

115TH CONGRESS  
1ST SESSION

# H. R. 559

To amend title 5, United States Code, to provide for an alternative removal for performance or misconduct for Federal employees.

---

## IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2017

Mr. LOUDERMILK (for himself, Mr. AUSTIN SCOTT of Georgia, Mr. GROTHMAN, Mr. BARR, Mr. MESSER, Mr. BABIN, Mr. ARRINGTON, and Mr. BISHOP of Michigan) 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 an alternative removal for performance or misconduct for Federal employees.

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 “Modern Employment  
5 Reform, Improvement, and Transformation Act of 2017”  
6 or the “MERIT Act of 2017”.

1 **SEC. 2. ALTERNATIVE REMOVAL FOR PERFORMANCE OR**  
2 **MISCONDUCT.**

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—ALTERNATIVE REMOVAL  
7 FOR PERFORMANCE OR MISCONDUCT

8 “§ 7551. **Removal for performance or misconduct**

9 “(a) IN GENERAL.—The head of an agency may re-  
10 move an employee from the civil service if the head deter-  
11 mines the performance or misconduct of the individual  
12 warrants such removal.

13 “(b) PROCEDURE.—(1) Not less than 7 days and not  
14 more than 21 days before taking a personnel action de-  
15 scribed in subsection (a) against an employee, the head  
16 of the applicable agency shall provide the employee with—

17 “(A) notice in writing of the proposed personnel  
18 action, including the reasons for such action and in-  
19 cluding the forecasted final date of employment; and

20 “(B) an opportunity to respond to the proposed  
21 personnel action within the remaining employment  
22 period beginning on the date of receipt of notice.

23 “(2)(A) Subject to subparagraph (B), any removal  
24 under subsection (a) may be appealed to the Merit Sys-  
25 tems Protection Board under section 7701.

1           “(B) An appeal under subparagraph (A) of a removal  
2 may only be made if such appeal is made not later than  
3 7 days after the date of such removal.

4           “(3) No procedures under section 7513(b) or section  
5 7543(b) may be applied to a removal or under this section.

6           “(c) EXPEDITED REVIEW BY MERIT SYSTEMS PRO-  
7 TECTION BOARD.—(1) Upon receipt of an appeal under  
8 subsection (b)(2)(A), the Merit Systems Protection Board  
9 shall issue a decision not later than 30 days after the date  
10 of the appeal.

11           “(2) Notwithstanding section 7701(c)(1)(B), the  
12 Merit Systems Protection Board shall uphold the decision  
13 of the head to remove an employee under subsection (a)  
14 if the decision is supported by substantial evidence.

15           “(3) In any case in which the Merit Systems Protec-  
16 tion Board judge cannot issue a decision in accordance  
17 with the 30-day requirement under paragraph (1), the re-  
18 moval is final. In such a case, the Merit Systems Protec-  
19 tion Board shall, within 14 days after the date that such  
20 removal is final, submit to Congress, the Committee on  
21 Homeland Security and Governmental Affairs of the Sen-  
22 ate, and the Committee on Oversight and Government Re-  
23 form of the House of Representatives a report that ex-  
24 plains the reasons why a decision was not issued in accord-  
25 ance with such requirement.

1       “(4) The Merit Systems Protection Board may not  
2 stay any removal under this section unless the basis for  
3 the appeal of such removal is a violation of paragraph (8)  
4 or (9) of section 2302(b).

5       “(5) During the period beginning on the date on  
6 which an individual appeals a removal from the civil serv-  
7 ice under subsection (b)(2)(A) and ending on the date that  
8 the Merit Systems Protection Board issues a final decision  
9 on such appeal, such individual may not receive any pay,  
10 awards, bonuses, incentives, allowances, differentials, stu-  
11 dent loan repayments, special payments, or benefits.

12       “(6) To the maximum extent practicable, the head  
13 shall provide to the Merit Systems Protection Board such  
14 information and assistance as may be necessary to ensure  
15 an appeal under this subsection is expedited.

16       “(d) ADDITIONAL AUTHORITY.—The authority pro-  
17 vided by this section is in addition to the authority other-  
18 wise provided under this chapter.

19       “(e) DEFINITIONS.—In this section:

20               “(1) The term ‘employee’ means any individual  
21 covered by subchapter II or V of this chapter.

22               “(2) The term ‘misconduct’ includes neglect of  
23 duty, malfeasance, failure to accept a directed reas-  
24 signment, the commitment of a prohibited personnel

1 practice, a violation of protocol, and failure to ac-  
2 company a position in a transfer of function.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-  
4 tions for chapter 75 of title 5, United States Code, is  
5 amended by adding at the end the following:

“SUBCHAPTER VI—ALTERNATIVE REMOVAL FOR PERFORMANCE OR  
MISCONDUCT

“Sec.

“7551. Removal for performance or misconduct.”.

