

115TH CONGRESS
2D SESSION

H. R. 5902

To amend the Ethics in Government Act of 1978 to provide for reform in the operations of the Office of Government Ethics, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2018

Mr. RASKIN (for himself, Mr. CAPUANO, Mr. COHEN, Mr. DESAULNIER, Mr. EVANS, Mr. GOMEZ, Ms. NORTON, Mr. HUFFMAN, Ms. JACKSON LEE, Ms. KELLY of Illinois, Mr. LYNCH, Mr. NADLER, Mr. O'HALLERAN, Mr. PALLONE, Mr. PAYNE, Mr. QUIGLEY, Ms. SCHAKOWSKY, Ms. SPEIER, Mr. WALZ, Mrs. WATSON COLEMAN, Mr. JOHNSON of Georgia, and Mr. WELCH) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on the Judiciary, 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 Ethics in Government Act of 1978 to provide for reform in the operations of the Office of Government Ethics, 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 “Executive Branch
5 Comprehensive Ethics Enforcement Act of 2018”.

1 **SEC. 2. TENURE OF THE DIRECTOR OF THE OFFICE OF**
2 **GOVERNMENT ETHICS.**

3 Section 401(b) of the Ethics in Government Act of
4 1978 (5 U.S.C. App.) is amended by striking the period
5 at the end and inserting “, subject to removal only for
6 inefficiency, neglect of duty, or malfeasance in office. The
7 Director may continue to serve beyond the expiration of
8 the term until a successor is appointed and has qualified,
9 except that the Director may not continue to serve for
10 more than one year after the date on which the term would
11 otherwise expire under this subsection.”.

12 **SEC. 3. DUTIES OF DIRECTOR OF THE OFFICE OF GOVERN-**
13 **MENT ETHICS.**

14 (a) Section 402(b) of the Ethics in Government Act
15 of 1978 (5 U.S.C. App.) is amended—

16 (1) in paragraph (1)—

17 (A) by striking “developing, in consulta-
18 tion” and inserting “consulting”;

19 (B) by striking “Management,” and insert-
20 ing “Management for advice on the develop-
21 ment of”; and

22 (C) by striking “title II” and inserting
23 “title I”;

24 (2) by striking paragraph (2) and inserting the
25 following:

1 “(2) providing mandatory education and train-
2 ing programs for agency ethics counselors and other
3 responsible officials, which may be delegated to each
4 agency or the White House Counsel as deemed ap-
5 propriate by the Director;”;

6 (3) in paragraph (3) by striking “title II” and
7 inserting “title I”;

8 (4) in paragraph (4)—

9 (A) by striking “violations of applicable
10 conflict of interest laws or regulations” and in-
11 serting “conflicts of interest”;

12 (B) by striking “recommending” and in-
13 serting “directing”; and

14 (C) by striking “problems” and inserting
15 “issues”;

16 (5) in paragraph (6), by striking “problems”
17 and inserting “issues”;

18 (6) in paragraph (7)—

19 (A) by striking “, when requested,”; and

20 (B) by striking “conflict of interest prob-
21 lems” and inserting “conflicts of interest, as
22 well as other ethics issues under the purview of
23 this Act,”;

24 (7) in paragraph (11), by inserting after “con-
25 flict of interest laws” the following: “, rules, and

1 regulations as they relate to conflicts of interest and
2 other ethical issues,”;

3 (8) in paragraph (12)—

4 (A) by striking “evaluating” and inserting
5 “promulgating”;

6 (B) by striking “the need for”;

7 (C) by striking “conflict of interest and
8 ethical problems” and inserting “conflict of in-
9 terest and ethical issues”;

10 (9) in paragraph (13)—

11 (A) by inserting “serious” after “allega-
12 tions of”;

13 (B) by striking “violations of the conflict
14 of interest laws” and inserting “conflict of in-
15 terest issues and allegations of violations of eth-
16 ics laws and regulations and this Act”; and

17 (C) by striking “, as required by section
18 535 of title 28, United States Code”;

19 (10) in paragraph (14) by striking “and” at the
20 end;

