

**(d) Effective date****(1) In general**

Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after January 23, 1995.

**(2) Government Accountability Office and Library of Congress**

This section shall be effective with respect to the Government Accountability Office and the Library of Congress 1 year after transmission to the Congress of the study under section 1371 of this title.

(Pub. L. 104–1, title II, § 205, Jan. 23, 1995, 109 Stat. 11; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 115–141, div. I, title I, § 153(a)(2)(B), Mar. 23, 2018, 132 Stat. 785.)

**Editorial Notes****AMENDMENTS**

2018—Subsec. (a)(2). Pub. L. 115–141 struck out “and the Library of Congress” after “the Government Accountability Office” in two places.

2004—Subsec. (a)(2). Pub. L. 108–271 substituted “Government Accountability Office” for “General Accounting Office” in two places.

Subsec. (d)(2). Pub. L. 108–271 substituted “Government Accountability Office” for “General Accounting Office” in heading and text.

**§ 1316. Rights and protections relating to veterans’ employment and reemployment****(a) Employment and reemployment rights of members of uniformed services****(1) In general**

It shall be unlawful for an employing office to—

(A) discriminate, within the meaning of subsections (a) and (b) of section 4311 of title 38, against an eligible employee;

(B) deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38; or

(C) deny to an eligible employee benefits within the meaning of sections 4316, 4317, and 4318 of title 38.

**(2) Definitions**

For purposes of this section—

(A) the term “eligible employee” means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, whose service has not been terminated upon occurrence of any of the events enumerated in section 4304 of title 38,

(B) the term “covered employee” includes employees of the Government Accountability Office, and

(C) the term “employing office” includes the Government Accountability Office.

**(b) Remedy**

The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under section 4323(d) of title 38.

**(c) Regulations to implement section****(1) In general**

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

**(2) Agency regulations**

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

**(d) Effective date****(1) In general**

Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after January 23, 1995.

**(2) Government Accountability Office and Library of Congress**

This section shall be effective with respect to the Government Accountability Office and the Library of Congress 1 year after transmission to the Congress of the study under section 1371 of this title.

(Pub. L. 104–1, title II, § 206, Jan. 23, 1995, 109 Stat. 12; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 111–275, title VII, § 703(b), Oct. 13, 2010, 124 Stat. 2888; Pub. L. 115–141, div. I, title I, § 153(a)(2)(C), Mar. 23, 2018, 132 Stat. 785.)

**Editorial Notes****AMENDMENTS**

2018—Subsec. (a)(2)(B), (C). Pub. L. 115–141 struck out “and the Library of Congress” after “the Government Accountability Office”.

2010—Subsec. (b). Pub. L. 111–275 substituted “under section 4323(d) of title 38” for “under paragraphs (1), (2)(A), and (3) of section 4323(c) of title 38”.

2004—Subsec. (a)(2)(B), (C). Pub. L. 108–271 substituted “Government Accountability Office” for “General Accounting Office”.

Subsec. (d)(2). Pub. L. 108–271 substituted “Government Accountability Office” for “General Accounting Office” in heading and text.

**§ 1316a. Legislative branch appointments****(1) Definitions**

For the purposes of this section, the terms “covered employee” and “Board” shall each have the meaning given such term by section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301).

**(2) Rights and protections**

The rights and protections established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, shall apply to covered employees.

**(3) Remedies****(A) In general**

The remedy for a violation of paragraph (2) shall be such remedy as would be appropriate if awarded under applicable provisions of title 5 in the case of a violation of the relevant corresponding provision (referred to in paragraph (2)) of such title.

**(B) Procedure**

The procedure for consideration of alleged violations of paragraph (2) shall be the same

as apply under section 401 of the Congressional Accountability Act of 1995 [2 U.S.C. 1401] (and the provisions of law referred to therein) in the case of an alleged violation of part A of title II of such Act [2 U.S.C. 1311 et seq.].

#### **(4) Regulations to implement section**

##### **(A) In general**

The Board shall, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), issue regulations to implement this section.

##### **(B) Agency regulations**

The regulations issued under subparagraph (A) shall be the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

##### **(C) Coordination**

The regulations issued under subparagraph (A) shall be consistent with section 225 of the Congressional Accountability Act of 1995 (2 U.S.C. 1361).

#### **(5) Applicability**

Notwithstanding any other provision of this section, the term “covered employee” shall not, for purposes of this section, include an employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or

(C) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5).

#### **(6) Effective date**

Paragraphs (2) and (3) shall be effective as of the effective date of the regulations under paragraph (4).

(Pub. L. 105–339, §4(c), Oct. 31, 1998, 112 Stat. 3185.)

#### **Editorial Notes**

##### **REFERENCES IN TEXT**

The Congressional Accountability Act of 1995, referred to in par. (3)(B), is Pub. L. 104–1, Jan. 23, 1995, 109 Stat. 3. Part A (§§201–207) of title II of the Act is classified principally to this part. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

##### **CODIFICATION**

Section was enacted as part of the Veterans Employment Opportunities Act of 1998, and not as part of the Congressional Accountability Act of 1995 which comprises this chapter.

### **§ 1316b. Rights and protections relating to criminal history inquiries**

#### **(a) Definitions**

In this section, the terms “agency”, “criminal history record information”, and “suspension” have the meanings given the terms in section 9201 of title 5, except as otherwise modified by this section.

#### **(b) Restrictions on criminal history inquiries**

##### **(1) In general**

##### **(A) In general**

Except as provided in subparagraph (B), an employee of an employing office may not request that an applicant for employment as a covered employee disclose criminal history record information if the request would be prohibited under section 9202 of title 5 if made by an employee of an agency.

##### **(B) Conditional offer**

For purposes of applying that section 9202 under subparagraph (A), a reference in that section 9202 to a conditional offer shall be considered to be an offer of employment as a covered employee that is conditioned upon the results of a criminal history inquiry.

##### **(2) Rules of construction**

The provisions of section 9206 of title 5 shall apply to employing offices, consistent with regulations issued under subsection (d).

#### **(c) Remedy**

##### **(1) In general**

The remedy for a violation of subsection (b)(1) shall be such remedy as would be appropriate if awarded under section 9204 of title 5 if the violation had been committed by an employee of an agency, consistent with regulations issued under subsection (d), except that the reference in that section to a suspension shall be considered to be a suspension with the level of compensation provided for a covered employee who is taking unpaid leave under section 1312 of this title.

##### **(2) Process for obtaining relief**

An applicant for employment as a covered employee who alleges a violation of subsection (b)(1) may rely on the provisions of subchapter IV (other than section 1407 or 1408 of this title, or a provision of this subchapter that permits a person to obtain a civil action or judicial review), consistent with regulations issued under subsection (d).

#### **(d) Regulations to implement section**

##### **(1) In general**

Not later than 18 months after December 20, 2019, the Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

##### **(2) Parallel with agency regulations**

The regulations issued under paragraph (1) shall be the same as substantive regulations issued by the Director of the Office of Personnel Management under section 2(b)(1) of the Fair Chance to Compete for Jobs Act of 2019<sup>1</sup> to implement the statutory provisions

<sup>1</sup> See References in Text note below.