

103^D CONGRESS
2^D SESSION

S. 2071

To provide for the application of certain employment protection and information laws to the Congress, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 4 (legislative day, MAY 2), 1994

Mr. LIEBERMAN (for himself, Mr. GRASSLEY, Mr. CAMPBELL, Mrs. BOXER, Mr. COHEN, Mr. DECONCINI, Mrs. FEINSTEIN, Mr. KOHL, Mr. METZENBAUM, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. RIEGLE, Mr. ROBB, Mr. NICKLES, Mr. WOFFORD, Mr. KERREY, and Mr. GLENN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To provide for the application of certain employment protection and information laws to the Congress, 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Congressional Accountability Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title and table of contents.

- Sec. 2. Application of Federal laws.
- Sec. 3. Office of Compliance.
- Sec. 4. Board functions.
- Sec. 5. Procedure for consideration of alleged violations of civil rights and personnel requirements.
- Sec. 6. Step I: Counseling.
- Sec. 7. Step II: Mediation.
- Sec. 8. Step IIIA: Formal complaint and hearing.
- Sec. 9. Step IV: Judicial review.
- Sec. 10. Step IIIB: Civil Action.
- Sec. 11. Procedures for consideration of alleged violations relating to information requirements.
- Sec. 12. Procedures for consideration of alleged violation relating to labor management and occupational health and safety requirements.
- Sec. 13. Information requirements.
- Sec. 14. Resolution of complaint.
- Sec. 15. Prohibition of intimidation.
- Sec. 16. Confidentiality.
- Sec. 17. Inspections.
- Sec. 18. Collection of information.
- Sec. 19. Political affiliation and place of residence.
- Sec. 20. Other review.
- Sec. 21. Severability.
- Sec. 22. Authorization of appropriations.
- Sec. 23. Definitions.

1 SEC. 2. APPLICATION OF FEDERAL LAWS.

2 (a) EMPLOYMENT.—The following provisions shall
 3 apply, except as otherwise specifically provided in this Act,
 4 to each employing office and each congressional employee,
 5 in accordance with section 4:

6 (1) The Fair Labor Standards Act of 1938 (29
 7 U.S.C. 201 et seq.).

8 (2) Chapter 71 of title 5, United States Code
 9 (relating to labor-management relations).

10 (3) Section 5 of the Occupational Safety and
 11 Health Act of 1970 (29 U.S.C. 654).

12 (4) Section 717 of the Civil Rights Act of 1964
 13 (42 U.S.C. 2000e–16).

1 (5) Section 15 of the Age Discrimination in
2 Employment Act of 1967 (29 U.S.C. 633a).

3 (6) Sections 102 through 104 of the Americans
4 with Disabilities Act of 1990 (42 U.S.C. 12112–
5 12114).

6 (7) Section 501 of the Rehabilitation Act of
7 1973 (29 U.S.C. 791).

8 (8) Sections 101 through 105 of the Family
9 and Medical Leave Act of 1993 (29 U.S.C. 2601 et
10 seq.).

11 (9) The Employee Polygraph Protection Act of
12 1988 (29 U.S.C. 2001 et seq.).

13 (10) The Worker Adjustment and Retraining
14 Notification Act (29 U.S.C. 2101 et seq.).

15 (b) INFORMATION.—Section 552 of title 5, United
16 States Code (commonly known as the “Freedom of Infor-
17 mation Act”), and section 552a of title 5, United States
18 Code (commonly known as the “Privacy Act of 1974”),
19 shall apply, except as otherwise specifically provided in
20 this Act, to each office of the legislative branch of the Fed-
21 eral Government and the information in the possession of
22 such office, in accordance with section 4.

23 (c) ACCOMMODATIONS.—

24 (1) IN GENERAL.—Sections 201 through 203
25 (except as such section refers to procedures) of the

1 Americans with Disabilities Act of 1990 (42 U.S.C.
2 12131–12133), shall apply, except as otherwise spe-
3 cifically provided in this Act, to each entity of the
4 legislative branch of the Federal Government that
5 owns, leases, or operates a place of public accommo-
6 dation (as defined in section 301(7) of such Act (42
7 U.S.C. 12181(7))), and to each client or customer of
8 the covered public accommodation who is a qualified
9 individual with a disability (as defined in section
10 201(2) of such Act), in accordance with section 4.

11 (2) APPLICATION.—For purposes of the appli-
12 cation of such sections under this Act—

13 (A) references in this Act to an employing
14 office shall be deemed to include such an entity;
15 and

16 (B) references in this Act—

17 (i) to an employee of the House of
18 Representatives shall be deemed to include
19 references to such a client or customer of
20 such an entity of the House of Representa-
21 tives;

22 (ii) to an employee of the Senate shall
23 be deemed to include references to such a
24 client or customer of such an entity of the
25 Senate; and

1 (iii) to an employee of an instrumen-
2 tality shall be deemed to include references
3 to such a client or customer of such an en-
4 tity of the instrumentality.

5 (d) EMPLOYMENT UNDER FEDERAL CONTRACTS.—

6 (1) IN GENERAL.—Section 503 of the Rehabili-
7 tation Act of 1973 (29 U.S.C. 793) shall apply, ex-
8 cept as otherwise specifically provided in this Act, to
9 each party contracting with an entity of the legisla-
10 tive branch of the Federal Government and to each
11 applicant for employment, employee, or former em-
12 ployee, of such party, in accordance with section 4.

13 (2) APPLICATION.—For purposes of the appli-
14 cation of such sections under this Act—

15 (A) references in this Act to an employing
16 office shall be deemed to include such a party;
17 and

18 (B) references in this Act—

19 (i) to an employee of the House of
20 Representatives shall be deemed to include
21 references to such an applicant, employee,
22 or former employee of a party contracting
23 with an entity of the House of Representa-
24 tives;

1 (ii) to an employee of the Senate shall
2 be deemed to include references to such an
3 applicant, employee, or former employee of
4 a party contracting with an entity of the
5 Senate; and

6 (iii) to an employee of an instrumen-
7 tality shall be deemed to include references
8 to such an applicant, employee, or former
9 employee of a party contracting with the
10 instrumentality.