21 (11) in paragraph (15)—

22 (A) by striking “title II” and inserting
23 “title I”; and

24 (B) by striking the period at the end and
25 inserting a semicolon; and

1 (12) by adding at the end the following:

2 “(16) determining any violations of this Act by
3 employees of an agency and issuing appropriate ad-
4 ministrative penalties;

5 “(17) directing and providing final approval,
6 when determined appropriate by the Director, for
7 agency ethics counselors and other responsible offi-
8 cials regarding the resolution of conflicts of interest
9 as well as any other ethics issues under the purview
10 of this Act in individual cases; and

11 “(18) reviewing and, when determined appro-
12 priate by the Director, approving any recusals, ex-
13 emptions, or waivers to the conflicts of interest and
14 ethics laws, rules, and regulations and making ap-
15 proved recusals, exemptions, and waivers public
16 record.”.

17 (b) Section 402(d) of the Ethics in Government Act
18 of 1978 (5 U.S.C. App.) is amended—

19 (1) in paragraph (1)—

20 (A) by striking “, by the exercise of any
21 authority otherwise available to the Director
22 under this title,”; and

23 (B) by striking “the agency is”.

24 (c) Section 402(f) of the Ethics in Government Act
25 of 1978 (5 U.S.C. App.) is amended—

1 (1) in paragraph (1)—

2 (A) in clause (i) of subparagraph (A) by
3 striking “of such agency”; and

4 (B) in subparagraph (B) by striking “no-
5 tify the President and the Congress of the
6 agency’s noncompliance in writing (including,
7 with the notification, any written comments
8 which the agency may provide)” and inserting
9 “determine that a violation of this Act has oc-
10 curred and issue appropriate administrative or
11 legal remedies as prescribed in paragraph (2)”;
12 (2) in paragraph (2)—

13 (A) in subparagraph (A)—

14 (i) in clause (ii)—

15 (I) in subclause (I)—

16 (aa) by inserting “to the
17 President or the President’s des-
18 ignee if the matter involves em-
19 ployees of the Executive Office of
20 the President or” after “may rec-
21 ommend”;

22 (bb) by striking “and” at
23 the end;

24 (II) in subclause (II)—

1 (aa) by striking “shall notify
2 the President in writing”;

3 (bb) by inserting “President
4 or” after “determines that the”;
5 and

6 (cc) by adding “and” at the
7 end; and

8 (III) by adding at the end the
9 following:

10 “(III) may conduct a formal investigation
11 and hearing in accordance to the procedures de-
12 scribed in subparagraph (B).”;

13 (ii) in clause (iii)—

14 (I) in the matter preceding sub-
15 clause (I) by inserting “or has vio-
16 lated” after “is violating”;

17 (II) in subclause (I) by striking
18 “and” at the end; and

19 (III) in subclause (II)—

20 (aa) by striking “notify in
21 writing,” and inserting “advise
22 the President in writing or
23 order”;

24 (bb) by inserting “that the
25 President or” after “in writing,”;

1 (cc) by inserting “take ap-
 2 propriate disciplinary action in-
 3 cluding reprimand, suspension,
 4 demotion, or dismissal against
 5 the officer or employee” after
 6 “employee’s agency”; and

7 (dd) by striking “of the offi-
 8 cer’s or employee’s noncompli-
 9 ance, except that, if the officer or
 10 employee involved is the agency
 11 head, the notification shall in-
 12 stead be submitted to the Presi-
 13 dent”; and

14 (iii) by striking clause (iv);

15 (B) in subparagraph (B)(i)—

16 (i) by striking “subparagraph (A)(iii)
 17 or (iv)” and inserting “subparagraph (A)”;

18 (ii) by inserting “(I)” before “In
 19 order to”; and

20 (iii) by adding at the end the fol-
 21 lowing:

22 “(II)(aa) In conducting an investigation,
 23 the Director may, if necessary, apply to a judge
 24 or clerk of a court of the United States to issue
 25 a subpoena for a witness or witnesses to appear

1 at a time or place stated in the subpoena before
2 an individual authorized to take depositions to
3 be used in the courts of the United States, to
4 give full and true answers to written interrog-
5 atories and cross-interrogatories as may be sub-
6 mitted with the application, or to be orally ex-
7 amined or cross-examined on the subject of the
8 claim.

