

115TH CONGRESS
1ST SESSION

H. R. 4195

To amend the Congressional Accountability Act of 1995 to provide enhanced enforcement authority for occupational safety and health protections applicable to the legislative branch, to provide whistleblower protections and other antidiscrimination protections for employees of the legislative branch, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 2017

Ms. NORTON introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committees on the Judiciary, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Congressional Accountability Act of 1995 to provide enhanced enforcement authority for occupational safety and health protections applicable to the legislative branch, to provide whistleblower protections and other antidiscrimination protections for employees of the legislative branch, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Congress Leads by
3 Example Act of 2017”.

4 **SEC. 2. ENHANCED ENFORCEMENT OF PROTECTIONS OF**
5 **OCCUPATIONAL SAFETY AND HEALTH ACT**
6 **APPLICABLE TO LEGISLATIVE BRANCH.**

7 (a) SUBPOENA AUTHORITY FOR OFFICE OF COMPLI-
8 ANCE.—Section 215(c)(1) of the Congressional Account-
9 ability Act of 1995 (2 U.S.C. 1341(c)(1)) is amended—

10 (1) by striking “subsections (a),” and inserting
11 “subsections (a), (b),”; and

12 (2) by striking “657(a),” and inserting
13 “657(a), (b),”.

14 (b) RECORDKEEPING REQUIREMENTS FOR EMPLOY-
15 ING OFFICES.—Section 215(c) of such Act (2 U.S.C.
16 1341(c)) is amended—

17 (1) by redesignating paragraphs (3) through
18 (6) as paragraphs (4) through (7);

19 (2) in paragraph (6), as so redesignated, by
20 striking “paragraph (3) or (4)” and inserting “para-
21 graph (4) or (5)”; and

22 (3) by inserting after paragraph (2) the fol-
23 lowing new paragraph:

24 “(3) RECORDKEEPING REQUIREMENTS.—Each
25 employing office shall be subject to the requirements
26 of subsection (c) of section 8 of the Occupational

1 Safety and Health Act of 1970 (29 U.S.C. 657(c))
2 that are applicable to employers under such section,
3 and the General Counsel shall exercise the authori-
4 ties granted to the Secretary of Labor under such
5 subsection.”.

6 (c) PROHIBITING RETALIATION.—

7 (1) IN GENERAL.—Section 215 of such Act (2
8 U.S.C. 1341) is amended—

9 (A) by redesignating subsections (d), (e),
10 (f), and (g) as subsections (e), (f), (g), and (h);
11 and

12 (B) by inserting after subsection (c) the
13 following new subsection:

14 “(d) PROHIBITING RETALIATION.—

15 “(1) IN GENERAL.—An employing office may
16 not discharge or in any manner discriminate against
17 any covered employee because such employee has re-
18 quested the General Counsel to take any action au-
19 thorized under this section, or has instituted or
20 caused to be instituted, or has testified or is about
21 to testify in, any proceeding that arises from the ap-
22 plication of this section to the employing office, or
23 because of the exercise by such employee on behalf
24 of himself or others of any right provided under this
25 section.

1 “(2) ENFORCEMENT.—

2 “(A) CHARGE FILED WITH GENERAL
3 COUNSEL.—Any covered employee who believes
4 that he has been discharged or otherwise dis-
5 criminated against by an employing office in
6 violation of paragraph (1) may file a charge
7 against the employing office with the General
8 Counsel not later than 180 days after the oc-
9 currence of the alleged violation. The General
10 Counsel shall investigate the charge.

11 “(B) MEDIATION.—If, upon investigation
12 under subparagraph (A), the General Counsel
13 believes that a violation of paragraph (1) may
14 have occurred and that mediation may be help-
15 ful in resolving the dispute, the General Coun-
16 sel may request mediation under subsections (b)
17 through (e) of section 403 between the covered
18 employee and the employing office.

19 “(C) COMPLAINT; HEARING; BOARD RE-
20 VIEW.—If mediation under subparagraph (B)
21 has not succeeded in resolving the dispute (or
22 if the General Counsel does not request medi-
23 ation under such subparagraph) and the Gen-
24 eral Counsel believes that a violation of para-
25 graph (1) may have occurred, the General

1 Counsel may file with the Office a complaint
2 against the employing office. The complaint
3 shall be submitted to a hearing officer for deci-
4 sion pursuant to subsections (b) through (h) of
5 section 405 and any person who has filed a
6 charge under subparagraph (A) may intervene
7 as of right, with the full rights of a party. The
8 decision of the hearing officer shall be subject
9 to review by the Board pursuant to section 406.

