

## Union Calendar No. 497

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

# H. R. 6016

[Report No. 112-686]

To amend title 5, United States Code, to provide for administrative leave requirements with respect to Senior Executive Service employees, and for other purposes.

---

### IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2012

Mr. KELLY introduced the following bill; which was referred to the Committee on Oversight and Government Reform

SEPTEMBER 21, 2012

Additional sponsors: Mr. GUINTA, Mr. WALSH of Illinois, Ms. BUERKLE, Mr. GOSAR, Mr. GOWDY, Mr. LANKFORD, Mr. FARENTHOLD, Mr. MARINO, Mr. BARLETTA, Mr. THOMPSON of Pennsylvania, Mr. BENISHEK, Mr. MCHENRY, and Mr. SCHILLING

SEPTEMBER 21, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 21, 2012]

# **A BILL**

To amend title 5, United States Code, to provide for administrative 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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Government Employee*  
5 *Accountability Act”.*

6 **SEC. 2. ADMINISTRATIVE LEAVE FOR SENIOR EXECUTIVE**  
7 **SERVICE EMPLOYEES.**

8 *(a) IN GENERAL.—Chapter 75 of title 5, United States*  
9 *Code, is amended by adding at the end the following:*

10 *“SUBCHAPTER VI—ADMINISTRATIVE LEAVE FOR*  
11 *SENIOR EXECUTIVE SERVICE EMPLOYEES*

12 **“§ 7551. Definitions**

13 *“For the purposes of this subchapter—*

14 *“(1) ‘employee’ has the meaning given such term*  
15 *in section 7541; and*

16 *“(2) ‘administrative leave’ means an absence*  
17 *from duty administratively authorized, for discipli-*  
18 *nary reasons, of a period not greater than 90 days.*

19 **“§ 7552. Actions covered**

20 *“This subchapter applies to administrative leave.*

21 **“§ 7553. Cause and procedure**

22 *“(a)(1) Under regulations prescribed by the Office of*  
23 *Personnel Management, the head of an agency may place*  
24 *an employee on administrative leave, without loss of pay*  
25 *and without charge to annual or sick leave, only for mis-*

1 *appropriation of funds, misconduct, neglect of duty, or mal-*  
2 *feasance.*

3       “(2) *If the head of an agency determines that such em-*  
4 *ployee’s conduct is serious or flagrant, the head may place*  
5 *such employee on administrative leave under this sub-*  
6 *chapter without pay.*

7       “(b)(1) *At the end of each 2-week period during a pe-*  
8 *riod of administrative leave implemented under this sec-*  
9 *tion, the head of the relevant agency shall review the inves-*  
10 *tigation into the employee with respect to the misappro-*  
11 *priation of funds, misconduct, neglect of duty, or malfea-*  
12 *sance.*

13       “(2) *Not later than 5 business days after the end of*  
14 *each such 2-week period, such head shall submit a report*  
15 *describing such review to the Committee on Oversight and*  
16 *Government Reform of the House of Representatives and the*  
17 *Committee on Homeland Security and Governmental Af-*  
18 *airs of the Senate.*

19       “(3) *At the end of a period of administrative leave im-*  
20 *plemented under this section, the head of the agency shall—*

21               “(A) *remove an employee placed on administra-*  
22 *tive leave under this section;*

23               “(B) *suspend such employee without pay; or*

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

1       “(4) *At the discretion of the agency head, an employee*  
2 *may be placed on one additional period of administrative*  
3 *leave with respect to an action under this subchapter.*

4       “(c) *An employee against whom an action covered by*  
5 *this subchapter is proposed is entitled to, before being placed*  
6 *on administrative leave under this section—*

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

10                       “(A) *there is reasonable cause to believe that*  
11 *the employee has committed a crime for which a*  
12 *sentence of imprisonment can be imposed; or*

13                       “(B) *the agency head determines that the*  
14 *employee’s conduct with respect to which an ac-*  
15 *tion covered by this subchapter is proposed is se-*  
16 *rious or flagrant;*

17               “(2) *a reasonable time, but not less than 7 days,*  
18 *to answer orally and in writing and to furnish affi-*  
19 *davits and other documentary evidence in support of*  
20 *the answer;*

21               “(3) *be represented by an attorney or other rep-*  
22 *resentative; and*

23               “(4) *a written decision and specific reasons*  
24 *therefor at the earliest practicable date.*

1       “(d) For purposes of subsection (c)(1)(A), the head of  
2 an agency may determine that there is reasonable cause to  
3 believe that an employee has committed a crime for which  
4 a sentence of imprisonment can be imposed if the head re-  
5 ceives a report from such agency’s Inspector General, or,  
6 in the case of an agency without an Inspector General, from  
7 an employee of the agency designated by such head to carry  
8 out duties similar to duties of an inspector general for pur-  
9 poses of this subsection, indicating that such employee has  
10 committed such a crime.

11       “(e) An agency may provide, by regulation, for a hear-  
12 ing which may be in lieu of or in addition to the oppor-  
13 tunity to answer provided under subsection (c)(2).

14       “(f) An employee against whom an action is taken  
15 under this section is entitled to appeal to the Merit Systems  
16 Protection Board under section 7701.

17       “(g) Copies of the notice of proposed action, the answer  
18 of the employee when written, and a summary thereof when  
19 made orally, the notice of decision and reasons therefor, and  
20 any order effecting an action covered by this subchapter,  
21 together with any supporting material, shall be maintained  
22 by the agency and shall be furnished to the Merit Systems  
23 Protection Board upon its request and to the employee af-  
24 fected upon the employee’s request.”.

1           (b) *CLERICAL AMENDMENT.*—*The table of sections at*  
 2 *the beginning of chapter 75 of title 5, United States Code,*  
 3 *is amended by adding after the item relating to section 7543*  
 4 *the following:*

“SUBCHAPTER VI—ADMINISTRATIVE LEAVE FOR SENIOR EXECUTIVE SERVICE  
 EMPLOYEES

“7551. *Definitions.*

“7552. *Actions covered.*

“7553. *Cause and procedure.*”.

5 **SEC. 3. SUSPENSION OF SENIOR EXECUTIVE SERVICE EM-**  
 6 **PLOYEES.**

7           *Section 7543 of title 5, United States Code, is amend-*  
 8 *ed—*

9                   (1) *in subsection (a), by inserting “misappro-*  
 10 *propriation of funds,” after “malfeasance,”;*

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

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

16                                   “(A) *there is reasonable cause to believe that*  
 17 *the employee has committed a crime for which a*  
 18 *sentence of imprisonment can be imposed; or*

19                                   “(B) *the agency head determines that the*  
 20 *employee’s conduct with respect to which an ac-*  
 21 *tion covered by this subchapter is proposed is se-*  
 22 *rious or flagrant;”;* and

1           (3) by adding at the end the following:

2           “(f) For purposes of subsection (b)(1)(A), the head of  
3 an agency may determine that there is reasonable cause to  
4 believe that an employee has committed a crime for which  
5 a sentence of imprisonment can be imposed if the head re-  
6 ceives a report from such agency’s Inspector General, or,  
7 in the case of an agency without an Inspector General, from  
8 an employee of the agency designated by such head to carry  
9 out duties similar to duties of an inspector general for pur-  
10 poses of this subsection, indicating that such employee has  
11 committed such a crime.”.



Union Calendar No. 497

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

**H. R. 6016**

[Report No. 112-686]

---

---

## **A BILL**

To amend title 5, United States Code, to provide for administrative leave requirements with respect to Senior Executive Service employees, and for other purposes.

---

---

SEPTEMBER 21, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed