

117TH CONGRESS  
2D SESSION

# H. R. 8935

To amend the Labor-Management Reporting and Disclosure Act of 1959  
to provide whistleblower protection for union employees.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2022

Mr. GOOD of Virginia (for himself, Mrs. MILLER of Illinois, Mrs. BOEBERT, Mr. GOHMERT, and Mr. MOOLENAAR) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend the Labor-Management Reporting and Disclosure Act of 1959 to provide whistleblower protection for union 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 “Union Integrity Act”.

5 **SEC. 2. WHISTLEBLOWER PROTECTION FOR UNION EM-**  
6 **PLOYEES.**

7 The Labor-Management Reporting and Disclosure  
8 Act of 1959 (29 U.S.C. 401 et seq.) is amended—

1           (1) by redesignating section 611 (29 U.S.C.  
2       531) as section 612; and

3           (2) by inserting after section 610 (29 U.S.C.  
4       530), the following new section:

5       “WHISTLEBLOWER PROTECTION FOR UNION EMPLOYEES

6       “SEC. 611. (a) IN GENERAL.—No labor organization  
7       shall terminate or in any other way discriminate against,  
8       or cause to be terminated or discriminated against, any  
9       covered employee of the labor organization by reason of  
10      the fact that such employee, whether at the initiative of  
11      the employee or in the ordinary course of the duties of  
12      the employee (or any person acting pursuant to a request  
13      of the employee), has—

14           “(1) provided, caused to be provided, or is  
15      about to provide or cause to be provided, informa-  
16      tion to the labor organization, the Department of  
17      Labor, or any other State, local, or Federal Govern-  
18      ment authority or law enforcement agency relating  
19      to any violation of, or any act or omission that the  
20      employee reasonably believes to be a violation of, any  
21      provision of this Act or any other provision of law  
22      that is subject to the jurisdiction of the Department  
23      of Labor, the National Labor Relations Board, or  
24      any rule, order, standard, or prohibition prescribed  
25      by the Department of Labor or the National Labor  
26      Relations Board;

1           “(2) testified or will testify in any proceeding  
2           resulting from the administration or enforcement of  
3           any provision of this Act or any other provision of  
4           law that is subject to the jurisdiction of the Depart-  
5           ment of Labor or National Labor Relations Board,  
6           or any rule, order, standard, or prohibition pre-  
7           scribed by the Department of Labor or the National  
8           Labor Relations Board;

9           “(3) filed, instituted, or caused to be filed or in-  
10          stituted any proceeding under this Act; or

11          “(4) objected to, or refused to participate in,  
12          any activity, policy, practice, or assigned task that  
13          the employee (or other such person) reasonably be-  
14          lieved to be in violation of any law, rule, order,  
15          standard, or prohibition, subject to the jurisdiction  
16          of, or enforceable by, the Department of Labor or  
17          the National Labor Relations Board.

18          “(b) DEFINITION OF COVERED EMPLOYEE.—For the  
19          purposes of this section, the term ‘covered employee’  
20          means any employee of a labor organization who receives  
21          financial compensation for his or her services to the labor  
22          organization, including officers of the labor organization.

23          “(c) PROCEDURES AND TIMETABLES.—

24          “(1) COMPLAINT.—

1           “(A) IN GENERAL.—A person who believes  
2           that he or she has been discharged or otherwise  
3           discriminated against by any person in violation  
4           of subsection (a) may file (or have any person  
5           file on his or her behalf) a complaint with the  
6           Secretary of Labor alleging such discharge or  
7           discrimination and identifying the person re-  
8           sponsible for such act. Such a complaint must  
9           be filed not later than either—

10                   “(i) 180 days after the date on which  
11                   such alleged violation occurs; or

12                   “(ii) 180 days after the conclusion of  
13                   any internal appeals, review, or other judi-  
14                   cial or investigative process conducted by  
15                   the labor organization employing such per-  
16                   son.

17           “(B) ACTIONS OF SECRETARY OF  
18           LABOR.—Upon receipt of such a complaint, the  
19           Secretary of Labor shall notify, in writing, the  
20           person named in the complaint who is alleged  
21           to have committed the violation, of—

22                   “(i) the filing of the complaint;

23                   “(ii) the allegations contained in the  
24                   complaint;

1 “(iii) the substance of evidence sup-  
2 porting the complaint; and

3 “(iv) opportunities that will be af-  
4 farded to such person under paragraph  
5 (2).

