

116TH CONGRESS
2D SESSION

S. 4476

To provide protections for employees of, former employees of, and applicants for employment with Federal agencies, contractors, and grantees whose right to petition or furnish information to Congress is interfered with or denied.

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2020

Mrs. FEINSTEIN (for herself, Mr. PETERS, Mr. LEAHY, Mr. WYDEN, Mr. DURBIN, Mr. CARPER, Mr. CARDIN, Ms. KLOBUCHAR, Mr. WHITEHOUSE, Mr. WARNER, Mr. BLUMENTHAL, Ms. BALDWIN, Ms. HIRONO, Mr. MARKEY, Mr. VAN HOLLEN, and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide protections for employees of, former employees of, and applicants for employment with Federal agencies, contractors, and grantees whose right to petition or furnish information to Congress is interfered with or denied.

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 “Congressional Whistle-
5 blower Protection Act of 2020”.

1 **SEC. 2. PROTECTIONS FOR COVERED INDIVIDUALS.**

2 Section 7211 of title 5, United States Code, is
3 amended—

4 (1) by striking “The right of employees” and
5 inserting the following:

6 “(a) IN GENERAL.—The right of covered individ-
7 uals”; and

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

9 “(b) REMEDIES.—

10 “(1) ADMINISTRATIVE REMEDIES.—

11 “(A) IN GENERAL.—A covered individual
12 with respect to a Federal agency (other than a
13 covered individual described in subparagraph
14 (B), (C), or (D)) who is aggrieved by a violation
15 of subsection (a) may seek corrective action
16 under sections 1214 and 1221 in the same
17 manner as an individual who is aggrieved by a
18 prohibited personnel practice described in sec-
19 tion 2302(b)(8).

20 “(B) FBI EMPLOYEES.—A covered indi-
21 vidual with respect to the Federal Bureau of
22 Investigation who is aggrieved by a violation of
23 subsection (a) may seek corrective action under
24 section 2303.

25 “(C) INTELLIGENCE COMMUNITY EMPLOY-
26 EES.—A covered individual with respect to a

1 covered intelligence community element (as de-
2 fined in section 1104(a) of the National Secu-
3 rity Act of 1947 (50 U.S.C. 3234(a))) who is
4 aggrieved by a violation of subsection (a) may
5 seek corrective action under section 1104 of the
6 National Security Act of 1947 (50 U.S.C.
7 3234) or subsection (b)(7) or (j) of section
8 3001 of that Act (50 U.S.C. 3341).

9 “(D) CONTRACTOR EMPLOYEES.—A cov-
10 ered individual with respect to a Federal agency
11 who is an employee of, former employee of, or
12 applicant for employment with, a contractor,
13 subcontractor, grantee, subgrantee, or personal
14 services contractor (as those terms are used in
15 section 2409 of title 10 and section 4712 of
16 title 41) of the agency and who is aggrieved by
17 a violation of subsection (a) of this section may
18 seek corrective action under section 2409 of
19 title 10 or section 4712 of title 41.

20 “(E) BURDEN OF PROOF.—The burdens of
21 proof under subsection (e) of section 1221 shall
22 apply to an allegation of a violation of sub-
23 section (a) of this section made under subpara-
24 graph (A), (B), (C), or (D) of this paragraph
25 in the same manner as those burdens of proof

1 apply to an allegation of a prohibited personnel
2 practice under such section 1221.

3 “(F) CLASS OF INDIVIDUALS ENTITLED TO
4 SEEK CORRECTIVE ACTION.—The right to seek
5 corrective action under subparagraph (A), (B),
6 (C), or (D) shall apply to a covered individual
7 who is an employee of, former employee of, or
8 applicant for employment with, a Federal agen-
9 cy described in the applicable subparagraph or
10 a contractor, subcontractor, grantee, subgrant-
11 ee, or personal services contractor (as those
12 terms are used in section 2409 of title 10 and
13 section 4712 of title 41) of such a Federal
14 agency, notwithstanding the fact that a provi-
15 sion of law referenced in the applicable sub-
16 paragraph does not authorize one or more of
17 those types of covered individuals to seek cor-
18 rective action.

19 “(2) PRIVATE RIGHT OF ACTION.—

20 “(A) IN GENERAL.—If a final decision pro-
21 viding relief for a violation of subsection (a) al-
22 leged under subparagraph (A), (B), (C), or (D)
23 of paragraph (1) of this subsection is not issued
24 within 210 days of the date on which the cov-
25 ered individual seeks corrective action under the

1 applicable subparagraph and there is no show-
2 ing that the delay is due to the bad faith of the
3 covered individual, the covered individual may
4 bring an action at law or equity for de novo re-
5 view in the appropriate district court of the
6 United States, which shall have jurisdiction
7 over the action without regard to the amount in
8 controversy, for lost wages and benefits, rein-
9 statement, costs and attorney fees, compen-
10 satory damages, equitable or injunctive relief,
11 or any other relief that the court considers ap-
12 propriate.

13 “(B) JURY TRIAL.—An action brought
14 under subparagraph (A) shall, upon the request
15 of the covered individual, be tried by the court
16 with a jury.

17 “(C) BURDEN OF PROOF.—The burdens of
18 proof under subsection (e) of section 1221 shall
19 apply to an allegation of a violation of sub-
20 section (a) of this section in an action brought
21 under this paragraph in the same manner as
22 those burdens of proof apply to an allegation of
23 a prohibited personnel practice under such sec-
24 tion 1221.

25 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) the term ‘covered individual’, with respect
2 to a Federal agency, means an employee of, former
3 employee of, or applicant for employment with—

4 “(A) the agency; or

5 “(B) a contractor, subcontractor, grantee,
6 subgrantee, or personal services contractor (as
7 those terms are used in section 2409 of title 10
8 and section 4712 of title 41) of the agency; and

9 “(2) the term ‘Federal agency’ means an agen-
10 cy, office, or other establishment in the executive,
11 legislative, or judicial branch of the Federal Govern-
12 ment.”.

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