11 **SEC. 3. OFFICE OF COMPLIANCE.**

12 (a) ESTABLISHMENT.—There is established in the
13 legislative branch for the Congress an Office of Compli-
14 ance (referred to in this Act as the “Office”).

15 (b) BOARD OF DIRECTORS.—

16 (1) IN GENERAL.—

17 (A) APPOINTMENT.—There shall be a
18 Board of Directors in the Office (referred to in
19 this Act as the “Board of Directors”). The
20 Board of Directors shall consist of 8 individ-
21 uals, of which 2 shall be appointed by the
22 Speaker of the House of Representatives, 2
23 shall be appointed by the Majority Leader of
24 the Senate, 2 shall be appointed by the Minor-
25 ity Leader of the House of Representatives, and

1 2 shall be appointed by the Minority Leader of
2 the Senate. The members first appointed to the
3 Board of Directors shall be appointed not later
4 than 120 days after the date of the enactment
5 of this Act.

6 (B) REMOVAL.—Any member of the Board
7 of Directors may be removed by a majority de-
8 cision of the appointing authorities described in
9 subparagraph (A), only for—

10 (i) disability that substantially pre-
11 vents the member from carrying out the
12 duties of such a member;

13 (ii) incompetence;

14 (iii) neglect of duty;

15 (iv) malfeasance; or

16 (v) a felony or conduct involving
17 moral turpitude.

18 (2) QUALIFICATIONS.—

19 (A) IN GENERAL.—The Board of Directors
20 shall be composed of individuals with training
21 or expertise related to the provisions referred to
22 in section 2, and the application of the provi-
23 sions referred to in section 2.

24 (B) SPECIFIC QUALIFICATIONS.—

1 (i) LOBBYING.—No individual who en-
2 gages in, or is otherwise employed in, lob-
3 bying of the Congress shall be considered
4 eligible for appointment to, or service on,
5 the Board of Directors.

6 (ii) OFFICE.—No current, or former,
7 Member of the House of Representatives
8 or Senator may be appointed as a member
9 of the Board of Directors. No congres-
10 sional employee may be so appointed with-
11 in 6 years of any employment by any office
12 of the legislative branch of the Federal
13 Government.

14 (3) VACANCIES.—Any vacancy occurring in the
15 membership of the Board of Directors shall be filled
16 in the same manner as the original appointment for
17 the position being vacated. The vacancy shall not af-
18 fect the power of the remaining members to execute
19 the duties of the Board of Directors.

20 (c) AUTHORITY.—The members of the Board of Di-
21 rectors shall have the authority to carry out the functions
22 described in subsections (a), (b), (d), and (e) of section
23 4, and the functions described in sections 8(f), 11, and
24 12.

25 (d) TERM OF OFFICE.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), each member of the Board of Directors
3 shall be appointed for 1 term of 5 years.

4 (2) FIRST APPOINTMENTS.—Of the members
5 first appointed to the Board of Directors—

6 (A) 1 member appointed by the Speaker of
7 the House of Representatives and 1 member
8 appointed by the Minority Leader of the Senate
9 shall be appointed to a term of 1 year;

10 (B) 1 member appointed by the Minority
11 Leader of the House of Representatives and 1
12 member appointed by the Majority Leader of
13 the Senate shall be appointed to a term of 2
14 years;

15 (C) 1 member appointed by the Minority
16 Leader of the House of Representatives and 1
17 member appointed by the Majority Leader of
18 the Senate shall be appointed to a term of 3
19 years;

20 (D) 1 member appointed by the Minority
21 Leader of the Senate shall be appointed to a
22 term of 4 years; and

23 (E) 1 member appointed by the Speaker of
24 the House of Representatives shall be appointed
25 to a term of 5 years.

1 (e) CHAIRPERSON.—The Board of Directors shall
2 elect a Chairperson from among the members of the
3 Board.

4 (f) COMPENSATION OF MEMBERS.—Each member of
5 the Board of Directors shall be compensated at a rate
6 equal to the daily equivalent of the annual rate of basic
7 pay prescribed for level V of the Executive Schedule under
8 section 5316 of title 5, United States Code, for each day
9 (including travel time) during which such member is en-
10 gaged in the performance of the duties of the Board.

11 (g) TRAVEL EXPENSES.—Each member of the Board
12 of Directors shall receive travel expenses, including per
13 diem in lieu of subsistence, at rates authorized for employ-
14 ees of agencies under subchapter I of chapter 57 of title
15 5, United States Code, for each day the member is en-
16 gaged in the performance of duties away from the home
17 or regular place of business of the member.

18 (h) EXECUTIVE DIRECTOR.—

19 (1) IN GENERAL.—The Chairperson of the
20 Board of Directors shall appoint and may terminate,
21 subject to the approval of the Board of Directors, an
22 executive director (referred to in this Act as the “ex-
23 ecutive director”).

24 (2) COMPENSATION.—The Chairperson of the
25 Board of Directors may fix the compensation of the

1 executive director. The rate of pay for the executive
2 director may not exceed the annual rate of basic pay
3 prescribed for level V of the Executive Schedule
4 under section 5316 of title 5, United States Code.

5 (3) DUTIES.—Except as otherwise specified in
6 this Act, the executive director shall carry out the
7 responsibilities of the Office under sections 6, 7, 8,
8 9, 11, 12, 14, 16, 17, and 18.

9 (i) STAFF.—

10 (1) IN GENERAL.—The executive director shall
11 appoint and may terminate such other additional
12 staff as may be necessary to enable the Board to
13 perform its duties.

14 (2) COMPENSATION.—The executive director
15 may fix the compensation of the staff. The rate of
16 pay for the staff may not exceed the annual rate of
17 basic pay prescribed for level V of the Executive
18 Schedule under section 5316 of title 5, United
19 States Code.

20 (j) DETAILEES.—The executive director may, with
21 the prior consent of the Government department or agency
22 concerned, use on a nonreimbursable basis the services of
23 any such department or agency, including the services of
24 members or personnel of the General Accounting Office
25 Personnel Appeals Board.

1 (k) CONSULTANTS.—In carrying out the functions of
2 the Office, the executive director may procure the tem-
3 porary (not to exceed 1 year) or intermittent services of
4 individual consultants, or organizations thereof.

