H. R. ______

To amend title 18, United States Code, to make it a criminal offense for Federal law enforcement officers to engage in sexual acts with individuals in their custody, to encourage States to adopt similar laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. SPEIER introduced the following bill; which was referred to the Committee on __________________

A BILL

To amend title 18, United States Code, to make it a criminal offense for Federal law enforcement officers to engage in sexual acts with individuals in their custody, to encourage States to adopt similar laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Closing the Law Enforcement Consent Loophole Act of 2018”.
SEC. 2. FEDERAL LAW ENFORCEMENT OFFICERS PROHIBITED FROM ENGAGING IN SEXUAL ACTS WITH INDIVIDUALS IN THEIR CUSTODY.

(a) In general.—Section 2243 of title 18, United States Code, is amended—

(1) by adding at the end the following: “, OR OF INDIVIDUAL IN THE CUSTODY OF A FEDERAL LAW ENFORCEMENT OFFICER”;

(2) by redesignating subsections (c) and (d) as subsections (d) and (e); (3) by inserting after subsection (b) the following:

“(c) Of individual in the custody of a Federal Law Enforcement Officer.—Whoever, being a Federal law enforcement officer, knowingly engages in a sexual act with an individual who is under arrest, in detention, or otherwise in the actual custody of that Federal law enforcement officer, shall be fined under this title, imprisoned not more than 15 years, or both.”; and

(4) in subsection (d), as so redesignated, by adding at the end the following:

“(3) In a prosecution under subsection (c), it is not a defense that the other person consented to the sexual act.”.

(b) Definition.—Section 2246 of title 18, United States Code, is amended—
(1) in paragraph (5), by striking “and” at the end;
(2) in paragraph (6), by striking the period at the end and inserting “; and”;
(3) by inserting after paragraph (6) the following:

“(7) the term ‘Federal law enforcement officer’ means an officer or employee of the United States, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States.”.

(c) Clerical Amendment.—The table of sections for chapter 109A of title 18, United States Code, is amended by amending the item related to section 2243 to read as follows:

“2243. Sexual abuse of a minor or ward, or of an individual in the custody of a Federal law enforcement officer.”.

SEC. 3. INCENTIVES FOR STATES.

(a) Authority to Make Grants.—The Attorney General is authorized to make grants to States that have in place a law that—

(1) makes it a criminal offense for a law enforcement officer in that State to engage in a sexual act with an individual who is under arrest, in deten-
tion, or otherwise in the actual custody of that law
enforcement officer; and

(2) prohibits a law enforcement officer charged
with such an offense from asserting the consent of
the other individual as a defense.

(b) Reporting Requirement.—A State that re-
ceives a grant under this section shall submit to the Attor-
ney General, on an annual basis, information on the num-
ber of reports made to law enforcement agencies in that
State regarding law enforcement officers engaging in a
sexual act with an individual described in paragraph (1),
during the previous year.

(c) Application.—A State seeking a grant under
this section shall submit an application to the Attorney
General at such time, in such manner, and containing
such information as the Attorney General may reasonably
require, including information about the law described in
subsection (a).

(d) Grant Amount.—The amount of a grant to a
State under this Act shall be in an amount that is not
greater than 10 percent of the average of the total amount
of funding of the 3 most recent awards that the State re-
ceived under the following grant programs:

(1) Part T of title I of the Omnibus Crime Con-
trol and Safe Streets Act of 1968 (34 U.S.C. 10441
et seq.) (commonly referred to as the “STOP Vio-
rence Against Women Formula Grant Program”).

(2) Section 41601 of the Violence Against
referred to as the “Sexual Assault Services Pro-
gram”).

(e) GRANT TERM.—

(1) IN GENERAL.—The Attorney General shall
provide an increase in the amount provided to a
State under the grant programs described in sub-
section (d) for a 2-year period.

(2) RENEWAL.—A State that receives a grant
under this section may submit an application for a
renewal of such grant at such time, in such manner,
and containing such information as the Attorney
General may reasonably require.

(3) LIMIT.—A State may not receive a grant
under this section for more than 4 years.

(f) USES OF FUNDS.—A State that receives a grant
under this section shall use—

(1) 25 percent of such funds for any of the per-
missible uses of funds under the grant program de-
scribed in paragraph (1) of subsection (d); and
(2) 75 percent of such funds for any of the permissible uses of funds under the grant program described in paragraph (2) of subsection (d).

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this chapter $5,000,000 for each of fiscal years 2019 through 2023.

SEC. 4. REPORT TO CONGRESS.

The Attorney General shall submit to Congress, on an annual basis, a report containing—

(1) the information required to be reported to the Attorney General under section 3(b); and

(2) information on the number of reports made, during the previous year, to Federal law enforcement agencies regarding Federal law enforcement officers engaging in a sexual act with an individual who is under arrest, in detention, or otherwise in the actual custody of the law enforcement officer.