

113TH CONGRESS  
1ST SESSION

# H. R. 2579

To amend title 5, United States Code, to provide for investigative leave requirements with respect to Senior Executive Service employees, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2013

Mr. KELLY of Pennsylvania (for himself, Mr. MARINO, Mr. RENACCI, Mr. GRIFFIN of Arkansas, Mr. ROSKAM, Mr. YOUNG of Indiana, Mr. FARENTHOLD, Mr. DENHAM, Mr. GOSAR, Mr. BARLETTA, Mr. BENISHEK, Mr. THOMPSON of Pennsylvania, Mr. AMODEI, Mr. GERLACH, Mr. PAULSEN, Mr. HENSARLING, Mrs. BLACKBURN, Mr. BROOKS of Alabama, Mr. CALVERT, Mr. REED, Mr. JOHNSON of Ohio, and Mr. AUSTIN SCOTT of Georgia) 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 with respect to Senior Executive Service employees, 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 that such employee’s  
19 conduct is serious or flagrant, the agency may place such  
20 employee on investigative leave under this subchapter  
21 without pay.

22 “(b)(1) At the end of each 45-day period during a  
23 period of investigative leave implemented under this sec-  
24 tion, the relevant agency shall review the investigation into

1 the employee with respect to the misconduct, neglect of  
2 duty, malfeasance, or misappropriation of funds.

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

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

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

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

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

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

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

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

24 “(A) there is reasonable cause to believe  
25 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 that the em-  
4           ployee’s conduct with respect to which an action  
5           covered by this subchapter is proposed is seri-  
6           ous or flagrant as prescribed in regulation by  
7           the Office of Personnel Management;

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

12          “(3) be represented by an attorney or other  
13          representative; and

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

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

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

22          “(f) Copies of the notice of proposed action, the an-  
23          swer of the employee when written, and a summary there-  
24          of when made orally, the notice of decision and reasons  
25          therefor, and any order effecting an action covered by this

1 subchapter, together with any supporting material, shall  
2 be maintained by the agency and shall be furnished to the  
3 Merit Systems Protection Board upon its request and to  
4 the employee affected upon the employee's request.

5 "SUBCHAPTER VII—REMOVAL OF SENIOR  
6 EXECUTIVE SERVICE EMPLOYEES

7 "§ 7561. **Definition**

8 "For purposes of this subchapter, the term 'em-  
9 ployee' has the meaning given such term in section 7541.

10 "§ 7562. **Removal of Senior Executive Service employ-**  
11 **ees**

12 "(a) Notwithstanding any other provision of law, the  
13 head of an agency may remove an employee if the head  
14 of the agency—

15 "(1) determines that the employee acted in a  
16 manner that endangers the interest of the agency  
17 mission;

18 "(2) considers the removal to be in the interests  
19 of the United States; and

20 "(3) determines that the procedures prescribed  
21 in other provisions of law that authorize the removal  
22 of such employee cannot be invoked in a manner  
23 that the Secretary considers consistent with the effi-  
24 ciency of the Government.

1       “(b) An employee removed under this section shall  
2 be notified of the reasons for such removal. Within 30  
3 days after the notification, the employee is entitled to sub-  
4 mit to the official designated by the head of the agency  
5 statements or affidavits to show why the employee should  
6 be restored to duty. If such statements and affidavits are  
7 submitted, the head of the agency shall provide a written  
8 response, and may restore the employee’s employment if  
9 the head of the agency chooses.

10       “(c) Except as provided under subsection (b), a deci-  
11 sion by the head of the agency to remove an employee  
12 under this section is final and may not be appealed or  
13 reviewed outside the agency.

14       “(d) Whenever the head of the agency removes an  
15 employee under the authority of this section, the head of  
16 the agency shall notify Congress of such termination.

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

23       “(f) The authority of the head of the agency under  
24 this section may not be delegated.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
 2 at the beginning of chapter 75 of title 5, United States  
 3 Code, is amended by adding after the item relating to sec-  
 4 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 Employees.”.

5 **SEC. 4. SUSPENSION OF SENIOR EXECUTIVE SERVICE EM-**  
 6 **PLOYEES.**

7 Section 7543 of title 5, United States Code, is  
 8 amended—

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

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

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

16 “(A) there is reasonable cause to believe  
 17 that the employee has committed a crime for  
 18 which a sentence of imprisonment can be im-  
 19 posed; or

1           “(B) the agency determines that the em-  
2           ployee’s conduct with respect to which an action  
3           covered by this subchapter is proposed is seri-  
4           ous or flagrant as prescribed in regulation by  
5           the Office of Personnel Management;”.

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

7           (a) REINSTATEMENT IN THE SENIOR EXECUTIVE  
8 SERVICE.—Section 3593 of title 5, United States Code,  
9 is amended—

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

12           (2) in subsection (b), by striking “or malfea-  
13           sance” and inserting “malfeasance, or misappropria-  
14           tion of funds”.

15           (b) PLACEMENT IN OTHER PERSONNEL SYSTEMS.—  
16 Section 3594(a) of title 5, United States Code, is amended  
17 by striking “or malfeasance” and inserting “malfeasance,  
18 or misappropriation of funds”.

○