6 “(2) INVESTIGATION BY SECRETARY OF  
7 LABOR.—

8 “(A) IN GENERAL.—Not later than 60  
9 days after the date of receipt of a complaint  
10 filed under paragraph (1), and after affording  
11 the complainant and the person named in the  
12 complaint who is alleged to have committed the  
13 violation that is the basis for the complaint an  
14 opportunity to submit to the Secretary of Labor  
15 a written response to the complaint and an op-  
16 portunity to meet with a representative of the  
17 Secretary of Labor to present statements from  
18 witnesses, the Secretary of Labor shall—

19 “(i) initiate an investigation and de-  
20 termine whether there is reasonable cause  
21 to believe that the complaint has merit;  
22 and

23 “(ii) notify the complainant and the  
24 person alleged to have committed the viola-

tion of subsection (a), in writing, of such determination.

“(B) NOTICE OF RELIEF AVAILABLE.—If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall, together with the notice under subparagraph (A)(ii), issue a preliminary order providing the relief prescribed by paragraph (4)(B).

“(C) REQUEST FOR HEARING.—Not later than 30 days after the date of receipt of notification of a determination of the Secretary of Labor under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously, and if a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

1           “(3) GROUNDS FOR DETERMINATION OF COM-  
2       PLAINTS.—

3           “(A) IN GENERAL.—The Secretary of  
4       Labor shall dismiss a complaint filed under this  
5       subsection, and shall not conduct an investiga-  
6       tion otherwise required under paragraph (2),  
7       unless the complainant makes a prima facie  
8       showing that any behavior described in para-  
9       graphs (1) through (4) of subsection (a) was a  
10      contributing factor in the unfavorable personnel  
11      action alleged in the complaint.

12          “(B) REBUTTAL EVIDENCE.—Notwith-  
13      standing a finding by the Secretary of Labor  
14      that the complainant has made the showing re-  
15      quired under subparagraph (A), no investiga-  
16      tion otherwise required under paragraph (2)  
17      shall be conducted, if the labor organization  
18      demonstrates, by clear and convincing evidence,  
19      that the labor organization would have taken  
20      the same unfavorable personnel action in the  
21      absence of that behavior.

22          “(C) EVIDENTIARY STANDARDS.—The  
23      Secretary of Labor may determine that a viola-  
24      tion of subsection (a) has occurred only if the  
25      complainant demonstrates that any behavior de-

scribed in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint. Relief may not be ordered under subparagraph (A) if the labor organization demonstrates by clear and convincing evidence that the labor organization would have taken the same unfavorable personnel action in the absence of that behavior.

“(4) ISSUANCE OF FINAL ORDERS; REVIEW PROCEDURES.—

“(A) TIMING.—Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

“(B) PENALTIES.—

“(i) ORDER OF SECRETARY OF LABOR.—If, in response to a complaint



1 filed under paragraph (1), the Secretary of  
2 Labor determines that a violation of sub-  
3 section (a) has occurred, the Secretary of  
4 Labor shall order the person who com-  
5 mitted such violation—

6 “(I) to take affirmative action to  
7 abate the violation;

8 “(II) to reinstate the complain-  
9 ant to his or her former position, to-  
10 gether with compensation (including  
11 back pay) and restore the terms, con-  
12 ditions, and privileges associated with  
13 his or her employment; and

14 “(III) to provide compensatory  
15 damages to the complainant.

16 “(ii) PENALTY.—If an order is issued  
17 under clause (i), the Secretary of Labor, at  
18 the request of the complainant, shall assess  
19 against the person against whom the order  
20 is issued, a sum equal to the aggregate  
21 amount of all costs and expenses (includ-  
22 ing attorney fees and expert witness fees)  
23 reasonably incurred, as determined by the  
24 Secretary of Labor, by the complainant  
25 for, or in connection with, the bringing of

1 the complaint upon which the order was  
2 issued.

3 “(C) PENALTY FOR FRIVOLOUS CLAIMS.—

4 If the Secretary of Labor finds that a complaint  
5 under paragraph (1) is frivolous or has been  
6 brought in bad faith, the Secretary of Labor  
7 may award to the prevailing labor organization  
8 a reasonable attorney fee, not exceeding \$1,000,  
9 to be paid by the complainant.

10 “(D) DE NOVO REVIEW.—

11 “(i) FAILURE OF THE SECRETARY TO  
12 ACT.—If the Secretary of Labor has not  
13 issued a final order within 210 days after  
14 the date of filing of a complaint under this  
15 subsection, or within 90 days after the  
16 date of receipt of a written determination,  
17 the complainant may bring an action at  
18 law or equity for de novo review in the ap-  
19 propriate district court of the United  
20 States having jurisdiction, which shall have  
21 jurisdiction over such an action without re-  
22 gard to the amount in controversy, and  
23 which action shall, at the request of either  
24 party to such action, be tried by the court  
25 with a jury.

