

Senate Olympics Investigation

Senator Jerry Moran & Senator Richard Blumenthal



THE “EMPOWERING OLYMPIC AND AMATEUR ATHLETES ACT OF 2019”

Amending the Ted Stevens Olympic and Amateur Sports Act

Section 1: Short Title

This Act may be cited as the “*Empowering Olympic and Amateur Athletes Act of 2019*.”

Section 2: Findings

This section lists the summarized findings of Congress resulting from Moran-Blumenthal investigation. These findings briefly describe the organizational failures that allowed Larry Nassar to sexually abuse athletes at an unprecedented scale, but also clarify that this was not an isolated incident and sexual abuse in all amateur sports, including within the U.S. Olympic and Paralympic movement, requires Congress’ immediate attention.

Section 3: United States Olympic and Paralympic Committee

This section updates the federal statutory definition of “corporation” to reflect the June 20, 2019 formal announcement of the U.S. Olympic Committee updating its name to the U.S. Olympic and Paralympic Committee, along with other related reference alterations.

Section 4: Congressional Oversight of U.S. Olympic and Paralympic Committee and National Governing Bodies

This section specifically authorizes Congress to file a “joint resolution” to dissolve the Board of Directors of the U.S. Olympic and Paralympic Committee should it find that the corporation is failing to fulfill its purposes as described in the *Amateur Sports Act*. The “joint resolution” must also prescribe adequate procedures for forming a new Board of Directors with reasonable expediency and in a manner that safeguards the voting power of amateur athletes. It also authorizes Congress to file a “joint resolution” to decertify a National Governing Body should it be found to have failed to fulfill its duties—or to protect athletes. These authorities shall take effect one year after enactment of the *Act*.

This section also provides expedited parliamentary procedures for consideration of the “joint resolution” following the jurisdictional committees reporting the legislation. For example, it provides expedited parliamentary procedures for consideration of the “Joint Resolution” following the jurisdictional committees (Senate Commerce Committee and House Energy & Commerce Committee) reporting the legislation. This subsection includes a provision to discharge the committees from reporting out of the jurisdictional committees with three-fifths cosponsorship in the respective body of Congress. In order to permit time for the governance reforms contained in this bill to take root, a “joint resolution” of the sort contained in this bill can first be filed one year after the date of enactment.

Section 5: Modifications to the U.S. Olympic and Paralympic Committee

This section modifies 36 U.S. Code Subchapter I on the United States Olympic Committee (“the Corporation”).

(a) Purposes of the Corporation

This subsection amends the statutory purposes of the U.S. Olympic and Paralympic Committee to specifically exercise effective oversight of the National Governing Bodies with respect to the establishment of a safe environment in sport that is free from abuse—including emotional, physical, and sexual abuse—of any amateur athlete.

(b) Representation of Amateur Athletes

This subsection also increases the minimum threshold for membership and voting power held by amateur athletes from 20 percent to one-third (or 33.3 percent) of the entire membership and voting power held by the U.S. Olympic and Paralympic Committee's Board of Directors and other committees/entities within the organization. It also eliminates the requirement that amateur athletes need to have participated in international amateur athletic competition within the preceding 10 years in order to be considered for an amateur athlete representative in such capacities.

(c) Duties of Care Owed by the Corporation to Amateur Athletes

This subsection creates four specific duties of care owed by the corporation to amateur athletes.

- First, the corporation must ensure that each national governing body complies with the oversight practices, policies, and procedures to prevent the abuse, including emotional, physical, and sexual abuse, of amateur athletes participating in amateur athletic activities through national governing bodies and Paralympic sports organizations developed by the Center for SafeSport.
- Second, the corporation must immediately report to law enforcement any allegation of child abuse of an amateur athlete who is a minor.
- Third, the corporation must ensure that every national governing body has in place mandatory reporting policies and procedures.
- Finally, the corporation must ensure that every national governing body enforces temporary measures and sanctions issued by the Center for SafeSport.

The corporation should be legally liable if it breaches any of these duties in a manner that causes harm to athletes.

(d) Conflict of Interest

This subsection prohibits amateur athletes who represent other amateur athletes on the U.S. Olympic and Paralympic Committee's Board of Directors and other committees/entities within the organization from being employed by the U.S. Center for SafeSport for two years following the end of their representation.