5 **SEC. 4. BOARD FUNCTIONS.**

6 (a) INITIAL ACTION.—

7 (1) REGULATIONS.—

8 (A) IN GENERAL.—Not later than 180
9 days after the appointment of the executive di-
10 rector, the Board of Directors shall, in accord-
11 ance with section 553 of title 5, United States
12 Code, issue regulations that specify the manner
13 in which the provisions referred to in section 2
14 shall be implemented to ensure that offices de-
15 scribed in such section comply with such provi-
16 sions. In addition to publishing a general notice
17 of proposed rulemaking under section 553(b) of
18 title 5, United States Code, the Board of Direc-
19 tors shall concurrently submit such notice for
20 publication in the Congressional Record, prior
21 to issuing such regulations.

22 (B) REQUIREMENTS.—Such regulations—

23 (i) shall be consistent with the regula-
24 tions issued by an agency of the executive
25 branch of the Federal Government with re-

1 spect to such provisions, including portions
2 relating to remedies, except as otherwise
3 specifically provided;

4 (ii) may specify specific dates for the
5 application of specific provisions and may
6 specify specific means for the application
7 of such provisions; and

8 (iii) in specifying the manner in which
9 the provision described in section 2(a)(3)
10 shall apply to the offices or employees de-
11 scribed in section 2(a), shall take into ac-
12 count the costs associated with the applica-
13 tion of such provision to the offices or em-
14 ployees.

15 (C) INFORMATION REGULATIONS.—In pro-
16 posing regulations for the application of any
17 provision referred to in section 2(b) to offices of
18 the legislative branch and information in the
19 possession of such offices, the Board of Direc-
20 tors shall be guided by judicial decisions under
21 such provision.

22 (2) AMENDMENTS AND REPEALS.—When pro-
23 posing regulations under paragraph (1) to apply a
24 provision described in section 2 to employees and of-
25 fices described in section 2, the Board of Directors

1 shall recommend to the Congress any necessary
2 changes in or repeals of existing law to accommodate
3 the application of such provision to the employees
4 and offices.

5 (b) CONTINUING ACTION.—Two years after the date
6 on which the first executive director is appointed under
7 section 3(h), and every 2 years thereafter, the Board of
8 Directors shall—

9 (1) study provisions of Federal law relating to
10 employment, personnel actions, or availability of in-
11 formation to the public, that are similar to the provi-
12 sions described in section 2 and that do not apply
13 to some or all congressional employees, employing
14 offices, or offices of the legislative branch of the
15 Federal Government; and

16 (2) recommend to the Congress whether any of
17 the provisions should be applied to employees or of-
18 fices described in paragraph (1).

19 (c) CONGRESSIONAL DISAPPROVAL.—

20 (1) IN GENERAL.—

21 (A) HOUSE OF REPRESENTATIVES.—

22 (i) IN GENERAL.—Regulations issued
23 by the Board of Directors under subsection
24 (a) that relate to the House of Representa-
25 tives shall take effect, and shall apply to

1 each employee of the House of Representa-
2 tives, and each office of the House of Rep-
3 resentatives described in section 2, on the
4 date of issuance of such regulations unless
5 disapproved by the Congress by concurrent
6 resolution.

7 (ii) INTRODUCTION AND CONTENT RE-
8 QUIREMENTS.—Such resolution shall be in-
9 troduced after the date on which the
10 Board of Directors publishes the general
11 notice of proposed rulemaking relating to
12 the regulations. The matter after the re-
13 solving clause of the resolution shall be as
14 follows: “That Congress disapproves the is-
15 suance of regulations of the Office of Com-
16 pliance as proposed on _____ (the
17 blank space being appropriately filled in).”.

18 (B) SENATE.—Regulations issued by the
19 Board of Directors under subsection (a) that
20 relate to the Senate shall take effect, and shall
21 apply to each employee of the Senate, and each
22 office of the Senate described in section 2, on
23 the date of issuance of such regulations unless
24 disapproved by the Congress by concurrent res-

1 olution. Such resolution shall comply with the
2 requirements of subparagraph (A)(ii).

3 (C) INSTRUMENTALITIES.—Regulations is-
4 sued by the Board of Directors under sub-
5 section (a) that relate to the instrumentalities
6 shall take effect, and shall apply to each em-
7 ployee of an instrumentality, and each office of
8 such an instrumentality described in section 2,
9 on the date of issuance of such regulations un-
10 less disapproved by the Congress by joint reso-
11 lution. Such resolution shall comply with the re-
12 quirements of subparagraph (A)(ii).

13 (2) RULEMAKING.—The provisions of this sub-
14 section are enacted by the Congress, and regulations
15 issued by the Board of Directors are so issued—

16 (A) with respect to the application of this
17 subsection, and regulations issued by the Board
18 of Directors, to regulations affecting employees
19 or offices of the House of Representatives, as
20 an exercise of the rulemaking power of the
21 House, with full recognition of the constitu-
22 tional right of the House to change its rules (so
23 far as the rules relate to the procedure of the
24 House), in the same manner, and to the same

1 extent, as in the case of any other rule of the
2 House; and

3 (B) with respect to the application of this
4 subsection, and the regulations issued by the
5 Board of Directors, to regulations affecting em-
6 ployees or offices of the Senate, as an exercise
7 of the rulemaking power of the Senate, with full
8 recognition of the constitutional right of the
9 Senate to change its rules (so far as the rules
10 relate to the procedure of the Senate), in the
11 same manner, and to the same extent, as in the
12 case of any other rule of the Senate.

13 (d) RULES OF THE OFFICE.—

14 (1) IN GENERAL.—The Board of Directors
15 shall, in accordance with section 553 of title 5, Unit-
16 ed States Code, issue rules governing the procedures
17 of the Office, including the procedures of hearing
18 boards. The Board of Directors may issue amend-
19 ments to the rules in the same manner. In addition
20 to publishing a general notice of proposed rule-
21 making under section 553(b) of title 5, United
22 States Code, the Board of Directors shall concur-
23 rently submit such notice for publication in the Con-
24 gressional Record, prior to issuing such regulations.

1 (2) MEETINGS AND VOTING.—Such rules shall
2 require that the Board of Directors meet not less
3 often than 4 times annually in the District of Co-
4 lumbia, and shall ban voting by proxy by members
5 of the Board.