1           “(ii) PROCEDURES.—A proceeding  
2           under clause (i) shall be governed by the  
3           same legal burdens of proof specified in  
4           paragraph (3). The court shall have juris-  
5           diction to grant all relief necessary to  
6           make the employee whole, including injunc-  
7           tive relief and compensatory damages, in-  
8           cluding—

9           “(I) reinstatement with the same  
10          seniority status that the employee  
11          would have had, but for the discharge  
12          or discrimination;

13          “(II) the amount of back pay,  
14          with interest; and

15          “(III) compensation for any spe-  
16          cial damages sustained as a result of  
17          the discharge or discrimination, in-  
18          cluding litigation costs, expert witness  
19          fees, and reasonable attorney fees.

20          “(E) OTHER APPEALS.—Unless the com-  
21          plainant brings an action under subparagraph  
22          (D), any person adversely affected or aggrieved  
23          by a final order issued under subparagraph (A)  
24          may file a petition for review of the order in the  
25          United States Court of Appeals for the circuit

1 in which the violation with respect to which the  
2 order was issued, allegedly occurred or the cir-  
3 cuit in which the complainant resided on the  
4 date of such violation, not later than 60 days  
5 after the date of the issuance of the final order  
6 of the Secretary of Labor under subparagraph  
7 (A). Review shall conform to chapter 7 of title  
8 5, United States Code. The commencement of  
9 proceedings under this subparagraph shall not,  
10 unless ordered by the court, operate as a stay  
11 of the order. An order of the Secretary of  
12 Labor with respect to which review could have  
13 been obtained under this subparagraph shall  
14 not be subject to judicial review in any criminal  
15 or other civil proceeding.

16 “(5) FAILURE TO COMPLY WITH ORDER.—

17 “(A) ACTIONS BY THE SECRETARY.—If  
18 any person has failed to comply with a final  
19 order issued under paragraph (4), the Secretary  
20 of Labor may file a civil action in the United  
21 States district court for the district in which  
22 the violation was found to have occurred, or in  
23 the United States district court for the District  
24 of Columbia, to enforce such order. In actions  
25 brought under this paragraph, the district

1 courts shall have jurisdiction to grant all appro-  
2 priate relief including injunctive relief and com-  
3 pensatory damages.

4 “(B) CIVIL ACTIONS TO COMPEL COMPLI-  
5 ANCE.—A person on whose behalf an order was  
6 issued under paragraph (4) may commence a  
7 civil action against the person to whom such  
8 order was issued to require compliance with  
9 such order. The appropriate United States dis-  
10 trict court shall have jurisdiction, without re-  
11 gard to the amount in controversy or the citi-  
12 zenship of the parties, to enforce such order.

13 “(C) AWARD OF COSTS AUTHORIZED.—  
14 The court, in issuing any final order under this  
15 paragraph, may award costs of litigation (in-  
16 cluding reasonable attorney and expert witness  
17 fees) to any party, whenever the court deter-  
18 mines such award is appropriate.

19 “(D) MANDAMUS PROCEEDINGS.—Any  
20 nondiscretionary duty imposed by this section  
21 shall be enforceable in a mandamus proceeding  
22 brought under section 1361 of title 28, United  
23 States Code.

24 “(d) LIMITATION OF PREEMPTION.—Nothing in this  
25 Act shall be construed—

1           “(1) to limit the ability of members of a labor  
2           organization to remove their elected or appointed of-  
3           ficials through a democratic election conducted  
4           among such members; or

5           “(2) to preempt a State or local government  
6           from providing additional protections to employees  
7           of labor organizations who allege violations of sub-  
8           section (a), provided that such protections do not  
9           limit the ability of members of a labor organization  
10          to remove their elected or appointed officials through  
11          a democratic ballot.

12          “(e) UNENFORCEABILITY OF CERTAIN AGREE-  
13          MENTS.—

14               “(1) NO WAIVER OF RIGHTS AND REMEDIES.—  
15          Notwithstanding any other provision of law, the  
16          rights and remedies provided for in this section may  
17          not be waived by any agreement, policy, form, or  
18          condition of employment, including by any  
19          predispute arbitration agreement.

20               “(2) NO PREDISPUTE ARBITRATION AGREE-  
21          MENTS.—Notwithstanding any other provision of  
22          law, no predispute arbitration agreement shall be  
23          valid or enforceable to the extent that it requires ar-  
24          bitration of a dispute arising under this section.”.

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