

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6016

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IN THE SENATE OF THE UNITED STATES

DECEMBER 20, 2012

Received; read twice and referred to the Committee on Homeland Security and  
Governmental Affairs

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## AN ACT

To amend title 5, United States Code, to provide for investigative leave requirements with respect to Senior Executive Service 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Government Employee  
3 Accountability Act”.

4 **SEC. 2. SUSPENSION FOR 14 DAYS OR LESS FOR SENIOR EX-**  
5 **ECUTIVE SERVICE EMPLOYEES.**

6 Paragraph (1) of section 7501 of title 5, United  
7 States Code, is amended to read as follows:

8 “(1) ‘employee’ means—

9 “(A) an individual in the competitive serv-  
10 ice who is not serving a probationary or trial  
11 period under an initial appointment or who has  
12 completed 1 year of current continuous employ-  
13 ment in the same or similar positions under  
14 other than a temporary appointment limited to  
15 1 year or less; or

16 “(B) a career appointee in the Senior Ex-  
17 ecutive Service who—

18 “(i) has completed the probationary  
19 period prescribed under section 3393(d); or

20 “(ii) was covered by the provisions of  
21 subchapter II of this chapter immediately  
22 before appointment to the Senior Executive  
23 Service;”.

1 **SEC. 3. INVESTIGATIVE LEAVE FOR SENIOR EXECUTIVE**  
2 **SERVICE EMPLOYEES.**

3 (a) IN GENERAL.—Chapter 75 of title 5, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 “SUBCHAPTER VI—INVESTIGATIVE LEAVE FOR  
7 SENIOR EXECUTIVE SERVICE EMPLOYEES

8 “§ 7551. **Definitions**

9 “For the purposes of this subchapter—

10 “(1) ‘employee’ has the meaning given such  
11 term in section 7541; and

12 “(2) ‘investigative leave’ means a temporary ab-  
13 sence without duty for disciplinary reasons, of a pe-  
14 riod not greater than 90 days.

15 “§ 7552. **Actions covered**

16 “This subchapter applies to investigative leave.

17 “§ 7553. **Cause and procedure**

18 “(a)(1) Under regulations prescribed by the Office of  
19 Personnel Management, an agency may place an employee  
20 on investigative leave, without loss of pay and without  
21 charge to annual or sick leave, only for misconduct, ne-  
22 glect of duty, malfeasance, or misappropriation of funds.

23 “(2) If an agency determines that such employee’s  
24 conduct is serious or flagrant, the agency may place such  
25 employee on investigative leave under this subchapter  
26 without pay.

1       “(b)(1) At the end of each 45-day period during a  
2 period of investigative leave implemented under this sec-  
3 tion, the relevant agency shall review the investigation into  
4 the employee with respect to the misconduct, neglect of  
5 duty, malfeasance, or misappropriation of funds.

6       “(2) Not later than 5 business days after the end of  
7 each such 45-day period, the agency shall submit a report  
8 describing such review to the Committee on Oversight and  
9 Government Reform of the House of Representatives and  
10 the Committee on Homeland Security and Governmental  
11 Affairs of the Senate.

12       “(3) At the end of a period of investigative leave im-  
13 plemented under this section, the agency shall—

14               “(A) remove an employee placed on investiga-  
15 tive leave under this section;

16               “(B) suspend such employee without pay; or

17               “(C) reinstate or restore such employee to duty.

18       “(4) The agency may extend the period of investiga-  
19 tive leave with respect to an action under this subchapter  
20 for an additional period not to exceed 90 days.

21       “(c) An employee against whom an action covered by  
22 this subchapter is proposed is entitled to, before being  
23 placed on investigative leave under this section—

1           “(1) at least 30 days’ advance written notice,  
2           stating specific reasons for the proposed action, un-  
3           less—

4                   “(A) there is reasonable cause to believe  
5                   that the employee has committed a crime for  
6                   which a sentence of imprisonment can be im-  
7                   posed; or

8                   “(B) the agency determines that the em-  
9                   ployee’s conduct with respect to which an action  
10                  covered by this subchapter is proposed is seri-  
11                  ous or flagrant as prescribed in regulation by  
12                  the Office of Personnel Management;

13                  “(2) a reasonable time, but not less than 7  
14                  days, to answer orally and in writing and to furnish  
15                  affidavits and other documentary evidence in sup-  
16                  port of the answer;

17                  “(3) be represented by an attorney or other  
18                  representative; and

19                  “(4) a written decision and specific reasons  
20                  therefor at the earliest practicable date.

21                  “(d) An agency may provide, by regulation, for a  
22                  hearing which may be in lieu of or in addition to the op-  
23                  portunity to answer provided under subsection (c)(2).

1 “(e) An employee against whom an action is taken  
 2 under this section is entitled to appeal to the Merit Sys-  
 3 tems Protection Board under section 7701.

4 “(f) Copies of the notice of proposed action, the an-  
 5 swer of the employee when written, and a summary there-  
 6 of when made orally, the notice of decision and reasons  
 7 therefor, and any order effecting an action covered by this  
 8 subchapter, together with any supporting material, shall  
 9 be maintained by the agency and shall be furnished to the  
 10 Merit Systems Protection Board upon its request and to  
 11 the employee affected upon the employee’s request.”.

12 (b) CLERICAL AMENDMENT.—The table of sections  
 13 at the beginning of chapter 75 of title 5, United States  
 14 Code, is amended by adding after the item relating to sec-  
 15 tion 7543 the following:

“SUBCHAPTER VI—INVESTIGATIVE LEAVE FOR SENIOR EXECUTIVE SERVICE  
 EMPLOYEES

“7551. Definitions.

“7552. Actions covered.

“7553. Cause and procedure.”.

16 **SEC. 4. SUSPENSION OF SENIOR EXECUTIVE SERVICE EM-**  
 17 **PLOYEES.**

18 Section 7543 of title 5, United States Code, is  
 19 amended—

20 (1) in subsection (a), by inserting “misappro-  
 21 priation of funds,” after “malfeasance,”; and

1           (2) in subsection (b), by amending paragraph  
2           (1) to read as follows:

3           “(1) at least 30 days’ advance written notice,  
4           stating specific reasons for the proposed action, un-  
5           less—

6                   “(A) there is reasonable cause to believe  
7                   that the employee has committed a crime for  
8                   which a sentence of imprisonment can be im-  
9                   posed; or

10                   “(B) the agency determines that the em-  
11                   ployee’s conduct with respect to which an action  
12                   covered by this subchapter is proposed is seri-  
13                   ous or flagrant as prescribed in regulation by  
14                   the Office of Personnel Management;”.

15 **SEC. 5. MISAPPROPRIATION OF FUNDS AMENDMENTS.**

16           (a) REINSTATEMENT IN THE SENIOR EXECUTIVE  
17 SERVICE.—Section 3593 of title 5, United States Code,  
18 is amended—

19                   (1) in subsection (a)(2), by inserting “mis-  
20                   appropriation of funds,” after “malfeasance,”; and

21                   (2) in subsection (b), by striking “or malfea-  
22                   sance” and inserting “malfeasance, or misappropria-  
23                   tion of funds”.

24           (b) PLACEMENT IN OTHER PERSONNEL SYSTEMS.—  
25 Section 3594(a) of title 5, United States Code, is amended

1 by striking “or malfeasance” and inserting “malfeasance,  
2 or misappropriation of funds”.

Passed the House of Representatives December 19,  
2012.

Attest:

KAREN L. HAAS,

*Clerk.*