This subsection establishes duties that the U.S. Olympic and Paralympic Committee owes to amateur athletes in respect to ensuring that the National Governing Bodies enforce compliance with oversight practices, policies and procedures to prevent abuse—including emotional physical and sexual abuse—the immediate reporting of any allegation of child abuse to law enforcement; ensuring that National Governing Bodies have policies and procedures to report immediately any allegation of child abuse to law enforcement and the U.S. Center for SafeSport; and ensuring that National Governing Bodies enforce temporary measures and sanctions issued by the U.S. Center for SafeSport.

Additionally, this subsection requires the U.S. Olympic and Paralympic Committee to develop one or more policies that prohibit any individual who is an employee, contractor, or an agent of the U.S. Olympic and Paralympic Committee from assisting a member or former member in obtaining a new job outside of routine transmission of administrative and personnel files if the individual knows that the member or former member engaged in sexual misconduct regarding a minor in violation of the law.

(e) Office of Ombudsman

This subsection standardizes specific human resources procedures for the Office of the Ombudsman, while bolstering the Office's duties to include providing independent advice to reporting parties with respect to the role, responsibility and authority of the U.S. Center for SafeSport, (the Center); the relative merits of engaging legal counsel; and the factual allegations that may support the ability of the Center to pursue a claim of abuse. This subsection also requires all information communicated to the office to be confidential with limited exceptions. Finally, the subsection specifically prohibits retaliation measures taken or threatened against any employee or member for disclosing information to the Office and requires independence from the U.S. Olympic and Paralympic Committee in carrying out its duties.

(f) Reports and Audits

This subsection bolsters reporting and audit requirements of the U.S. Olympic and Paralympic Committee to Congress and the president, including requiring such reporting to take place annually, rather than every four years. Reports would be required to include additional information about lawsuits and grievances filed against the U.S. Olympic and Paralympic Committee and relevant materials from meetings of the Board of Directors. Audits, conducted by an independent third party, would include detailed information related to the assets, liabilities, income, and expenses of the U.S. Olympic and Paralympic Committee, including information on amounts spent on stipends and services for athletes and amounts allocated to National Governing Bodies.

Section 6: Modifications to National Governing Bodies

(a) Corporation Responsible for Obligations of National Governing Bodies

This subsection requires the U.S. Olympic and Paralympic Committee to review at least every four years all matters related to the recognition of an organization as a National Governing Body and renew such recognition based on the outcomes of the review.

(b) Eligibility Requirements With Respect to Governing Boards

While requiring National Governing Bodies to follow guidelines in determining their Board of Directors and other governing boards, this subsection also increases the minimum threshold for membership and voting power held by amateur athletes from 20 percent to one-third (or 33.3 percent) of the entire membership and voting power held by individual National Governing Bodies' Boards of Directors and other such governing boards within the organization. It also eliminates the requirement that amateur athletes need to have participated in international amateur athletic competition within the preceding 10 years in order to be considered for an amateur athlete representative in such capacities.

(c) General Duties of National Governing Bodies

This subsection adds to the statutory list of general duties of National Governing Bodies. It clarifies that a National Governing Body must develop 1 or more policies that prohibit any individual who is an employee, a contractor, or an agent of the National Governing Body from assisting a member or former member in obtaining a new job, except from the routine transmission of administrative and personnel files, if the individual knows that such member or former member engaged in sexual misconduct regarding a minor in violation of the law.

By amending the existing duties of the National Governing Bodies, the subsection also requires the National Governing Body to promote a safe environment in sport that is free from abuse of any amateur athlete—including emotional, physical, and sexual abuse—and take care to promote a safe environment in sport using information relating to any temporary measure or sanction issued pursuant to the authority of the U.S. Center for SafeSport. It mandates the National Governing Body to immediately report an allegation of child abuse of an amateur athlete to law enforcement and have policies and procedures to make such reports.

(d) Ensure Limitations on Communications Are Included in Limitations on Interactions.

This subsection also specifically clarifies that reasonable procedures to limit one-on-one interactions between amateur athletes that are minors and adults (besides their guardians) should also apply to “communications” between athletes and adults. It requires that existing prohibitions on retaliation against reporting parties apply to reports of emotional, physical, and sexual abuse.