6 (3) CONSULTATION.—The Board of Directors
7 may consult with the Chairman of the Administra-
8 tive Conference of the United States on the proposal
9 of such rules.

10 (e) INFORMATION PROGRAM.—The Board of Direc-
11 tors shall carry out such an information program as may
12 be appropriate to inform Members of the House of Rep-
13 resentatives, Senators, congressional employees, and heads
14 of employing offices as to the provisions, including provi-
15 sion relating to remedies, made applicable to the legislative
16 branch of the Federal Government under this section.

17 **SEC. 5. PROCEDURE FOR CONSIDERATION OF ALLEGED**
18 **VIOLATIONS OF CIVIL RIGHTS AND PERSON-**
19 **NEL REQUIREMENTS.**

20 (a) IN GENERAL.—The procedure for consideration
21 of alleged violations (except as provided in sections 11 and
22 12 and including violations of section 11(c) of the Occupa-
23 tional Safety and Health Act of 1970) (29 U.S.C. 660(c))
24 consists of the following:

25 (1) Step I, counseling, as set forth in section 6.

1 (2) Step II, mediation, as set forth in section
2 7.

3 (3) At the election of the employee alleging the
4 violation—

5 (A)(i) step IIIA, formal complaint and
6 hearing by a hearing board, as set forth in sec-
7 tion 8; and

8 (ii) step IV, judicial review of a hearing
9 board decision by the United States Court of
10 Appeals for the Federal Circuit, as set forth in
11 section 9; or

12 (B) step IIIB, a civil action in a district
13 court of the United States, as set forth in sec-
14 tion 10.

15 (b) CONSTRUCTION.—Nothing in this section shall be
16 construed to prohibit inspections under section 17.

17 **SEC. 6. STEP I: COUNSELING.**

18 (a) IN GENERAL.—A congressional employee alleging
19 a violation described in section 5(a) may request counsel-
20 ing by the Office. The Office shall provide the employee
21 with all relevant information with respect to the rights of
22 the employee. A request for counseling shall be made not
23 later than 180 days after the alleged violation forming the
24 basis of the request for counseling occurred.

1 (b) PERIOD OF COUNSELING.—The period for coun-
2 seling shall be 30 days unless the employee and the Office
3 agree to reduce the period. The period shall begin on the
4 date the request for counseling is received.

5 **SEC. 7. STEP II: MEDIATION.**

6 (a) IN GENERAL.—Not later than 15 days after the
7 end of the counseling period under section 6, the employee
8 who alleged a violation described in section 5(a) may file
9 a request for mediation with the Office, which mediation—

10 (1) may include the Office, the employee, the
11 employing office, and individuals who are rec-
12 ommended to the executive director by the Federal
13 Mediation and Conciliation Service or by the Admin-
14 istrative Conference of the United States; and

15 (2) shall be a process involving meetings with
16 the parties separately or jointly for the purpose of
17 resolving the dispute between the employee and the
18 employing office.

19 (b) MEDIATION PERIOD.—The mediation period shall
20 be 30 days beginning on the date the request for mediation
21 is received and may be extended for an additional 30 days
22 at the discretion of the Office. The Office shall notify the
23 employee and the head of the employing office when the
24 mediation period has ended.

1 **SEC. 8. STEP IIIA: FORMAL COMPLAINT AND HEARING.**

2 (a) IN GENERAL.—

3 (1) FORMAL COMPLAINT.—A congressional em-
4 ployee may, within 30 days after receipt of notice
5 from the Office of the end of the mediation period
6 under section 7, file a formal administrative com-
7 plaint with the Office as provided in this section.

8 (2) EXHAUSTION REQUIREMENT.—No adminis-
9 trative complaint may be filed unless the employee
10 has made a timely request for counseling and has
11 completed the procedures set forth in sections 6 and
12 7.

13 (b) HEARING BOARD.—A board of 3 independent
14 hearing officers (referred to in this Act as a “hearing
15 board”), who are not Members of the House of Represent-
16 atives, Senators, heads of employing offices, or congres-
17 sional employees, chosen by the Office (one of whom shall
18 be designated by the Office as the presiding hearing offi-
19 cer) shall be assigned to consider each complaint filed
20 under subsection (a). The Office shall appoint hearing of-
21 ficers after considering any candidates who are rec-
22 ommended to the executive director by the Federal Medi-
23 ation and Conciliation Service, the Administrative Con-
24 ference of the United States, or organizations composed
25 primarily of individuals experienced in adjudicating or ar-

1 bitrating personnel matters. A hearing board shall act by
2 majority vote.

3 (c) DISMISSAL OF FRIVOLOUS CLAIMS.—Prior to a
4 hearing under subsection (d), or at any time prior to the
5 issuance of a decision under subsection (g), a hearing
6 board may dismiss any claim that it finds to be frivolous.

7 (d) HEARING.—A hearing shall be conducted—

8 (1) in closed session on the record by a hearing
9 board;

10 (2) no later than 30 days after filing of the
11 complaint under subsection (a), except that the Of-
12 fice may, for good cause, extend up to an additional
13 60 days the time for conducting a hearing; and

14 (3) except as specifically provided in this Act
15 and to the greatest extent practicable, in accordance
16 with the principles and procedures set forth in sec-
17 tions 554 through 557 of title 5, United States
18 Code.

19 (e) DISCOVERY.—Reasonable prehearing discovery
20 may be permitted at the discretion of the hearing board.

21 (f) SUBPOENA POWER.—

22 (1) IN GENERAL.—At the request of a hearing
23 board, the Chairperson of the Board of Directors,
24 acting at the direction of a majority of the Board of
25 Directors, may issue subpoenas on behalf of the

1 hearing board, for the attendance of witnesses at
2 proceedings of the hearing board and for the produc-
3 tion of correspondence, books, papers, documents,
4 and other records. The attendance of witnesses and
5 the production of evidence may be required from any
6 place within the United States.

