

116TH CONGRESS
1ST SESSION

S. _____

To direct the Secretary of State to review the termination characterization of former members of the Department of State who were fired by reason of the sexual orientation of the official, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MENENDEZ (for himself, Mr. CARDIN, Mr. MURPHY, Mr. UDALL, Mr. MARKEY, Ms. BALDWIN, Mrs. GILLIBRAND, Mrs. FEINSTEIN, Mr. MERKLEY, Mr. Kaine, Mr. BLUMENTHAL, Mr. VAN HOLLEN, Mr. COONS, Mrs. MURRAY, Ms. HARRIS, Mr. WYDEN, Ms. KLOBUCHAR, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on _____ + SCHATZ WHITEHOUSE

A BILL

To direct the Secretary of State to review the termination characterization of former members of the Department of State who were fired by reason of the sexual orientation of the official, 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 “Lavender Offense Vic-
5 tim Exoneration Act of 2019” or the “LOVE Act of
6 2019”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) During the so-called "Lavender Scare", at
4 least 1,000 people were wrongfully dismissed from
5 the Department of State for alleged homosexuality
6 during the 1950s and well into the 1960s.

7 (2) According to the Department of State's Bu-
8 reau of Diplomatic Security, Department of State
9 employees were forced out of the Department on the
10 grounds that their sexual orientation ostensibly ren-
11 dered them vulnerable to blackmail and made them
12 security risks.

13 (3) In addition to those wrongfully terminated,
14 many other patriotic Americans were prevented from
15 joining the Department due to a screening process
16 that was put in place to prevent the hiring of those
17 who, according to the findings of the Bureau of Dip-
18 lomatic Security, "seemed like they might be gay or
19 lesbian".

20 (4) Congress bears a special measure of respon-
21 sibility for these discriminatory actions as the De-
22 partment's actions were in part in response to con-
23 gressional investigations into "sex perversion of Fed-
24 eral employees", reports on the employment of
25 "moral perverts by Government Agencies", hearings
26 and pressure placed on the Department through the

1 appropriations process and congressional complaints
2 that Foggy Bottom was “rampant with homosexuals
3 who were sympathetic to Communism and vulnerable
4 to blackmail”.

5 (5) Between 1950 and 1969, the Department of
6 State was required to report on the number of ho-
7 mosexuals fired each year as part of their annual ap-
8 peals before Committees on Appropriations.

9 (6) Although the worst effects of the “Lavender
10 Scare” are behind us, as recently as the early 1990s,
11 the Department of State’s diplomatic security office
12 was investigating State personnel thought to be gay
13 and driving them out of government service as “se-
14 curity risks”.

15 (7) In 1994, Secretary of State Warren Chris-
16 topher issued a prohibition against discrimination in
17 the Department of State, including that based on
18 sexual orientation.

19 (8) In 1998, President William Jefferson Clin-
20 ton signed Executive Order 13087 barring discrimi-
21 nation on the basis of sexual orientation.

22 (9) On January 9, 2017, Secretary of State
23 John Kerry issued a statement regarding the “Lav-
24 ender Scare”, saying, “On behalf of the Department,
25 I apologize to those who were impacted by the prac-

1 tices of the past and reaffirm the Department's
2 steadfast commitment to diversity and inclusion for
3 all our employees, including members of the LGBTI
4 community.”.

5 **SEC. 3. DIRECTOR GENERAL REVIEW.**

6 (a) REVIEW.—The Director General of the Foreign
7 Service and Director of Human Resources of the Depart-
8 ment of State, in consultation with the Historian of the
9 Department of State, shall review all employee termi-
10 nations that occurred after January 1, 1950, to determine
11 who was wrongfully terminated owing to their sexual ori-
12 entation, whether real or perceived.

13 (b) REPORT.—Not later than 270 days after the date
14 of the enactment of this Act, the Director General shall,
15 consistent with applicable privacy regulations, compile the
16 information compiled under subsection (a) in a publicly
17 available report. The report shall include historical state-
18 ments made by officials of the Department of State and
19 Congress encouraging and implementing policies and tac-
20 tics that led to the termination of employees due to their
21 sexual orientation.

22 **SEC. 4. REPORTS ON REVIEWS.**

23 (a) REVIEWS.—The Secretary of State shall conduct
24 reviews of the consistency and uniformity of the reviews
25 conducted by the Director General under section 3.

1 (b) REPORTS.—Not later than 270 days after the
2 date of the enactment of this Act, and annually thereafter
3 for 2 years, the Secretary shall submit to Congress a re-
4 port on the reviews conducted under section 3. Each re-
5 port shall include any comments or recommendations for
6 continued actions.

7 **SEC. 5. ESTABLISHMENT OF RECONCILIATION BOARD.**

8 (a) ESTABLISHMENT.—The Secretary of State shall
9 establish, within the Office of Civil Rights of the Depart-
10 ment of State, an independent Reconciliation Board to re-
11 view the reports released by the Director General of the
12 Foreign Service and Director of Human Services under
13 section 3(b).

14 (b) DUTIES.—The Reconciliation Board shall—

15 (1) consistent with applicable privacy regula-
16 tions, contact all employees found to be fired due to
17 the “Lavender Scare” or, in the case of deceased
18 former employees, the family members of the em-
19 ployees, to inform them that their termination from
20 the Department of State has been deemed inappro-
21 priate and that, if they wish, their employment
22 record can be changed to reflect these findings;

23 (2) designate a point of contact at a senior level
24 position within the Office of the Director General of
25 the Foreign Service and Director of Human Re-

1 sources to receive oral testimony of any employees or
2 family members of deceased employees mentioned in
3 the report who personally experienced discrimination
4 and termination because of the actual or perceived
5 sexual orientation in order that such testimony may
6 serve as an official record of these discriminatory
7 policies and their impact on the lives of United
8 States citizens serving their Nation; and

9 (3) provide an opportunity for any former em-
10 ployee not mentioned in the report to bring forth a
11 grievance to the Board if they believe they were ter-
12 minated due to their sexual orientation.