9 “(bb) The Director may secure directly
10 from any agency information necessary to en-
11 able it to carry out this Act. Upon request of
12 the Director, the head of such agency shall fur-
13 nish that information to the Director.”;

14 (C) in subparagraph (B)(ii)(I)—

15 (i) by striking “Subject to clause (iv)
16 of this subparagraph, before” and insert-
17 ing “Before”; and

18 (ii) by striking “subparagraphs (A)
19 (iii) or (iv)” and inserting “subparagraph
20 (A)(iii)”;

21 (D) in subparagraph (B)(iii) by striking
22 “Subject to clause (iv) of this subparagraph,
23 before” and inserting “Before”; and

24 (E) in subparagraph (B)(iv)—

1 (i) by striking “title 2” and inserting
2 “title I”; and

3 (ii) by striking “section 206” and in-
4 serting “section 104”;

5 (3) in paragraph (4), by striking “(iv),”; and

6 (4) by striking paragraph (5) and inserting the
7 following:

8 “(5)(A) The Office of Government Ethics shall
9 be the central repository, by maintaining data or ref-
10 erencing data by internet link that is maintained by
11 agencies or otherwise made publicly available, of all
12 conflicts of interest and ethics laws, rules and regu-
13 lations, recusals, waivers and exemptions, ethics ad-
14 visory opinions, ethics agreements of senior executive
15 branch personnel and employee certificates of dives-
16 titure, financial disclosure reports as required under
17 title I of this Act, compliance reviews, enforcement
18 actions, and any other public records concerning
19 conflicts of interest and ethics records for the execu-
20 tive branch required by law.

21 “(B) All financial disclosure reports, conflicts of
22 interest and ethics records deemed public informa-
23 tion by the Director or by law shall be made avail-
24 able to the public either by internet link to such in-
25 formation if publicly available, or at no charge on

1 the web page of the Office of Government Ethics in
2 a searchable, sortable, and downloadable format, and
3 at reasonable fees for reproduction of paper docu-
4 ments at the Office of Government Ethics.”.

5 (d) Section 402 of the Ethics in Government Act of
6 1978 (5 U.S.C. App.) is amended by adding at the end
7 the following:

8 “(g) For purposes of this title—

9 “(1) the term ‘agency’ shall include the Execu-
10 tive Office of the President; and

11 “(2) the term ‘officer or employee’ shall include
12 any individual occupying a position, providing any
13 official services, or acting in an advisory capacity, in
14 the White House or the Executive Office of the
15 President, regardless of whether the individual re-
16 ceives pay.

17 “(h) In this title, a reference to the head of an agency
18 shall include the President or the President’s designee.

19 “(i) In carrying out the duties under this section, the
20 Director, or any employee of the Office of Government
21 Ethics designated by the Director, shall transmit to Con-
22 gress on the request of any committee or subcommittee
23 thereof, by report, testimony, or otherwise, information
24 and the views on functions, responsibilities, or other mat-
25 ters relating to the Office of Government Ethics. Such in-

1 formation shall be transmitted concurrently to the Presi-
2 dent and any other appropriate Executive agency.”.

3 **SEC. 4. AGENCY ETHICS OFFICIALS TRAINING AND DUTIES.**

4 Section 403 of such Act (5 U.S.C. App) is amended
5 by adding at the end the following:

6 “(c)(1) All designated agency ethics officials and al-
7 ternate designated agency ethics officials shall register
8 with, and report to, the Director as well as with the ap-
9 pointing authority of the official.

10 “(2) The Director shall provide ethics education and
11 training to all designated and alternate designated agency
12 ethics officials in a time and manner deemed appropriate
13 by the Director.

14 “(3) The Director shall have final authority over the
15 President’s designee and all designated and alternate des-
16 ignated agency ethics officials and other ethics counselors
17 in the executive branch in the interpretation and imple-
18 mentation of all conflict of interest and ethics rules and
19 regulations promulgated by the President or the Direc-
20 tor.”.

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