7 (2) FAILURE TO OBEY A SUBPOENA.—If a per-
8 son refuses to obey a subpoena issued under para-
9 graph (1), the Chairperson of the Board of Direc-
10 tors, acting at the direction of a majority of the
11 Board of Directors, may apply to a United States
12 district court for an order requiring that person to
13 appear before the hearing board to give testimony,
14 produce evidence, or both, relating to the matter
15 under investigation. The application may be made
16 within the judicial district where the hearing is con-
17 ducted or where that person is found, resides, or
18 transacts business. Any failure to obey the order of
19 the court may be punished by the court as civil con-
20 tempt.

21 (3) SERVICE OF SUBPOENAS.—The subpoenas
22 of the hearing board shall be served in the manner
23 provided for subpoenas issued by a United States
24 district court under the Federal Rules of Civil Pro-
25 cedure for the United States district courts.

1 (4) SERVICE OF PROCESS.—All process of any
2 court to which application may be made under para-
3 graph (2) may be served in the judicial district in
4 which the person required to be served resides or
5 may be found.

6 (5) IMMUNITY.—The hearing board is an agen-
7 cy of the United States for the purpose of part V
8 of title 18, United States Code (relating to immunity
9 of witnesses).

10 (g) DECISION.—The hearing board shall issue a writ-
11 ten decision as expeditiously as possible, but in no case
12 more than 45 days after the conclusion of the hearing.
13 The written decision shall be transmitted by the Office to
14 the employee and the employing office. The decision shall
15 state the issues raised by the complaint, describe the evi-
16 dence in the record, and contain a determination as to
17 whether a violation described in section 5(a) has occurred.

18 (h) REMEDY ORDER.—If the hearing board deter-
19 mines that a violation described in section 5(a) has oc-
20 curred, it shall order such remedies as are authorized
21 under the regulations promulgated under section 4. The
22 hearing board shall have no authority to award punitive
23 damages. The entry of an order under this subsection shall
24 constitute a final decision for purposes of judicial review
25 under section 9.

1 (i) PRECEDENTS AND INTERPRETATIONS.—A hear-
2 ing board that conducts such a hearing relating to the pro-
3 tections of an Act referred to in section 2 shall be guided
4 by judicial decisions under such Act.

5 **SEC. 9. STEP IV: JUDICIAL REVIEW.**

6 (a) COURT OF APPEALS.—

7 (1) IN GENERAL.—Following any administra-
8 tive hearing convened under section 8(d), any con-
9 gressional employee or any head of an employing of-
10 fice aggrieved by a dismissal under section 8(c), a
11 final decision under section 8(g), or an order under
12 section 8(h), may petition for a review by the United
13 States Court of Appeals for the Federal Circuit.

14 (2) LAW APPLICABLE.—Chapter 158 of title 28,
15 United States Code, shall apply to a review under
16 paragraph (1) except that—

17 (A) with respect to section 2344 of title
18 28, United States Code, service of the petition
19 shall be on the House or Senate Legal Counsel,
20 or the appropriate entity of an instrumentality,
21 as the case may be, rather than on the Attorney
22 General;

23 (B) the provisions of section 2348 of title
24 28, United States Code, on the authority of the
25 Attorney General, shall not apply;

1 (C) the petition for review shall be filed
2 not later than 90 days after the entry in the
3 Office of a final decision under section 8(g) or
4 an order under section 8(h);

5 (D) the Office shall be an “agency” as
6 that term is used in chapter 158 of title 28,
7 United States Code; and

8 (E) the Office shall be the respondent in
9 any proceeding under paragraph (1).

10 (3) STANDARD OF REVIEW.—To the extent nec-
11 essary to decision and when presented, the court
12 shall decide all relevant questions of law and inter-
13 pret constitutional and statutory provisions. The
14 court shall set aside a final decision under section
15 8(g) or an order under section 8(h) if it is deter-
16 mined that the decision or order was—

17 (A) arbitrary, capricious, an abuse of dis-
18 cretion, or otherwise not consistent with law;

19 (B) not made consistent with required pro-
20 cedures; or

21 (C) unsupported by substantial evidence.

22 (4) RECORD.—In making determinations under
23 paragraph (3), the court shall review the whole
24 record, or those parts of it cited by a party, and due
25 account shall be taken of the rule of prejudicial

1 error. The record on review shall include the record
2 before the hearing board, the decision of the hearing
3 board, and the order of the hearing board.

4 (b) ATTORNEY'S FEES.—If a congressional employee
5 is the prevailing party in a proceeding under this section
6 relating to a provision referred to in section 2, attorney's
7 fees may be allowed by the court in accordance with any
8 standards prescribed under Federal law for the award of
9 such fees in the event of a violation of such provision.

10 **SEC. 10. STEP IIIB: CIVIL ACTION.**

11 (a) IN GENERAL.—

12 (1) CIVIL ACTION.—An employee may within 30
13 days after receipt of notice from the Office of the
14 end of the mediation period under section 7 for vio-
15 lations described in section 5(a) bring a civil action
16 in a district court of the United States seeking relief
17 from the alleged violation of law. In any such civil
18 action, any party may demand a jury trial.

19 (2) EXHAUSTION REQUIREMENT.—No civil ac-
20 tion may be filed under paragraph (1) unless the
21 employee has made a timely request for counseling
22 and has completed the procedures set forth in sec-
23 tions 6 and 7.

1 (3) COURT ORDER.—If a court determines that
2 a violation of law occurred, the court may only enter
3 an order described in section 8(h).

4 (b) ATTORNEY’S FEES.—If a congressional employee
5 is the prevailing party in a proceeding under this section
6 relating to a provision referred to in section 2, attorney’s
7 fees may be allowed by the court in accordance with any
8 standards prescribed under Federal law for the award of
9 such fees in the event of a violation of such provision.

10 **SEC. 11. PROCEDURES FOR CONSIDERATION OF ALLEGED**
11 **VIOLATIONS RELATING TO INFORMATION**
12 **REQUIREMENTS.**

13 (a) PROCEDURES FOR VIOLATIONS RELATING TO IN-
14 FORMATION REQUIREMENTS.—In proposing regulations
15 under section 4 for the application of provisions described
16 in section 2(b), the Board of Directors shall propose regu-
17 lations that specify the procedure for consideration by the
18 Office of alleged violations of the provisions. Such regula-
19 tions shall provide, at a minimum, for procedures similar
20 to the procedures described in section 552 of title 5,
21 United States Code.

