day period which begins on the date of the
14 enactment of this Act, an individual has not met the
15 requirements of paragraph (1), the individual shall
16 be subject to withholding of amounts as follows:

17 (A) If the individual is a Member of the
18 House of Representatives or a Senator, the pay-
19 roll administrator shall withhold from the indi-
20 vidual's compensation and transfer to the ac-
21 count described in paragraph (1) such amounts
22 as may be necessary to reimburse the account
23 for the payment, in the same manner provided
24 under paragraph (2) of section 415(d) of such
25 Act (as added by subsection (a)).

1 (B) If the individual is not a Member of
2 the House of Representatives or a Senator—

3 (i) the Director of the Office of Per-
4 sonnel Management shall withhold from
5 any annuity payable to the individual
6 under chapter 83 or chapter 84 of title 5,
7 United States Code, and transfer to the
8 account described in paragraph (1), such
9 amounts as may be necessary to reimburse
10 the account for the payment, in the same
11 manner and subject to the same regula-
12 tions provided under paragraph (3) of sec-
13 tion 415(d) of such Act (as added by sub-
14 section (a)); and

15 (ii) if necessary, the Secretary of the
16 Treasury shall withhold from any payment
17 to the individual under title II of the Social
18 Security Act and transfer to the account
19 described in paragraph (1), such amounts
20 as may be necessary to reimburse the ac-
21 count for the payment, in the same man-
22 ner and subject to the same regulations
23 provided under paragraph (3) of section
24 415(d) of such Act (as added by subsection
25 (a)).

1 (3) NOTIFICATIONS BY OFFICE OF COMPLI-
2 ANCE.—As soon as practicable after the date of the
3 enactment of this Act, the Office of Compliance shall
4 submit a notice to each of the following that a pay-
5 ment described in paragraph (1) was made, includ-
6 ing the amount of the payment:

7 (A) The individual who is required to reim-
8 burse the amount of the payment under this
9 subsection.

10 (B) The payroll administrator.

11 (C) The Director of the Office of Personnel
12 Management.

13 (D) The Secretary of the Treasury.

14 (4) PAYROLL ADMINISTRATOR DEFINED.—In
15 this subsection, the term “payroll administrator”
16 has the meaning given such term in section
17 415(d)(5) of the Congressional Accountability Act of
18 1995, as added by subsection (a).

19 **SEC. 4. GAO AUDIT AND REPORT ON AMOUNTS USED TO**
20 **PAY AWARDS AND SETTLEMENTS.**

21 (a) AUDIT AND REPORT.—Not later than 1 year after
22 the date of the enactment of this Act, the Comptroller
23 General of the United States shall conduct and submit an
24 audit and report on the use of public funds, including the
25 account described in section 415(a) of the Congressional

1 Accountability Act of 1995, the Members' Representa-
2 tional Allowance, and other accounts of the House of Rep-
3 resentatives or Senate, to make payments of awards and
4 settlements resulting from a violation of part A of title
5 II of such Act consisting of an act of sexual harassment
6 or sexual assault which was committed by a Member of
7 the House of Representatives or a Senator. The report
8 shall include the following information:

9 (1) A description of each violation involved.

10 (2) The identification of the office of the Mem-
11 ber or Senator involved.

12 (3) The amount of the award or settlement.

13 (b) PROTECTION OF IDENTITY OF INDIVIDUALS RE-
14 CEIVING AWARDS AND SETTLEMENTS.—In preparing and
15 submitting the audit and report required under this sec-
16 tion, the Comptroller General of the United States shall
17 ensure that the identity of any individual who received an
18 award or settlement, or who made an allegation of a viola-
19 tion against an office of a Member or Senator, is not dis-
20 closed and may not otherwise be determined.

21 (c) ACCESS TO RECORDS.—The Office of Compliance,
22 the Chief Administrative Officer of the House of Rep-
23 resentatives, and the Secretary of the Senate shall each
24 ensure that the Comptroller General of the United States

- 1 has sufficient access to the records and accounts necessary
- 2 for the Comptroller General to carry out this section.

