

115TH CONGRESS
2D SESSION

S. 2644

To ensure independent investigations and judicial review of the removal of a special counsel, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2018

Mr. GRAHAM (for himself, Mr. COONS, Mr. TILLIS, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To ensure independent investigations and judicial review of the removal of a special counsel, 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 “Special Counsel Inde-
5 pendence and Integrity Act”.

6 **SEC. 2. LIMITATION ON REMOVAL OF SPECIAL COUNSEL.**

7 (a) IN GENERAL.—A special counsel appointed by the
8 Attorney General, or any other official appointed by the
9 Attorney General who exercises a similar degree of inde-
10 pendence from the normal Department of Justice chain

1 of command, may be removed from office only by the per-
2 sonal action of an Attorney General who has been con-
3 firmed by the Senate, or, if the Attorney General is
4 recused from the matter, the most senior Department of
5 Justice official who has been confirmed by the Senate and
6 is not recused from the matter.

7 (b) REMOVAL FOR CAUSE.—A special counsel or
8 other appointed official described in subsection (a) may
9 be removed only for misconduct, dereliction of duty, inca-
10 pacity, conflict of interest, or other good cause, including
11 violation of policies of the Department of Justice.

12 (c) NOTICE OF REMOVAL.—

13 (1) IN GENERAL.—The Attorney General or
14 other Department of Justice official described in
15 subsection (a), as the case may be, shall provide
16 written notice to the special counsel or other ap-
17 pointed official described in subsection (a) of the
18 specific reason or reasons for the removal.

19 (2) EFFECTIVE DATE OF REMOVAL.—Except as
20 provided in subsection (e), removal under this sec-
21 tion shall become effective on the date that is 10
22 days after the date on which the written notice was
23 provided under paragraph (1).

24 (d) TIMING.—Not later than 10 days after the date
25 on which written notice was provided under subsection

1 (c)(1), the special counsel or other appointed official de-
2 scribed in subsection (a), as the case may be, may file
3 an action challenging the removal in accordance with sub-
4 section (e).

5 (e) REVIEW.—

6 (1) IN GENERAL.—An individual that received
7 written notice under subsection (c)(1) may file an
8 action in accordance with paragraph (2) that the re-
9 moval was in violation of this Act.

10 (2) REQUIREMENTS.—Any action filed under
11 this subsection shall be heard and determined by a
12 court of 3 judges not later than 14 days after the
13 date on which the action is filed in accordance with
14 the provisions of section 2284 of title 28, United
15 States Code, and any appeal shall lie to the Supreme
16 Court.

17 (3) RELIEF.—If a court determines that the re-
18 moval of the individual who filed an action under
19 this subsection violates this Act, the removal shall
20 not take effect. The court may also provide other ap-
21 propriate relief.

22 (4) STATUS DURING PROCEEDINGS.—

23 (A) IN GENERAL.—At the request of the
24 individual who filed an action under this sub-
25 section, the court shall determine whether the

1 individual shall remain in office during the
2 pendency of the action described in paragraph
3 (2).

4 (B) PRESERVATION OF MATERIALS.—Dur-
5 ing the pendency of an action filed under this
6 subsection, the staff, documents, and materials
7 of the special counsel or other appointed official
8 described in subsection (a) shall be preserved.

9 (C) LIMITATION.—During the pendency of
10 an action filed under this subsection, a replace-
11 ment for the special counsel or other appointed
12 official described in subsection (a) who is chal-
13 lenging the removal shall not be designated.

14 (f) EFFECTIVE DATE.—This Act shall apply to any
15 special counsel or other appointed official described in sub-
16 section (a) appointed on or after January 1, 2017.

17 (g) SEVERABILITY.—If any provision of this Act or
18 the application of such provision to any person or cir-
19 cumstance is held to be invalid or unconstitutional, the
20 remainder of this Act and the application of the provisions
21 of this Act to any person or circumstance shall remain
22 and shall not be affected thereby.

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