

[~116H8809]



Joaquin Castro

Original Signature of Member

117TH CONGRESS
2D SESSION

H. R. _____

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

Mr. CASTRO of Texas introduced the following bill; which was referred to the Committee on _____

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 2022” or the “LOVE Act of
6 2022”.

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 practices of the past and reaffirm the Department's steadfast commitment to diversity and inclusion for all our employees, including members of the LGBTI 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 statements made by officials of the Department of State and
17 Members of Congress that announced or described policies
18 and actions that were part of the Lavender Scare.

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

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

1 who suffered discrimination as a consequence of the Law-
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 nation as a result of their sexual orientation, whether
2 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, gender identity,
2 or sex characteristics. Such report shall include any com-
3 ments or recommendations for actions, including elimi-
4 nating visa reciprocity with countries determined to be in-
5 stituting such practices, that will lead to ensuring that all
6 spouses of Foreign Service personnel receive spousal visas
7 for the country to which their spouse is assigned, regard-
8 less of sexual orientation, gender identity, or sex charac-
9 teristics.

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

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

16 (b) HEARING OF TESTIMONY.—The Advancement
17 Board established under subsection (a) shall hear testi-
18 mony from any willing LGBTQI Foreign Service per-
19 sonnel and their families regarding any discrimination
20 they have faced due to their sexual orientation, gender
21 identity, or sex characteristics.

22 (c) REPORT.—

23 (1) IN GENERAL.—Not later than 100 days
24 after completing the collection of testimony under
25 subsection (b) and annually thereafter for five years,

1 the Advancement Board shall submit to Congress a
2 report based on such testimony.

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

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

16 **SEC. 9. DEFINITIONS.**

17 In this Act:

18 (1) GENDER IDENTITY.—The term “gender
19 identity” means the gender-related identity, appear-
20 ance, mannerisms, or other gender-related character-
21 istics of an individual, regardless of the individual’s
22 designated sex at birth.

23 (2) LAVENDER SCARE.—The term “Lavender
24 Scare” means any policy or action implemented by
25 the Department of State between January 1, 1950,

1 and January 1, 1994, whether formal or informal,
2 that led to the termination of Department employees
3 or perpetuated discrimination against any such em-
4 ployees on the basis of sexual orientation, whether
5 real or perceived.

6 (3) LGBTQI.—The term “LGBTQI” means
7 lesbian, gay, bisexual, transgender, queer, or
8 intersex.

9 (4) SEXUAL ORIENTATION.—The term “sexual
10 orientation” means actual or perceived homosex-
11 uality, heterosexuality, or bisexuality.