

117TH CONGRESS
1ST SESSION

S. 2293

AN ACT

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 protections, rights, benefits,
14 and obligations provided under chapter 43 of title
15 38, United States Code, shall apply to intermittent
16 personnel appointed pursuant to subsection (b)(1) to
17 perform service to the Federal Emergency Manage-
18 ment Agency under sections 401 and 501 or to train
19 for such service.

20 “(2) NOTICE OF ABSENCE FROM POSITION OF
21 EMPLOYMENT.—Preclusion of giving notice of serv-
22 ice by necessity of service under subsection (b)(1) to
23 perform service to the Federal Emergency Manage-
24 ment Agency under sections 401 and 501 or to train
25 for such service shall be considered preclusion by
26 ‘military necessity’ for purposes of section 4312(b)

1 of title 38, United States Code, pertaining to giving
 2 notice of absence from a position of employment. A
 3 determination of such necessity shall be made by the
 4 Administrator and shall not be subject to review in
 5 any judicial or administrative proceeding.”.

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

8 (a) IN GENERAL.—Section 4303 of title 38, United
 9 States Code, is amended—

10 (1) in paragraph (13), by inserting before “,
 11 and a period” the following: “, a period for which
 12 a person is absent from a position of employment
 13 due to an appointment into service in the Federal
 14 Emergency Management Agency as intermittent per-
 15 sonnel under section 306(b)(1) of the Robert T.
 16 Stafford Disaster Relief and Emergency Assistance
 17 Act (42 U.S.C. 5149(b)(1))”;

18 (2) by redesignating the second paragraph (16)
 19 (relating to uniformed services) as paragraph (17);
 20 and

21 (3) in paragraph (17), as so redesignated, by
 22 inserting before “and any other category” the fol-
 23 lowing: “intermittent personnel who are appointed
 24 into Federal Emergency Management Agency service
 25 under section 306(b)(1) of the Robert T. Stafford

1 Disaster Relief and Emergency Assistance Act (42
2 U.S.C. 5149(b)(1)) or to train for such service,”.

3 (b) MODIFICATION OF EXCEPTION FOR REQUIRE-
4 MENT FOR MEMBERS OF UNIFORMED SERVICES TO PRO-
5 VIDE NOTICE TO EMPLOYERS TO OBTAIN CERTAIN EM-
6 PLOYMENT AND REEMPLOYMENT RIGHTS.—Section
7 4312(b) of title 38, United States Code, is amended—

8 (1) by striking the second sentence;

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

10 (3) by adding at the end the following new
11 paragraph:

12 “(2) A determination of military necessity for pur-
13 poses of paragraph (1) shall be made—

14 “(A) except as provided in subparagraphs (B)
15 and (C), pursuant to regulations prescribed by the
16 Secretary of Defense;

17 “(B) for persons performing service to the Fed-
18 eral Emergency Management Agency under section
19 327 of the Robert T. Stafford Disaster Relief and
20 Emergency Assistance Act (42 U.S.C. 5165f) and as
21 intermittent personnel under section 306(b)(1) of
22 such Act (42 U.S.C. 5149(b)(1)), by the Adminis-
23 trator of the Federal Emergency Management Agen-
24 cy as described in sections 327(j)(2) and 306(d)(2)

1 of such Act (42 U.S.C. 5165f(j)(2) and 5149(d)(2)),
2 respectively; or

3 “(C) for intermittent disaster-response ap-
4 pointees of the National Disaster Medical System,
5 by the Secretary of Health and Human Services as
6 described in section 2812(d)(3)(B) of the Public
7 Health Service Act (42 U.S.C. 300hh–11(d)(3)(B)).

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

Passed the Senate December 8, 2021.

Attest:

Secretary.

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