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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Special Counsel Independence and Integrity Act”.

SEC. 2. LIMITATION ON REMOVAL OF SPECIAL COUNSEL.

(a) IN GENERAL.—A special counsel appointed by the Attorney General, or any other official appointed by the Attorney General who exercises a similar degree of independence from the normal Department of Justice chain
of command, may be removed from office only by the personal action of an Attorney General who has been confirmed by the Senate, or, if the Attorney General is recused from the matter, the most senior Department of Justice official who has been confirmed by the Senate and is not recused from the matter.

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

(c) NOTICE OF REMOVAL.—

(1) IN GENERAL.—The Attorney General or other Department of Justice official described in subsection (a), as the case may be, shall provide written notice to the special counsel or other appointed official described in subsection (a) of the specific reason or reasons for the removal.

(2) EFFECTIVE DATE OF REMOVAL.—Except as provided in subsection (c), removal under this section shall become effective on the date that is 10 days after the date on which the written notice was provided under paragraph (1).

(d) TIMING.—Not later than 10 days after the date on which written notice was provided under subsection
(c)(1), the special counsel or other appointed official described in subsection (a), as the case may be, may file an action challenging the removal in accordance with subsection (e).

(e) Review.—

(1) IN GENERAL.—An individual that received written notice under subsection (c)(1) may file an action in accordance with paragraph (2) that the removal was in violation of this Act.

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

(3) RELIEF.—If a court determines that the removal of the individual who filed an action under this subsection violates this Act, the removal shall not take effect. The court may also provide other appropriate relief.

(4) STATUS DURING PROCEEDINGS.—

(A) IN GENERAL.—At the request of the individual who filed an action under this subsection, the court shall determine whether the
individual shall remain in office during the
pendency of the action described in paragraph
(2).

(B) PRESERVATION OF MATERIALS.—During
the pendency of an action filed under this
subsection, the staff, documents, and materials
of the special counsel or other appointed official
described in subsection (a) shall be preserved.

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

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

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