13 (c) REVIEW OF CLAIMS.—

14 (1) IN GENERAL.—The Board shall review each
15 claim described in subsection (b) within 150 days of
16 receiving the claim. Lack of paperwork may not be
17 used as a basis for dismissing any claims.

18 (2) COOPERATION.—The Department of State
19 shall be responsible for producing pertinent informa-
20 tion regarding each claim to prove the employee was
21 not wrongfully terminated.

22 (d) TERMINATION.—The Board shall terminate 5
23 years after the date of the enactment of this Act.

1 **SEC. 6. ISSUANCE OF APOLOGY.**

2 (a) FINDING.—Secretary of State Kerry delivered the
3 following apology on January 9, 2017:

4 “Throughout my career, including as Secretary of
5 State, I have stood strongly in support of the LGBTI com-
6 munity, recognizing that respect for human rights must
7 include respect for all individuals. LGBTI employees serve
8 as proud members of the State Department and valued
9 colleagues dedicated to the service of our country. For the
10 last several years, the Department has pressed for the
11 families of LGBTI officers to have the same protections
12 overseas as families of other officers. In 2015, to further
13 promote LGBTI rights throughout the world, I appointed
14 the first ever Special Envoy for the Human Rights of
15 LGBTI Persons.

16 “In the past – as far back as the 1940s, but con-
17 tinuing for decades – the Department of State was among
18 many public and private employers that discriminated
19 against employees and job applicants on the basis of per-
20 ceived sexual orientation, forcing some employees to resign
21 or refusing to hire certain applicants in the first place.
22 These actions were wrong then, just as they would be
23 wrong today.

24 “On behalf of the Department, I apologize to those
25 who were impacted by the practices of the past and reaf-
26 firm the Department’s steadfast commitment to diversity

1 and inclusion for all our employees, including members of
2 the LGBTI community.”

3 (b) CONGRESSIONAL APOLOGY.—Congress hereby of-
4 fers a formal apology for its responsibility in encouraging
5 the “Lavender Scare” and similar policies at the Depart-
6 ment of State, as these policies were in part a response
7 to congressional investigations into “sex perversion of
8 Federal employees”, reports on the employment of “moral
9 perverts by Government Agencies”, and hearings or pres-
10 sure otherwise placed on the Department of State through
11 the appropriations process.

12 **SEC. 7. ESTABLISHMENT OF PERMANENT EXHIBIT ON THE**
13 **LAVENDER SCARE.**

14 (a) IN GENERAL.—The Secretary of State, working
15 with the current public-private partnership associated with
16 the Department of State’s new United States Diplomacy
17 Center, shall establish a permanent exhibit on the “Lav-
18 ender Scare” in the museum to assure that the history
19 of this discriminatory episode is not brushed aside.

20 (b) SPECIFICATIONS.—The exhibit—

21 (1) shall be installed at the museum not later
22 than one year after the date of enactment of this
23 Act;

24 (2) should provide access to the reports com-
25 piled by the Director General of the Foreign Service

1 and Director of Human Resources under section
2 3(b); and

3 (3) shall readily display material gathered from
4 oral testimony received pursuant to section 5(b)(2)
5 from employees or family members of deceased em-
6 ployees who were subject to these discriminatory
7 policies during the “Lavender Scare”.

8 **SEC. 8. GUIDANCE ON ISSUING VISAS.**

9 To demonstrate the Department of State’s commit-
10 ment to ensuring fairness for current employees, not later
11 than 100 days after the date of the enactment of this Act,
12 the Secretary of State shall submit to Congress a report
13 on countries not issuing spousal visas to the spouses of
14 all Foreign Service personnel posted overseas due to their
15 sexual orientation. This report shall include any comments
16 or recommendations for actions, including eliminating visa
17 reciprocity with countries found to be instituting these
18 practices against the spouses of Foreign Service personnel,
19 that will lead to ensuring that all spouses of Foreign Serv-
20 ice personnel receive spousal visas for the country their
21 spouse is assigned, regardless of sexual orientation.

22 **SEC. 9. ESTABLISHMENT OF ADVANCEMENT BOARD.**

23 (a) ESTABLISHMENT.—The Secretary of State shall
24 establish, within the Office of the Director General of the
25 Department of State, a board comprised of senior-level of-

1 ficials to address the issues faced by LGBTQI Foreign
2 Service employees and their families.

3 (b) HEARING OF TESTIMONY.—The Advancement
4 Board shall hear testimony from any willing LGBTQI
5 Foreign Service employees and their families regarding
6 any discrimination they have faced due to their sexual ori-
7 entation.

8 (c) REPORT.—

9 (1) IN GENERAL.—Not later than 100 days
10 after completing collection of testimony described
11 under subsection (b), and annually thereafter for 5
12 years, the Advancement Board shall submit to Con-
13 gress a report based on the testimony.

14 (2) CONTENT.—The report required under
15 paragraph (1) shall include any comments or rec-
16 ommendations for continued actions to improve the
17 Department of State to ensure that no employee or
18 their family members experience discrimination due
19 to their sexual orientation.

20 (3) PRIVACY.—The report required under para-
21 graph (1) shall remain private and will only be ac-
22 cessible to Members of Congress, their appropriate
23 staff, and members of the Advancement Board.