

116TH CONGRESS
2D SESSION

H. R. 8809

To review the termination characterization of former employees of the Department of State who were fired by reason of the sexual orientation of such employees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 24, 2020

Mr. CASTRO of Texas (for himself, Mr. CICILLINE, Mr. MCGOVERN, Mr. LOWENTHAL, Ms. NORTON, Ms. HAALAND, Mr. CARSON of Indiana, and Mr. SHERMAN) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To review the termination characterization of former employees of the Department of State who were fired by reason of the sexual orientation of such employees, 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 2020” or the “LOVE Act of

6 2020”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) As a consequence of the so-called “Lavender
4 Scare”, at least 1,000 people were wrongfully dis-
5 missed from the Department of State for alleged ho-
6 mosexuality during the 1950s and well into the
7 1960s.

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

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

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

1 and pressure placed on the Department through the
2 appropriations process and congressional complaints
3 that Foggy Bottom was rampant with homosexuals
4 who were sympathetic to Communism and vulnerable
5 to blackmail.

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

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

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

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

23 (9) On January 9, 2017, Secretary of State
24 John Kerry issued a statement regarding the “Lav-
25 ender Scare”, saying, “On behalf of the Department,

1 I apologize to those who were impacted by the prac-
2 tices of the past and reaffirm the Department’s
3 steadfast commitment to diversity and inclusion for
4 all our employees, including members of the LGBTI
5 community.”.

6 **SEC. 3. SECRETARY OF STATE REVIEW.**

7 (a) REVIEW.—The Secretary of State shall—

8 (1) review all Department of State terminations
9 of employees of the Department that occurred as a
10 consequence of the Lavender Scare; and

11 (2) identify all such former employees.

12 (b) REPORT.—Not later than 270 days after the date
13 of the enactment of this Act, the Secretary of State shall,
14 consistent with applicable privacy regulations, compile in
15 a publicly available report the information reviewed under
16 subsection (a). Such report shall include historical state-
17 ments made by officials of the Department of State and
18 Members of Congress that announced or described policies
19 and actions that were part of the Lavender Scare.

20 **SEC. 4. ESTABLISHMENT OF RECONCILIATION BOARD.**

21 (a) ESTABLISHMENT.—The Secretary of State shall
22 establish an independent Reconciliation Board (in this sec-
23 tion referred to as the “Board”) to review the cases of
24 employees of the Department of State identified pursuant
25 to section 3(a), as well as employees of the Department

1 who suffered discrimination as a consequence of the Lav-
2 ender Scare, and correct the records of such terminated
3 employees.

4 (b) COMPOSITION OF BOARD.—The Board shall be
5 composed of the following:

6 (1) A Chair, as selected by the Secretary of
7 State.

8 (2) The Director General of the Foreign Serv-
9 ice.

10 (3) The Director of Human Resources of the
11 Department of State.

12 (4) The Director of the Office of the Historian
13 of the Department.

14 (5) The Director of the Office of Civil Rights
15 of the Department.

16 (6) An individual to represent the current em-
17 ployees of the Department who are members of the
18 LGBTQ community.

19 (7) Other individuals, as determined by the Sec-
20 retary of State.

21 (c) STAFF.—The Secretary of State shall assign addi-
22 tional employees of the Department of State to serve as
23 staff to support the activities of the Board.

24 (d) DUTIES.—The Board shall—

1 (1) consistent with applicable privacy regula-
2 tions, contact all individuals whose employment with
3 the Department of State was terminated as a result
4 of their sexual orientation, whether real or perceived,
5 as a consequence of the Lavender Scare or, in the
6 case of deceased former employees, the appropriate
7 family members of such employees, to inform such
8 employees or family members that the termination of
9 such employees has been determined to be inappro-
10 prium and that, if desired, the employment records
11 of such employees can be changed to reflect such de-
12 termination;

13 (2) receive oral testimony and written evidence
14 of any Department employees or appropriate family
15 members of deceased employees identified in the re-
16 port required under section 3 in order that such tes-
17 timony and evidence may serve as an official record
18 of such actions and the impact of such actions on
19 the lives of United States citizens serving their Na-
20 tion; and

21 (3) provide an opportunity for any former De-
22 partment employee not identified in such report, or
23 their appropriate family member, to petition the
24 Board to identify additional individuals whose em-
25 ployment was terminated or who suffered discrimi-

1 nation as a result of their sexual orientation, wheth-
2 er real or perceived, as a consequence of the Lav-
3 ender Scare.

4 (e) REVIEW OF CLAIMS.—

5 (1) IN GENERAL.—Not later than 150 days
6 after receiving a petition under subsection (d)(3),
7 the Board shall—

8 (A) review such petition; and

9 (B) in accordance with paragraph (2),
10 make a determination regarding whether the
11 employment termination of the individual who
12 is the subject of such petition was a result of
13 their sexual orientation, whether real or per-
14 ceived, as a consequence of the Lavender Scare.

15 (2) TESTIMONY AND EVIDENCE.—In making
16 determinations under paragraph (1)(B), the Board
17 shall consider all testimony and evidence under sub-
18 section (d) and any pertinent information under
19 paragraph (3).

20 (3) COOPERATION.—In response to a petition
21 under subsection (d)(3), the Secretary of State shall
22 produce pertinent information to rebut an assertion
23 contained in such petition that an employee of the
24 Department was terminated as a consequence of the
25 Lavender Scare.

1 (f) ADJUSTMENT OF EMPLOYEE RECORDS.—The
2 Secretary of State shall adjust all employee records for
3 individuals whose employment was terminated as a result
4 of their sexual orientation, whether real or perceived, as
5 a consequence of the Lavender Scare, based on the report
6 under section 3(a) and the Board’s determinations made
7 pursuant to subsection (e)(1)(B), to reflect the inappro-
8 priate nature of such terminations.