Section 7: Modification to United States Center for SafeSport

This section amends 36 U.S. Code Subchapter III on the United States Center for Safe Sport (“the Center”).

(a) List of Barred Individuals

This subsection requires the U.S. Center for SafeSport to publish and maintain a publicly available website that contains a comprehensive list of individuals who are barred from the U.S. Olympic and Paralympic Committee or a National Governing Body. This subsection also applies the existing statutory liability limitations for damages in civil action for defamation, libel, or

damage to reputation related to the duties of communicating such information to the U.S. Olympic and Paralympic Committee.

(b) Definition of Applicable Entity

This subsection adds the Corporation to the definition of an applicable entity, which shall not be liable for damages in any civil action for defamation, libel, slander, or damage to reputation arising out of any action or communication, if the action arises from the execution of the responsibilities or functions with respect to the Center.

(c) Training Materials

This subsection requires the Office for Education and Outreach at the U.S. Center for SafeSport to develop training materials for specific audiences—including coaches, trainers, doctors, young children, adolescents, adults and mentally disabled individuals—and update these materials not less frequently than every three years.

(d) Independence

This subsection bolsters the independence of the U.S. Center for SafeSport by specifically prohibiting former employees or board members of the U.S. Olympic and Paralympic Committee or the National Governing Bodies from working or volunteering at the U.S. Center for SafeSport during the two-period after their employment, prohibiting conflicts of interest in representing the U.S. Center for SafeSport, and requiring the U.S. Olympic and Paralympic Committee and the National Governing Bodies to not interfere in or attempt to influence the outcome of any investigation conducted by the U.S. Center for SafeSport. This subsection would also require the U.S. Center for SafeSport to report any attempts to interfere in or influence the outcome of an investigation to the congressional committees of jurisdiction within 72 hours of such attempt.

(e) Funding

This subsection mandates the U.S. Olympic and Paralympic Committee to contribute exactly \$20 million annually to the U.S. Center for SafeSport for operating costs. To be clear, this subsection does not provide any discretion to the U.S. Olympic and Paralympic Committee in terms of size or frequency of funding. The corporation may use funds received from one or more National Governing Bodies to make a mandatory payment under this subsection. The U.S. Center for SafeSport may file a lawsuit to compel payment, and for each day of late or incomplete payment of the mandatory contribution, the Center shall be allowed to recover an additional \$20,000 from the U.S. Olympic and Paralympic Committee.

(f) Additional Duties

Additionally, this subsection clarifies that the U.S. Center for SafeSport shall immediately report any allegations of child abuse to law enforcement consistent with subsection 226 of the *Victims of Child Abuse Act of 1990*.

This subsection requires the U.S. Center for SafeSport to develop one or more policies that prohibit a Center employee, contractor, or agent from assisting a member or former member in obtaining a new job, except the routine transmission of administrative and personnel files, if the individual knows that such member or former member engaged in sexual misconduct regarding a minor in violation of the law.

This subsection also requires the U.S. Center for SafeSport and its staff to not take any action to notify an alleged perpetrator of abuse of an amateur athlete of any ongoing investigation or accusation unless law enforcement authorized them to do so, or unless the Center has reason to believe an imminent hazard will result from failing to so notify the alleged perpetrator. It also requires the U.S. Center for SafeSport to establish procedures to prohibit retaliation by a National Governing Body or Paralympic sports organization for making a report related to abuse of any amateur athlete, including emotional, physical, or sexual abuse.

Additionally, this subsection prohibits the use of any evidence relating to other sexual behavior or predisposition of the alleged victim in reports or resolutions in arbitration with few exceptions. It also requires U.S. Center for SafeSport to offer training for investigators on appropriate methods and techniques for ensuring sensitivity toward alleged victims during interviews and other investigative activities.

(g) Report

This subsection requires the U.S. Center for SafeSport to improve its current annual reports to Congress to include information related to a strategic plan of the Center to fulfill its duties; financial statements of the Center; changes in the amounts of assets, liabilities and surplus or deficit; reports received and investigations conducted; and the education and training efforts of the Center over the previous year.

Section 8: Exemption from Automatic Stay in Bankruptcy Cases

This subsection states that decertification proceedings initiated by the U.S. Olympic and Paralympic Committee are not subject to the automatic stay in the event that the National Governing Body that is subject to decertification files for bankruptcy.