

114TH CONGRESS
1ST SESSION

H. R. 722

To amend title 5, United States Code, to provide for investigative leave requirements for members of the Senior Executive Service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2015

Mr. KELLY of Pennsylvania (for himself, Mr. YOUNG of Indiana, Mr. BROOKS of Alabama, Mr. AMODEI, Mr. GOSAR, Mr. MULLIN, Mr. RENACCI, Mr. CALVERT, Mr. ROKITA, and Ms. JENKINS of Kansas) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To amend title 5, United States Code, to provide for investigative leave requirements for members of the Senior Executive Service, 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”.

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

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

5 “(1) ‘employee’ means—

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

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

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

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

21 **SEC. 3. INVESTIGATIVE LEAVE AND TERMINATION AU-**
22 **THORITY FOR SENIOR EXECUTIVE SERVICE**
23 **EMPLOYEES.**

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

1 “SUBCHAPTER VI—INVESTIGATIVE LEAVE FOR
2 SENIOR EXECUTIVE SERVICE EMPLOYEES

3 **“§ 7551. Definitions**

4 “For the purposes of this subchapter—

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

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

10 **“§ 7552. Actions covered**

11 “This subchapter applies to investigative leave.

12 **“§ 7553. Cause and procedure**

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

18 “(2) If an agency determines, as prescribed in regula-
19 tion by the Office of Personnel Management, that such
20 employee’s conduct is flagrant and that such employee in-
21 tentiously engaged in such conduct, the agency may place
22 such employee on investigative leave under this subchapter
23 without pay.

24 “(b)(1) At the end of each 45-day period during a
25 period of investigative leave implemented under this sec-

1 tion, the relevant agency shall review the investigation into
2 the employee with respect to the misconduct, neglect of
3 duty, malfeasance, or misappropriation of funds.

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

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

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

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

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

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

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

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

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

5 “(B) the agency determines, as prescribed
6 in regulation by the Office of Personnel Man-
7 agement, that the employee’s conduct with re-
8 spect to which an action covered by this sub-
9 chapter is proposed is flagrant and that such
10 employee intentionally engaged in such conduct;

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

15 “(3) be represented by an attorney or other
16 representative; and

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

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

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

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

9 “SUBCHAPTER VII—REMOVAL OF SENIOR
10 EXECUTIVE SERVICE EMPLOYEES

11 “§ 7561. **Definition**

12 “For purposes of this subchapter, the term ‘em-
13 ployee’ has the meaning given such term in section 7541.

14 “§ 7562. **Removal of Senior Executive Service employ-**
15 **ees**

16 “(a) Notwithstanding any other provision of law and
17 consistent with the requirements of subsection (b), the
18 head of an agency may remove an employee for serious
19 neglect of duty, misappropriation of funds, or malfeasance
20 if the head of the agency—

21 “(1) determines that the employee knowingly
22 acted in a manner that endangers the interest of the
23 agency mission;

24 “(2) considers the removal to be necessary or
25 advisable in the interests of the United States; and

1 “(3) determines that the procedures prescribed
2 in other provisions of law that authorize the removal
3 of such employee cannot be invoked in a manner
4 that the head of an agency considers consistent with
5 the efficiency of the Government.

6 “(b) An employee may not be removed under this sec-
7 tion—

8 “(1) on any basis that would be prohibited
9 under—

10 “(A) any provision of law referred to in
11 section 2302(b)(1); or

12 “(B) paragraphs (8) or (9) of section
13 2302(b); or

14 “(2) on any basis, described in paragraph (1),
15 as to which any administrative or judicial pro-
16 ceeding—

17 “(A) has been commenced by or on behalf
18 of such employee; and

19 “(B) is pending.

20 “(c) An employee removed under this section shall be
21 notified of the reasons for such removal. Within 30 days
22 after the notification, the employee is entitled to submit
23 to the official designated by the head of the agency state-
24 ments or affidavits to show why the employee should be
25 restored to duty. If such statements and affidavits are

1 submitted, the head of the agency shall provide a written
2 response, and may restore the employee's employment if
3 the head of the agency chooses.

4 “(d) Whenever the head of the agency removes an
5 employee under the authority of this section, the head of
6 the agency shall notify Congress of such termination, and
7 the specific reasons for the action.

8 “(e) An employee against whom an action is taken
9 under this section is entitled to appeal to the Merit Sys-
10 tems Protection Board under section 7701 of this title.

11 “(f) Copies of the notice of proposed action, the an-
12 swer of the employee when written, and a summary there-
13 of when made orally, the notice of decision and reasons
14 therefor, and any order effecting an action covered by this
15 subchapter, together with any supporting material, shall
16 be maintained by the agency and shall be furnished to the
17 Merit Systems Protection Board upon its request and to
18 the employee affected upon the employee's request.

19 “(g) A removal under this section does not affect the
20 right of the employee affected to seek or accept employ-
21 ment with any other department or agency of the United
22 States if that employee is declared eligible for such em-
23 ployment by the Director of the Office of Personnel Man-
24 agement.

1 “(h) The authority of the head of the agency under
2 this section may not be delegated.”.

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

“SUBCHAPTER VI—INVESTIGATIVE LEAVE FOR SENIOR EXECUTIVE SERVICE
EMPLOYEES

“7551. Definitions.

“7552. Actions covered.

“7553. Cause and procedure.

“SUBCHAPTER VII—REMOVAL OF SENIOR EXECUTIVE SERVICE EMPLOYEES

“7561. Definition.

“7562. Removal of Senior Executive Service employees.”.

7 **SEC. 4. SUSPENSION OF SENIOR EXECUTIVE SERVICE EM-**
8 **PLOYEES.**

9 Section 7543 of title 5, United States Code, is
10 amended—

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

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

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

18 “(A) there is reasonable cause to believe
19 that the employee has committed a crime for

1 which a sentence of imprisonment can be im-
2 posed; or

3 “(B) the agency determines, as prescribed
4 in regulation by the Office of Personnel Man-
5 agement, that the employee’s conduct with re-
6 spect to which an action covered by this sub-
7 chapter is proposed is flagrant and that such
8 employee intentionally engaged in such con-
9 duct;”.

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

11 (a) **REINSTATEMENT IN THE SENIOR EXECUTIVE**
12 **SERVICE.**—Section 3593 of title 5, United States Code,
13 is amended—

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

16 (2) in subsection (b), by striking “or malfea-
17 sance” and inserting “malfeasance, or misappropria-
18 tion of funds”.

19 (b) **PLACEMENT IN OTHER PERSONNEL SYSTEMS.**—
20 Section 3594(a) of title 5, United States Code, is amended
21 by striking “or malfeasance” and inserting “malfeasance,
22 or misappropriation of funds”.

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