22 (b) COURT REVIEW.—Any petitioner seeking infor-
23 mation from an office of the legislative branch of the Fed-
24 eral Government, or any such office, that is aggrieved by
25 a final decision of the Office under the procedures de-

1 scribed in subsection (a), may petition for review of the
 2 decision by the District Court of the United States for
 3 the District of Columbia. Such review shall be conducted
 4 in accordance with subparagraphs (B), (C), (E), (F), and
 5 (G) of section 552(a)(4) of title 5, United States Code.

6 (c) ATTORNEY'S FEES.—If a congressional employee
 7 is the prevailing party in a proceeding under this section
 8 relating to a provision referred to in section 2(b), attor-
 9 ney's fees may be allowed by the court in accordance with
 10 any standards prescribed under Federal law for the award
 11 of such fees in the event of a violation of such provision.

12 **SEC. 12. PROCEDURES FOR CONSIDERATION OF ALLEGED**
 13 **VIOLATION RELATING TO LABOR MANAGE-**
 14 **MENT AND OCCUPATIONAL HEALTH AND**
 15 **SAFETY REQUIREMENTS.**

16 (a) PROCEDURES FOR VIOLATIONS RELATING TO
 17 LABOR MANAGEMENT REQUIREMENTS AND OCCUPA-
 18 TIONAL SAFETY AND HEALTH REQUIREMENTS.—

19 (1) PROCEDURES FOR VIOLATIONS RELATING
 20 TO LABOR-MANAGEMENT RELATIONS.—In proposing
 21 regulations under section 4 for the application of
 22 provisions described in section 2(a)(2), the Board of
 23 Directors shall propose regulations that specify the
 24 procedure for consideration by the Office of alleged
 25 violations of the provisions. Such regulations shall

1 prescribe, at a minimum, for procedures similar to
2 the procedures described in sections 7118, 7119,
3 7121, and 7122 of title 5, United States Code.

4 (2) PROCEDURES FOR VIOLATIONS RELATING
5 TO OCCUPATIONAL SAFETY AND HEALTH REQUIRE-
6 MENTS.—In proposing regulations under section 4
7 for the application of provisions described in section
8 2(a)(3), the Board of Directors shall propose regula-
9 tions that specify the procedure for consideration by
10 the Office of alleged violations of the provisions.
11 Such regulations shall provide, at a minimum, for
12 procedures similar to the procedures described in
13 sections 8, 9, 10, and 17 of the Occupational Safety
14 and Health Act of 1970 (29 U.S.C. 657, 658, 659,
15 and 666).

16 (b) COURT REVIEW.—

17 (1) IN GENERAL.—Any congressional employee
18 or head of an employing office aggrieved by any dis-
19 missal, order, or decision issued after procedures de-
20 scribed in subsection (a) relating to a provision de-
21 scribed in paragraph (2) or (3) of section 2(a), may
22 petition for review by the United States Court of
23 Appeals for the Federal Circuit.

1 (2) LAW APPLICABLE.—Chapter 158 of title 28,
2 United States Code, shall apply to a review under
3 paragraph (1) except that—

4 (A) with respect to section 2344 of title
5 28, United States Code, service of the petition
6 shall be on the House or Senate Legal Counsel,
7 or the appropriate entity of an instrumentality,
8 as the case may be, rather than on the Attorney
9 General;

10 (B) the provisions of section 2348 of title
11 28, United States Code, on the authority of the
12 Attorney General, shall not apply;

13 (C) the petition for review shall be filed
14 not later than 90 days after the entry in the
15 Office of any decision or order issued after pro-
16 cedures described in subsection (a);

17 (D) the Office shall be an “agency” as
18 that term is used in chapter 158 of title 28,
19 United States Code; and

20 (E) the Office shall be the respondent in
21 any proceeding under paragraph (1).

22 (3) STANDARD OF REVIEW.—To the extent nec-
23 essary to decision and when presented, the court
24 shall decide all relevant questions of law and inter-
25 pret constitutional and statutory provisions. The

1 court shall set aside any decision or order issued
2 after procedures described in subsection (a), if it is
3 determined that the decision or order was—

4 (A) arbitrary, capricious, an abuse of dis-
5 cretion, or otherwise not consistent with law;

6 (B) not made consistent with required pro-
7 cedures; or

8 (C) unsupported by substantial evidence.

9 (4) RECORD.—In making determinations under
10 paragraph (3), the court shall review the whole
11 record, or those parts of it cited by a party, and due
12 account shall be taken of the rule of prejudicial
13 error. The record on review shall include the record
14 before any decisionmaker under the procedures de-
15 scribed in subsection (a), the decision of the
16 decisionmaker, and the order of the decisionmaker.

17 (c) ATTORNEY'S FEES.—If a congressional employee
18 is the prevailing party in a proceeding under this section
19 relating to a provision referred to in paragraph (2) or (3)
20 of section 2(a), attorney's fees may be allowed by the court
21 in accordance with any standards prescribed under Fed-
22 eral law for the award of such fees in the event of a viola-
23 tion of such provision.

24 (d) CONSTRUCTION.—Nothing in this section shall be
25 construed to prohibit inspections under section 17.

1 **SEC. 13. INFORMATION REQUIREMENTS.**

2 (a) EXEMPTION.—The provisions referred to in sec-
3 tion 2(b) shall not apply to the offices described in sub-
4 section (b), or any information in the possession of the
5 offices described in subsection (b).

6 (b) OFFICES.—The offices referred to in subsection
7 (a) shall consist of the following:

8 (1) The personal offices of Members of the
9 House of Representatives or of Members of the Sen-
10 ate.

11 (2) The offices of standing, select, special, joint,
12 and other committees of Congress.

13 (3) The offices of the President pro tempore of
14 the Senate, the President of the Senate, or the Ma-
15 jority Leader of the House of Representatives.

16 (4) The offices and support organizations of the
17 other leaders of the House of Representatives or of
18 the Senate.

19 (5) The offices of any caucus or partisan orga-
20 nization related to the Congress.

21 (6) The offices of the Legislative Counsel of the
22 House of Representatives or of the Senate.

23 (7) The Office of Legislative Operations of the
24 House of Representatives.

25 (8) The office of the Parliamentarian of the
26 House of Representatives or of the Senate.

1 (9) The offices of the Doorkeepers of the House
2 of Representatives or of the Senate.

3 (10) The offices of the Clerks of the House of
4 Representatives or of the Senate.

5 (11) The office of the General Counsel of the
6 House of Representatives.

7 (12) The Office of Legislative Information of
8 the House of Representatives.

9 (13) The offices of the Legal Counsel of the
10 House of Representatives or of the Senate.

11 (14) The offices of the Attending Physicians of
12 the House of Representatives or of the Senate.

13 (15) The escort assistance division of the Cap-
14 itol Police.

15 (16) Any staff organization.

16 (17) Any other office to which the Board of Di-
17 rectors determines, by regulation issued in accord-
18 ance with section 4, that the provisions described in
19 section 2(b) shall not apply.

20 **SEC. 14. RESOLUTION OF COMPLAINT.**

21 (a) EMPLOYMENT.—If, after a formal complaint is
22 filed under section 8 or in accordance with the procedures
23 described in section 12(a), the employee and the head of
24 the employing office resolve the issues involved, the em-
25 ployee may withdraw the complaint or the parties may

1 enter into a written agreement, subject to the approval
2 of the executive director.

3 (b) INFORMATION.—If, after a formal complaint is
4 filed in accordance with the procedures described in sec-
5 tion 11(a), the office of the legislative branch and the peti-
6 tioner seeking information from the office resolve the is-
7 sues involved, the petitioner may withdraw the complaint
8 or the parties may enter into a written agreement, subject
9 to the approval of the executive director.

10 **SEC. 15. PROHIBITION OF INTIMIDATION.**

11 Any intimidation of, or reprisal against, a congres-
12 sional employee by any Member or officer of the House
13 of Representatives or of the Senate, any head of an em-
14 ploying office, or any congressional employee, as the case
15 may be, because of the exercise of a right under this Act
16 relating to a provision described in section 2, constitutes
17 an unlawful employment practice, which may be remedied,
18 except as provided in section 5(a), in the same manner
19 under this Act as is a violation relating to such provision.

20 **SEC. 16. CONFIDENTIALITY.**

21 (a) COUNSELING.—All counseling conducted under
22 this Act shall be strictly confidential except that the Office
23 and the employee may agree to notify the head of the em-
24 ploying office of the allegations.

1 (b) MEDIATION.—All mediation conducted under this
2 Act shall be strictly confidential.

3 (c) HEARINGS.—Except as provided in subsections
4 (d) and (e), the hearings and deliberations of hearing
5 boards (including any decisionmaker under procedures de-
6 scribed in section 11(a) or 12(a)) shall be confidential.

7 (d) RELEASE OF RECORDS FOR JUDICIAL REVIEW.—
8 The records of such hearing boards may be made public
9 if required for the purpose of judicial review under section
10 9, 10, 11, or 12.

11 (e) ACCESS BY COMMITTEES OF CONGRESS.—At the
12 discretion of the executive director, the executive director
13 may provide to the Committee on Standards of Official
14 Conduct of the House of Representatives and the Select
15 Committee on Ethics of the Senate access to the records
16 of the hearings and decisions of the hearing boards, in-
17 cluding all written and oral testimony in the possession
18 of the hearing boards, concerning a decision under section
19 8(g) or any decision or order issued after procedures de-
20 scribed in section 11(a) or 12(a). The executive director
21 shall not provide such access until the executive director
22 has consulted with the individual filing the complaint at
23 issue in the hearing, and until the hearing board has
24 issued the decision.

1 **SEC. 17. INSPECTIONS.**

2 (a) IN GENERAL.—On a regular basis, and at least
3 once during each Congress, the Office shall request that
4 the Secretary of Labor and the Architectural and Trans-
5 portation Barriers Compliance Board detail to the Office
6 such personnel as may be necessary to inspect the facilities
7 of the legislative branch of the Federal Government in
8 order to ensure compliance with the Occupational Safety
9 and Health Act of 1970, the Fair Labor Standards Act
10 of 1938, and title II of the Americans with Disabilities
11 Act of 1990.

12 (b) DATE AND SCOPE OF INSPECTIONS.—The Office
13 shall determine the dates and scope of such inspections,
14 in accordance with regulations issued in accordance with
15 section 4.

16 (c) REPORT.—After conducting such an inspection,
17 the Office shall prepare and submit for publication in the
18 Congressional Record a report containing information on
19 the results of the inspection.

20 **SEC. 18. COLLECTION OF INFORMATION.**

21 (a) COLLECTION.—The executive director shall col-
22 lect information with respect to complaints filed under sec-
23 tion 8 or under procedures described in section 11(a) or
24 12(a), including—

25 (1) the total number of such complaints;

26 (2) the number of such complaints that allege—

- 1 (A) discrimination on the basis of race or
- 2 color;
- 3 (B) discrimination on the basis of sex;
- 4 (C) discrimination on the basis of religion;
- 5 (D) discrimination on the basis of national
- 6 origin;
- 7 (E) discrimination on the basis of disabil-
- 8 ity;
- 9 (F) discrimination on the basis of age;
- 10 (G) a violation of the Fair Labor Stand-
- 11 ards Act of 1938;
- 12 (H) a violation of chapter 71 of title 5,
- 13 United States Code;
- 14 (I) a violation of the Occupational Safety
- 15 and Health Act of 1970;
- 16 (J) a violation of the Family and Medical
- 17 Leave Act of 1993;
- 18 (K) a violation of the Employee Polygraph
- 19 Protection Act of 1988;
- 20 (L) a violation of the Worker Adjustment
- 21 and Retraining Notification Act; or
- 22 (M) a violation of section 552 of title 5,
- 23 United States Code (commonly known as the
- 24 “Freedom of Information Act”), or section

1 552a of title 5, United States Code (commonly
2 known as the “Privacy Act of 1974”);

3 (3) the number of such complaints that were re-
4 solved by—

5 (A) settlement;

6 (B) a decision following a hearing under
7 section 8 or under procedures described in sec-
8 tion 11(a) or 12(a); or

9 (C) withdrawal of the complaint, or other
10 means; and

11 (4) for each category of allegations described in
12 subparagraphs (A) through (M) of paragraph (2)—

13 (A) the aggregate amount of monetary
14 compensation (including damages, equitable
15 monetary relief, and interest) awarded as a re-
16 sult of settlement;

17 (B) the aggregate amount of such mone-
18 tary compensation awarded as a result of a de-
19 cision described in paragraph (3)(B); and

20 (C) the aggregate amount of such mone-
21 tary compensation awarded as a result of with-
22 drawal of the complaint or other means.