10 “(D) JUDICIAL REVIEW.—An individual
11 who is aggrieved by a final decision of the
12 Board under subparagraph (C) may file a peti-
13 tion for review in the United States Court of
14 Appeals for the Federal Circuit, pursuant to
15 section 407.”.

16 (2) CONFORMING AMENDMENTS.—Section 215
17 of such Act (2 U.S.C. 1341) is amended—

18 (A) in subsection (g), as redesignated by
19 paragraph (1)(A), by striking “subsection
20 (e)(1)” and inserting “subsection (f)(1)” and by
21 striking “subsection (e)(2)” and inserting “sub-
22 section (f)(2)”; and

23 (B) in subsection (h)(1), as redesignated
24 by paragraph (1)(A), by striking “(e)(3)” and
25 inserting “(f)(3)”.

1 (d) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Subject to paragraph (2),
3 the amendments made by this section shall take ef-
4 fect upon the adoption of regulations promulgated
5 by the Board of Directors of the Office of Compli-
6 ance to implement the amendments in accordance
7 with section 304 of the Congressional Accountability
8 Act of 1995 (2 U.S.C. 1384).

9 (2) INTERIM APPLICABILITY.—During the pe-
10 riod that begins on the date of the enactment of this
11 Act and ends on the effective date of the regulations
12 referred to in paragraph (1), the amendments made
13 by this section shall be implemented by the Board
14 of Directors of the Office of Compliance, the General
15 Counsel of the Office of Compliance, or a hearing of-
16 ficer or court under the Congressional Accountability
17 Act of 1995 (as the case may be) by applying (to the
18 extent necessary and appropriate) the most relevant
19 substantive executive agency regulations promul-
20 gated to implement the provisions of law that are
21 made applicable to employing offices and covered
22 employees (as such terms are defined in the Con-
23 gressional Accountability Act of 1995) by such
24 amendments.

1 **SEC. 3. APPLICATION TO LEGISLATIVE BRANCH EMPLOY-**
 2 **EES OF WHISTLEBLOWER PROTECTION**
 3 **RULES AND RESTRICTIONS ON DISCHARGE**
 4 **BY REASON OF GARNISHMENT AND DIS-**
 5 **CRIMINATORY TREATMENT BY REASON OF**
 6 **BANKRUPTCY.**

7 (a) IN GENERAL.—Part A of title II of the Congres-
 8 sional Accountability Act of 1995 (2 U.S.C. 1311 et seq.)
 9 is amended—

10 (1) in the heading, by striking “**FAIR LABOR**
 11 **STANDARDS,**” and all that follows and inserting
 12 “**AND OTHER PROTECTIONS AND BENEFITS**”;

13 (2) by redesignating section 207 as section 209;
 14 and

15 (3) by inserting after section 206 the following
 16 new sections:

17 **“SEC. 207. RIGHTS AND PROTECTIONS UNDER WHISTLE-**
 18 **BLOWER PROTECTION RULES.**

19 “(a) RIGHTS AND PROTECTIONS DESCRIBED.—

20 “(1) IN GENERAL.—No employing office may
 21 take or fail to take, or threaten to take or fail to
 22 take, a personnel action (within the meaning of
 23 chapter 23 of title 5, United States Code) with re-
 24 spect to any covered employee or applicant for em-
 25 ployment because of—

1 “(A) any disclosure of information by a
2 covered employee or applicant which the em-
3 ployee or applicant reasonably believes evi-
4 dences—

5 “(i) a violation of any law, rule, or
6 regulation; or

7 “(ii) gross mismanagement, a gross
8 waste of funds, an abuse of authority, or
9 a substantial and specific danger to public
10 health or safety,

11 if such disclosure is not specifically prohibited
12 by law and if such information is not specifi-
13 cally required by Executive order or the rules of
14 the House of Representatives or Senate to be
15 kept secret in the interest of national defense or
16 the conduct of foreign affairs; or

17 “(B) any disclosure to the General Coun-
18 sel, or to the Inspector General of an executive
19 agency or office of the legislative branch or an-
20 other employee designated by the head of the
21 agency or office to receive such disclosures, of
22 information which the employee or applicant
23 reasonably believes evidences—

24 “(i) a violation of any law, rule, or
25 regulation; or

1 “(ii) gross mismanagement, a gross
2 waste of funds, an abuse of authority, or
3 a substantial and specific danger to public
4 health or safety.

