

Union Calendar No. 2

118TH CONGRESS
1ST SESSION

H. R. 140

[Report No. 118–5]

To amend title 5, United States Code, to prohibit Federal employees from advocating for censorship of viewpoints in their official capacity, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2023

Mr. COMER (for himself, Mr. JORDAN, and Mrs. RODGERS of Washington) introduced the following bill; which was referred to the Committee on Oversight and Accountability

MARCH 2, 2023

Additional sponsors: Mr. GROTHMAN, Mr. BIGGS, Mr. LANGWORTHY, Ms. MACE, Mrs. LUNA, Mr. BURCHETT, Mr. HIGGINS of Louisiana, Mr. SESSIONS, Mr. EDWARDS, Mr. LATURNER, Mr. GOSAR, Mr. FRY, Mrs. MCCLAIN, and Ms. GREENE of Georgia

MARCH 2, 2023

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 January 9, 2023]

A BILL

To amend title 5, United States Code, to prohibit Federal employees from advocating for censorship of viewpoints in their official capacity, 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 “Protecting Speech from*
 5 *Government Interference Act”.*

6 **SEC. 2. PROHIBITION ON FEDERAL EMPLOYEE CENSOR-**
 7 **SHIP.**

8 *(a) IN GENERAL.—Chapter 73 of title 5, United States*
 9 *Code, is amended by adding at the end the following:*

10 **“SUBCHAPTER VIII—PROHIBITION ON FEDERAL**
 11 **EMPLOYEE CENSORSHIP**

12 **“§ 7381. Policy regarding Federal employee censorship**

13 *“It is the policy of the Congress that employees acting*
 14 *in their official capacity should neither take action within*
 15 *their authority or influence to promote the censorship of*
 16 *any lawful speech, nor advocate that a third party, includ-*
 17 *ing a private entity, censor such speech.*

18 **“§ 7382. Prohibition on Federal employee censorship**

19 *“(a) IN GENERAL.—An employee may not—*

20 *“(1) use the employee’s official authority to cen-*
 21 *sor any private entity, including outside of normal*
 22 *duty hours and while such employee is away from the*
 23 *employee’s normal duty post; or*

24 *“(2) engage in censorship of a private entity—*

25 *“(A) while the employee is on duty;*

1 “(B) in any room or building occupied in
2 the discharge of official duties by an individual
3 employed or holding office in the Government of
4 the United States or any agency or instrumen-
5 tality thereof;

6 “(C) while wearing a uniform or official in-
7 signia identifying the office or position of the
8 employee;

9 “(D) while using any vehicle owned or
10 leased by the Government of the United States or
11 any agency or instrumentality thereof; or

12 “(E) while using any information system or
13 information technology (as defined under section
14 11101 of title 40).

15 “(b) *EXCEPTIONS FOR LAW ENFORCEMENT FUNC-*
16 *TIONS AND REPORTING REQUIREMENTS.—*

17 “(1) *IN GENERAL.—*Nothing in this section shall
18 be construed to prohibit an employee from engaging
19 in lawful actions within the official authority of such
20 employee for the purpose of exercising legitimate law
21 enforcement functions, including activities to—

22 “(A) combat child pornography and exploi-
23 tation, human trafficking, or the illegal trans-
24 porting of or transacting in controlled sub-
25 stances; and

1 “(B) safeguarding, or preventing, the un-
2 lawful dissemination of properly classified na-
3 tional security information.

4 “(2) *REPORTING.*—

5 “(A) *IN GENERAL.*—Not later than 72 hours
6 before an employee exercises a legitimate law en-
7 forcement function to take any action to censor
8 any lawful speech (in this paragraph referred to
9 as a ‘censorship action’), but not including any
10 such action relating to activities described under
11 subparagraph (A) or (B) of paragraph (1), the
12 head of the agency that employs the employee
13 shall submit, to the Office of Special Counsel and
14 the chair and ranking member of the committees
15 of Congress described under subparagraph (B), a
16 report that includes—

17 “(i) an overview of the action, or ac-
18 tions, to be taken, including a summary of
19 the action being taken and the rationale for
20 why a censorship action is necessary;

21 “(ii) the name of the entity which the
22 action is being requested of;

23 “(iii) the person and entity targeted by
24 the censorship action, including the associ-
25 ated name or number of any account used

1 *or maintained by the entity and a descrip-*
2 *tion of the specific speech content targeted;*

3 *“(iv) the agency’s legal authority for*
4 *exercising the law enforcement function;*

5 *“(v) the agency employee or employees*
6 *involved in the censorship action, including*
7 *their position and any direct supervisor;*

8 *“(vi) a list of other agencies that have*
9 *been involved, consulted, or communicated*
10 *with in coordination with the censorship ac-*
11 *tion; and*

12 *“(vii) a classified annex, if the agency*
13 *head deems it appropriate.*

14 *“(B) COMMITTEES.—The committees of*
15 *Congress described under this subparagraph are*
16 *the following:*