23 (b) REPORT.—

24 (1) IN GENERAL.—Not later than 2 years after
25 the date of enactment of this section, and every year

1 thereafter, the executive director shall prepare and
2 submit for publication in the Congressional Record
3 a report containing the information described in sub-
4 section (a).

5 (2) PRESENTATION OF INFORMATION IN THE
6 AGGREGATE.—In preparing the reports described in
7 paragraph (1), the executive director shall not iden-
8 tify by name parties participating in actions result-
9 ing from complaints described in subsection (a). The
10 reports shall present information collected under
11 subsection (a) in the aggregate.

12 **SEC. 19. POLITICAL AFFILIATION AND PLACE OF RESI-**
13 **DENCE.**

14 (a) IN GENERAL.—It shall not be a violation to con-
15 sider the—

16 (1) party affiliation;
17 (2) domicile; or
18 (3) political compatibility with the employing
19 office,
20 of an employee with respect to employment decisions
21 issued under this Act.

22 (b) DEFINITION.—For purposes of subsection (a),
23 the term “employee” means—

1 (1) a congressional employee on the staff of the
2 leadership of the House of Representatives or the
3 leadership of the Senate;

4 (2) a congressional employee on the staff of a
5 committee or subcommittee of—

6 (A) the House of Representatives; or

7 (B) the Senate;

8 (3) a congressional employee on the staff of a
9 Member of the House of Representatives or on the
10 staff of a Senator;

11 (4) an officer of the House of Representatives
12 or Senate, or a congressional employee, who is elect-
13 ed by the House of Representatives or Senate or is
14 appointed by a Member of the House of Representa-
15 tives or by a Senator, other than an employee de-
16 scribed in paragraph (1), (2), or (3); or

17 (5) an applicant for a position that is to be oc-
18 cupied by an individual described in any of para-
19 graphs (1) through (4).

20 **SEC. 20. OTHER REVIEW.**

21 No congressional employee may commence a judicial
22 proceeding to redress practices prohibited under section
23 2 or 4, except as provided in this Act.

1 **SEC. 21. SEVERABILITY.**

2 If any provision of this Act or the application of such
 3 provision to any person or circumstance is held to be un-
 4 constitutional, the remainder of this Act and the applica-
 5 tion of the provisions of such to any person or cir-
 6 cumstance shall not be affected thereby.

7 **SEC. 22. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated to carry out
 9 this Act such sums as may be necessary for fiscal year
 10 1995 and each subsequent fiscal year.

11 **SEC. 23. DEFINITIONS.**

12 As used in this Act:

13 (1) CONGRESSIONAL EMPLOYEE.—The term
 14 “congressional employee” means—

15 (A) an employee of the House of Rep-
 16 resentatives;

17 (B) an employee of the Senate; and

18 (C) an employee of an instrumentality.

19 (2) EMPLOYEE OF AN INSTRUMENTALITY.—

20 The term “employee of an instrumentality” means—

21 (A) an employee of the Architect of the
 22 Capitol (except an employee described in para-
 23 graph (3) or (4)), the Congressional Budget Of-
 24 fice, the General Accounting Office, the Govern-
 25 ment Printing Office, the Library of Congress,

1 the Office of Technology Assessment, or the
2 United States Botanic Garden;

3 (B) with respect to the application of a
4 provision described in paragraph (4), (5), (6),
5 or (7) of section 2(a), section 2(c), or section
6 2(d), any applicant for a position that will last
7 90 days or more and that is to be occupied by
8 an individual described in subparagraph (A); or

9 (C) any individual who was formerly an
10 employee described in subparagraph (A) and
11 whose claim of a violation arises out of the em-
12 ployment of the individual by an instrumental-
13 ity described in subparagraph (A).

14 (3) EMPLOYEE OF THE HOUSE OF REPRESENT-
15 ATIVES.—The term “employee of the House of Rep-
16 resentatives” means an individual who was eligible
17 to file a formal complaint with the Office of Fair
18 Employment Practice of the House of Representa-
19 tives under clause 6 of rule LI of the Rules of the
20 House of Representatives, as in effect on the day be-
21 fore the date of enactment of this Act. Such term
22 shall only include an applicant for employment with
23 an entity of the House of Representatives with re-
24 spect to the application of a provision described in

1 paragraph (4), (5), (6), or (7) of section 2(a), sec-
2 tion 2(c), or section 2(d).

3 (4) EMPLOYEE OF THE SENATE.—The term
4 “employee of the Senate” means—

5 (A) any employee whose pay is disbursed
6 by the Secretary of the Senate;

7 (B) any employee of the Architect of the
8 Capitol who is assigned to the Senate Res-
9 taurants or to the Superintendent of the Senate
10 Office Buildings;

11 (C) with respect to the application of a
12 provision described in paragraph (4), (5), (6),
13 or (7) of section 2(a), section 2(c), or section
14 2(d), any applicant for a position that will last
15 90 days or more and that is to be occupied by
16 an individual described in subparagraph (A) or
17 (B); or

18 (D) any individual who was formerly an
19 employee described in subparagraph (A) or (B)
20 and whose claim of a violation arises out of the
21 individual’s Senate employment.

22 (5) EMPLOYING OFFICE.—The term “employing
23 office” means the office headed by a head of an em-
24 ploying office.

1 (6) HEAD OF AN EMPLOYING OFFICE.—The
 2 term “head of an employing office” means the indi-
 3 vidual who has final authority to appoint, hire, dis-
 4 charge, and set the terms, conditions, or privileges
 5 of the congressional employment of a congressional
 6 employee.

7 (7) INSTRUMENTALITY.—The term “instrumen-
 8 tality” means an entity described in paragraph
 9 (2)(A).

10 (8) VIOLATION.—The term “violation” means a
 11 violation of a provision listed in section 2 or a regu-
 12 lation that takes effect under section 4(c).

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