5 “(2) DEFINITIONS.—For purposes of this sec-
6 tion and for purposes of applying the procedures es-
7 tablished under title IV for the consideration of al-
8 leged violations of this section—

9 “(A) the term ‘covered employee’ includes
10 an employee of the Government Accountability
11 Office or Library of Congress; and

12 “(B) the term ‘employing office’ includes
13 the Government Accountability Office and the
14 Library of Congress.

15 “(b) REMEDY.—The remedy for a violation of sub-
16 section (a) shall be such remedy as would be appropriate
17 if awarded under chapter 12 of title 5, United States
18 Code, with respect to a prohibited personnel practice de-
19 scribed in section 2302(b)(8) of such title.

20 “(c) REGULATIONS TO IMPLEMENT SECTION.—

21 “(1) IN GENERAL.—The Board shall, pursuant
22 to section 304, issue regulations to implement this
23 section.

24 “(2) AGENCY REGULATIONS.—The regulations
25 issued under paragraph (1) shall be the same as the

1 substantive regulations promulgated by the Merit
 2 Systems Protection Board to implement chapters 12
 3 and 23 of title 5, United States Code, except to the
 4 extent that the Board of Directors of the Office of
 5 Compliance may determine, for good cause shown
 6 and stated together with the regulation, that a modi-
 7 fication of such regulations would be more effective
 8 for the implementation of the rights and protections
 9 under this section.

10 **“SEC. 208. RESTRICTION ON DISCHARGE FROM EMPLOY-**
 11 **MENT BY REASON OF GARNISHMENT OR DIS-**
 12 **CRIMINATORY TREATMENT BY REASON OF**
 13 **BANKRUPTCY.**

14 “(a) GARNISHMENT.—

15 “(1) RIGHTS AND PROTECTIONS DESCRIBED.—

16 No employing office may discharge any covered em-
 17 ployee by reason of the fact that the employee’s
 18 earnings have been subjected to garnishment for any
 19 one indebtedness.

20 “(2) REMEDY.—The remedy for a violation of
 21 paragraph (1) shall be such remedy as would be ap-
 22 propriate if awarded under section 304(b) of the
 23 Consumer Credit Protection Act (15 U.S.C.
 24 1674(b)).

25 “(b) BANKRUPTCY.—

1 “(1) RIGHTS AND PROTECTIONS DESCRIBED.—

2 No employing office may deny employment to, termi-
3 nate the employment of, or discriminate with respect
4 to employment against, a covered employee who is or
5 has been a debtor under title 11, United States
6 Code, or a bankrupt or a debtor under the Bank-
7 ruptcy Act, or another covered employee with whom
8 such bankrupt or debtor has been associated, solely
9 because such bankrupt or debtor—

10 “(A) is or has been a debtor under such
11 title or a debtor or bankrupt under such Act;

12 “(B) has been insolvent before the com-
13 mencement of a case under such title or during
14 the case but before the grant or denial of a dis-
15 charge; or

16 “(C) has not paid a debt that is discharge-
17 able in a case under such title or that was dis-
18 charged under such Act.

19 “(2) REMEDY.—The remedy for a violation of
20 paragraph (1) would be such remedy as would be
21 appropriate if awarded with respect to a violation of
22 section 525(a) or (b) of title 11, United States Code.

23 “(c) DEFINITIONS.—For purposes of this section and
24 for purposes of applying the procedures established under

1 title IV for the consideration of alleged violations of this
2 section—

3 “(1) the term ‘covered employee’ includes an
4 employee of the Government Accountability Office or
5 the Library of Congress; and

6 “(2) the term ‘employing office’ includes the
7 Government Accountability Office and the Library of
8 Congress.

9 “(d) REGULATIONS TO IMPLEMENT SECTION.—

10 “(1) IN GENERAL.—The Board shall, pursuant
11 to section 304, issue regulations to implement this
12 section.

13 “(2) AGENCY REGULATIONS.—The regulations
14 issued under paragraph (1) shall be the same as the
15 substantive regulations promulgated to implement
16 section 304 of the Consumer Credit Protection Act
17 (15 U.S.C. 1674) and the substantive regulations
18 promulgated to implement section 525 of title 11,
19 United States Code, except to the extent that the
20 Board of Directors of the Office of Compliance may
21 determine, for good cause shown and stated together
22 with the regulation, that a modification of any such
23 regulation would be more effective for the implemen-
24 tation of the rights and protections under this sec-
25 tion.”.

1 (b) CONFORMING AMENDMENT TO BANKRUPTCY
2 CODE.—Section 525 of title 11, United States Code, is
3 amended by adding at the end the following new sub-
4 section:

5 “(d)(1) In the case of an alleged violation of sub-
6 section (a) or (b) by a governmental unit which is a legis-
7 lative branch employing office with respect to an employee
8 of such office who is a legislative branch covered employee,
9 the procedures for consideration of the alleged violation
10 shall consist of the procedures applicable under title IV
11 of the Congressional Accountability Act of 1995.