17 *“(i) The Committee on Oversight and*
18 *Accountability, the Committee on the Judi-*
19 *ciary, and the Committee on Energy and*
20 *Commerce of the House of Representatives;*
21 *and*

22 *“(ii) The Committee on Homeland Se-*
23 *curity and Governmental Affairs, the Com-*
24 *mittee on the Judiciary, and the Committee*

1 *on Commerce, Science, and Transportation*
 2 *of the Senate.*

3 “(C) *CLARIFICATION OF OFFICE OF SPECIAL*
 4 *COUNSEL REPORTING REQUIREMENTS.*—*The re-*
 5 *porting requirements in this paragraph do not*
 6 *apply to the Office of Special Counsel’s advisory*
 7 *and enforcement functions under subchapter II*
 8 *of chapter 12.*

9 “(c) *PENALTIES.*—

10 “(1) *IN GENERAL.*—*An employee who violates*
 11 *this section shall be subject to—*

12 “(A) *disciplinary action consisting of re-*
 13 *moval, reduction in grade, debarment from Fed-*
 14 *eral employment for a period not to exceed 5*
 15 *years, suspension, or reprimand;*

16 “(B) *an assessment of a civil penalty not to*
 17 *exceed \$1,000; or*

18 “(C) *any combination of the penalties de-*
 19 *scribed in subparagraph (A) or (B).*

20 “(2) *APPLICATION TO SENIOR GOVERNMENT OF-*
 21 *FICIALS.*—*Paragraph (1)(B) shall be applied by sub-*
 22 *stituting ‘\$10,000’ for ‘\$1,000’ for any employee who*
 23 *is—*

24 “(A) *paid from an appropriation for the*
 25 *White House Office; or*

1 “(B) appointed by the President, by and
2 with the advice and consent of the Senate;

3 “(d) *ENFORCEMENT.*—This section shall be enforced in
4 the same manner as subchapter III of this chapter.

5 “(e) *DEFINITIONS.*—In this subchapter—

6 “(1) the term ‘censor’ or ‘censorship’ means in-
7 fluencing or coercing, or directing another to influ-
8 ence or coerce, for—

9 “(A) the removal or suppression of lawful
10 speech, in whole or in part, from or on any
11 interactive computer service;

12 “(B) the addition of any disclaimer, infor-
13 mation, or other alert to lawful speech being ex-
14 pressed on an interactive computer service; or

15 “(C) the removal or restriction of access of
16 any person or entity on an interactive computer
17 service generally available to the public, unless
18 such person or entity is engaged in unlawful
19 speech or criminal activities on such service;

20 “(2) the term ‘employee’ has the meaning given
21 that term in section 7322;

22 “(3) the term ‘interactive computer service’ has
23 the meaning given that term in section 230(f) of the
24 Communications Act of 1934 (47 U.S.C. 230(f)); and

1 “(4) the term ‘lawful speech’ means speech pro-
2 tected by the First Amendment of the Constitution.”.

3 (b) *CLERICAL AMENDMENT.*—The table of sections for
4 chapter 73 of title 5, United States Code, is amended by
5 adding at the end the following:

“SUBCHAPTER VIII—PROHIBITION ON FEDERAL EMPLOYEE CENSORSHIP

“7381. Policy regarding Federal employee censorship.

“7382. Prohibition on Federal employee censorship.”.

6 (c) *INCLUDING CENSORSHIP ACTIVITIES UNDER JU-*
7 *RISDICTION OF OFFICE OF SPECIAL COUNSEL.*—Strike
8 paragraph (1) of section 1216(a) of title 5, United States
9 Code, and insert the following:

10 “(1) political activity and censorship prohibited
11 under subchapter III and subchapter VIII of chapter
12 73, relating to political and censorship activities, re-
13 spectively, by Federal employees;”.

14 (d) *RULE OF CONSTRUCTION.*—Nothing in this Act or
15 any amendment made by this Act should be interpreted as
16 prohibiting a lawful action by a Federal agency to enforce
17 a Federal law or regulation, to establish or enforce the terms
18 and conditions of Federal financial assistance, or to pro-
19 hibit a Federal employee from using an official Federal ac-
20 count on an interactive computer service to communicate
21 an official policy position, and relevant information, to the
22 public, or provide information through normal press and
23 public affairs relations.

1 (e) *SEVERABILITY.*—*If any provision of this Act or*
2 *any amendment made by this Act, or the application of*
3 *a provision of this Act or an amendment made by this Act*
4 *to any person or circumstance, is held to be unconstitu-*
5 *tional, the remainder of this Act, and the application of*
6 *the provisions to any person or circumstance, shall not be*
7 *affected by the holding.*

Union Calendar No. 2

118TH CONGRESS
1ST Session

H. R. 140

[Report No. 118-5]

A BILL

To amend title 5, United States Code, to prohibit Federal employees from advocating for censorship of viewpoints in their official capacity, and for other purposes.

MARCH 2, 2023

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