9 (g) TERMINATION.—The Board shall terminate on
10 the date that is five years after the date of the establish-
11 ment of the Board.

12 (h) DEFINITION.—In this section, the term “appro-
13 priate family member” means any spouse, descendent,
14 parent, grandparent, sibling, legal guardian, or partner as
15 determined by the Board, and the descendants of any such
16 partner.

17 **SEC. 5. ISSUANCE OF APOLOGY.**

18 (a) FINDING.—Secretary of State Kerry delivered the
19 following apology on January 9, 2017: “Throughout my
20 career, including as Secretary of State, I have stood
21 strongly in support of the LGBTI community, recognizing
22 that respect for human rights must include respect for all
23 individuals. LGBTI employees serve as proud members of
24 the State Department and valued colleagues dedicated to
25 the service of our country. For the last several years, the

1 Department has pressed for the families of LGBTI offi-
2 cers to have the same protections overseas as families of
3 other officers. In 2015, to further promote LGBTI rights
4 throughout the world, I appointed the first ever Special
5 Envoy for the Human Rights of LGBTI Persons. In the
6 past—as far back as the 1940s, but continuing for dec-
7 ades—the Department of State was among many public
8 and private employers that discriminated against employ-
9 ees and job applicants on the basis of perceived sexual ori-
10 entation, forcing some employees to resign or refusing to
11 hire certain applicants in the first place. These actions
12 were wrong then, just as they would be wrong today. On
13 behalf of the Department, I apologize to those who were
14 impacted by the practices of the past and reaffirm the De-
15 partment’s steadfast commitment to diversity and inclu-
16 sion for all our employees, including members of the
17 LGBTI community.”.

18 (b) CONGRESSIONAL APOLOGY.—Congress hereby of-
19 fers a formal apology for its responsibility in encouraging
20 the Lavender Scare and similar policies at the Department
21 of State, as these policies were in part a response to con-
22 gressional investigations into “sex perversion of Federal
23 employees”, reports on the employment of “moral perverts
24 by Government Agencies”, and hearings or pressure other-

1 wise placed on the Department of State through the legis-
2 lative process.

3 **SEC. 6. ESTABLISHMENT OF PERMANENT EXHIBIT ON THE**
4 **LAVENDER SCARE.**

5 (a) IN GENERAL.—Not later than one year after the
6 date of the enactment of this Act, the Secretary of State,
7 working in coordination with the current public-private
8 partnership associated with the Department of State’s Na-
9 tional Museum of American Diplomacy, shall establish in
10 the Museum a permanent exhibit on the Lavender Scare.

11 (b) SPECIFICATIONS.—The exhibit established under
12 subsection (a)—

13 (1) should provide access to the reports com-
14 piled by the Director General of the Foreign Service
15 and Director of Human Resources of the Depart-
16 ment of State under section 3(b); and

17 (2) shall readily display material gathered from
18 oral testimony received pursuant to section 4(e)(2).

19 **SEC. 7. GUIDANCE ON ISSUING VISAS.**

20 To demonstrate the Department of State’s commit-
21 ment to ensuring fairness for current Department employ-
22 ees, not later than 100 days after the date of the enact-
23 ment of this Act, the Secretary of State shall submit to
24 Congress a report on countries not issuing spousal visas
25 to the spouses of all Foreign Service personnel posted

1 overseas due to their sexual orientation. Such report shall
2 include any comments or recommendations for actions, in-
3 cluding eliminating visa reciprocity with countries deter-
4 mined to be instituting such practices, that will lead to
5 ensuring that all spouses of Foreign Service personnel re-
6 ceive spousal visas for the country to which their spouse
7 is assigned, regardless of sexual orientation.

8 **SEC. 8. ESTABLISHMENT OF ADVANCEMENT BOARD.**

9 (a) ESTABLISHMENT.—The Secretary of State shall
10 establish, within the Office of the Director General of the
11 Department of State, an Advancement Board comprised
12 of senior-level officials to address issues faced by LGBTQI
13 Foreign Service personnel and their families.

14 (b) HEARING OF TESTIMONY.—The Advancement
15 Board established under subsection (a) shall hear testi-
16 mony from any willing LGBTQI Foreign Service per-
17 sonnel and their families regarding any discrimination
18 they have faced due to their sexual orientation.

19 (c) REPORT.—

20 (1) IN GENERAL.—Not later than 100 days
21 after completing the collection of testimony under
22 subsection (b) and annually thereafter for five years,
23 the Advancement Board shall submit to Congress a
24 report based on such testimony.

1 (2) CONTENT.—Each report required under
2 paragraph (1) shall include any comments or rec-
3 ommendations included in the testimony referred to
4 in such paragraph for continued actions to improve
5 the Department of State to ensure that no Depart-
6 ment employee or family member experiences dis-
7 crimination due to the sexual orientation of such em-
8 ployee.

9 (3) PRIVACY.—Each report required under
10 paragraph (1) shall remain private and shall be ac-
11 cessible to only Members of Congress, their appro-
12 priate staff, and members of the Advancement
13 Board.

14 **SEC. 9. DEFINITIONS.**

15 In this Act, the term “Lavender Scare” means any
16 policy or action implemented by the Department of State
17 between January 1, 1950, and January 1, 1994, whether
18 formal or informal, that led to the termination of Depart-
19 ment employees or perpetuated discrimination against any
20 such employees on the basis of sexual orientation, whether
21 real or perceived.

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