12 “(2) In this subsection—

13 “(A) the term ‘legislative branch employing of-
14 fice’ means an employing office described in section
15 101(9) of the Congressional Accountability Act of
16 1995, and includes the Government Accountability
17 Office and the Library of Congress; and

18 “(B) the term ‘legislative branch covered em-
19 ployee’ means a covered employee described in sec-
20 tion 101(3) of the Congressional Accountability Act
21 of 1995, and includes an employee of the Govern-
22 ment Accountability Office or the Library of Con-
23 gress.”.

24 (c) OTHER CONFORMING AMENDMENT.—Section
25 102(a) of the Congressional Accountability Act of 1995

1 (2 U.S.C. 1302(a)) is amended by adding at the end the
 2 following new paragraphs:

3 “(12) Section 2302(b)(8) of title 5, United
 4 States Code.

5 “(13) Section 304 of the Consumer Credit Pro-
 6 tection Act (15 U.S.C. 1674).

7 “(14) Section 525 of title 11, United States
 8 Code.”.

9 (d) CLERICAL AMENDMENT.—The table of contents
 10 for part A of title II of the Congressional Accountability
 11 Act of 1995 is amended—

12 (1) in the item relating to part A, by striking
 13 “**FAIR LABOR STANDARDS**,” and all that
 14 follows and inserting “**AND OTHER PROTEC-**
 15 **TIONS AND BENEFITS**”;

16 (2) by redesignating the item relating to section
 17 207 as relating to section 209; and

18 (3) by inserting after the item relating to sec-
 19 tion 206 the following:

“Sec. 207. Rights and protections under whistleblower protection rules.

“Sec. 208. Restriction on discharge from employment by reason of garnishment
 or discriminatory treatment by reason of bankruptcy.”.

20 **SEC. 4. REQUIRING RETENTION OF RECORDS NECESSARY**
 21 **TO ADMINISTER ANTI-DISCRIMINATION LAWS**
 22 **APPLICABLE TO COVERED EMPLOYEES.**

23 (a) TITLE VII OF THE CIVIL RIGHTS ACT; AGE DIS-
 24 CRIMINATION IN EMPLOYMENT ACT; AMERICANS WITH

1 DISABILITIES ACT.—Section 201 of the Congressional Ac-
2 countability Act of 1995 (2 U.S.C. 1311) is amended—

3 (1) by redesignating subsections (c) and (d) as
4 subsections (d) and (e); and

5 (2) by inserting after subsection (b) the fol-
6 lowing new subsection:

7 “(c) RETENTION OF RECORDS.—

8 “(1) REQUIRING EMPLOYING OFFICES TO RE-
9 TAIN RECORDS NECESSARY TO ADMINISTER RIGHTS
10 AND PROTECTIONS.—To the extent that the fol-
11 lowing provisions of law require the keeping of
12 records necessary or appropriate for the administra-
13 tion of this section, such provisions of law shall
14 apply to employing offices:

15 “(A) Section 709(c) of the Civil Rights Act
16 of 1964 (42 U.S.C. 2000e–8(c)).

17 “(B) Section 7(a) of the Age Discrimina-
18 tion in Employment Act of 1967 (29 U.S.C.
19 626(a)).

20 “(C) Section 107(a) of the Americans with
21 Disabilities Act of 1990 (42 U.S.C. 12117(a)).

22 “(2) EFFECTIVE DATE.—This subsection shall
23 apply with respect to records generated on or after
24 the expiration of the 60-day period that begins on
25 the date of the enactment of this subsection.”.

1 (b) FAMILY AND MEDICAL LEAVE ACT OF 1993.—

2 (1) IN GENERAL.—Section 202(a)(1) of such
3 Act (2 U.S.C. 1312(a)(1)) is amended by striking
4 “sections 101 through 105” and inserting “sections
5 101 through 105 and section 106(b)”.

6 (2) EFFECTIVE DATE.—

7 (A) IN GENERAL.—Subject to subpara-
8 graph (B), the amendment made by paragraph
9 (1) shall take effect upon the adoption of regu-
10 lations promulgated by the Board of Directors
11 of the Office of Compliance to implement the
12 amendment.

13 (B) INTERIM APPLICABILITY.—During the
14 period that begins on the date of the enactment
15 of this Act and ends on the effective date of the
16 regulations referred to in subparagraph (A), the
17 amendment made by paragraph (1) shall be im-
18 plemented by the Board of Directors of the Of-
19 fice of Compliance or a hearing officer or court
20 under the Congressional Accountability Act of
21 1995 (as the case may be) by applying (to the
22 extent necessary and appropriate) the most rel-
23 evant substantive executive agency regulations
24 promulgated to implement the provision of law
25 that is made applicable to employing offices and

1 covered employees (as such terms are defined in
2 the Congressional Accountability Act of 1995)
3 by such amendment.

4 (c) FAIR LABOR STANDARDS ACT OF 1938.—

5 (1) IN GENERAL.—Section 203(a)(1) of such
6 Act (2 U.S.C. 1313(a)(1)) is amended—

7 (A) by striking “and section 12(c)” and in-
8 serting “section 11(c), and section 12(c)”; and

9 (B) by striking “212(c)” and inserting
10 “211(c), 212(c)”.

11 (2) EFFECTIVE DATE.—

12 (A) IN GENERAL.—Subject to subpara-
13 graph (B), the amendment made by paragraph
14 (1) shall take effect upon the adoption of regu-
15 lations promulgated by the Board of Directors
16 of the Office of Compliance to implement the
17 amendment.

18 (B) INTERIM APPLICABILITY.—During the
19 period that begins on the date of the enactment
20 of this Act and ends on the effective date of the
21 regulations referred to in subparagraph (A), the
22 amendment made by paragraph (1) shall be im-
23 plemented by the Board of Directors of the Of-
24 fice of Compliance or a hearing officer or court
25 under the Congressional Accountability Act of

1995 (as the case may be) by applying (to the extent necessary and appropriate) the most relevant substantive executive agency regulations promulgated to implement the provision of law that is made applicable to employing offices and covered employees (as such terms are defined in the Congressional Accountability Act of 1995) by such amendment.

SEC. 5. REQUIRING EMPLOYING OFFICES TO POST NOTICE OF RIGHTS OF COVERED EMPLOYEES AND PROVIDE TRAINING REGARDING RIGHTS AND REMEDIES.

(a) IN GENERAL.—Title V of the Congressional Accountability Act of 1995 (2 U.S.C. 1431 et seq.) is amended by inserting after section 506 the following new section:

“SEC. 507. REQUIRING EMPLOYING OFFICES TO POST NOTICE OF RIGHTS OF COVERED EMPLOYEES AND PROVIDE TRAINING REGARDING RIGHTS AND REMEDIES.

“(a) NOTICES OF RIGHTS.—Each employing office shall post and keep posted (in conspicuous places upon its premises where notices to covered employees are customarily posted) notices provided by the Board that describe the rights and protections applicable to covered employees of the office under this Act or any other Federal

1 law made applicable to covered employees pursuant to this
2 Act.

3 “(b) TRAINING.—Each employing office shall provide
4 to the covered employees of such office training regarding
5 the rights and protections and remedies applicable to such
6 employees under this Act or any other Federal law relating
7 to the terms and conditions of employment.

8 “(c) EFFECTIVE DATE.—This section shall take ef-
9 fect 60 days after the date of the enactment of this sec-
10 tion.”.

11 (b) CLERICAL AMENDMENT.—The table of contents
12 of such Act is amended by amending the item relating to
13 section 507 to read as follows:

“Sec. 507. Requiring employing offices to post notice of rights of covered em-
ployees and provide training regarding rights and remedies.”.

14 **SEC. 6. COVERAGE OF LEGISLATIVE BRANCH EMPLOYEES**
15 **UNDER RULES PROTECTING JURORS’ EM-**
16 **PLOYMENT.**

17 (a) IN GENERAL.—Section 1875(a) of title 28,
18 United States Code, is amended—

19 (1) by striking “(a)” and inserting “(a)(1)”;
20 and

21 (2) by adding at the end the following:

22 “(2) In this section—

23 “(A) the term ‘employer’ includes an employing
24 office under section 101(9) of the Congressional Ac-

1 countability Act of 1995, the Government Account-
2 ability Office, the Government Publishing Office,
3 and the Library of Congress; and

4 “(B) the term ‘permanent employee’ includes
5 any covered employee under section 101(3) of the
6 Congressional Accountability Act of 1995 and any
7 employee of the Government Accountability Office,
8 the Government Publishing Office, and the Library
9 of Congress, without regard to whether the employ-
10 ee’s term of service or appointment is permanent.”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 subsection (a) apply with respect to individuals summoned
13 for juror service or serving on juries on or after the date
14 of the enactment of this Act.

○