

Suspend the Rules And Pass the Bill, H.R. 6016, with Amendments

(The amendments strike all after the enacting clause and insert a new text and a new title)

112TH CONGRESS
2D SESSION

H. R. 6016

To amend title 5, United States Code, to provide for administrative leave requirements with respect to Senior Executive Service employees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2012

Mr. KELLY introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To amend title 5, United States Code, to provide for administrative leave requirements with respect to Senior Executive Service employees, 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 “Government Employee
5 Accountability Act”.

1 **SEC. 2. SUSPENSION FOR 14 DAYS OR LESS FOR SENIOR EX-**
2 **ECUTIVE SERVICE EMPLOYEES.**

3 Paragraph (1) of section 7501 of title 5, United
4 States Code, is amended to read as follows:

5 “(1) ‘employee’ means—

6 “(A) an individual in the competitive serv-
7 ice who is not serving a probationary or trial
8 period under an initial appointment or who has
9 completed 1 year of current continuous employ-
10 ment in the same or similar positions under
11 other than a temporary appointment limited to
12 1 year or less; or

13 “(B) a career appointee in the Senior Ex-
14 ecutive Service who—

15 “(i) has completed the probationary
16 period prescribed under section 3393(d); or

17 “(ii) was covered by the provisions of
18 subchapter II of this chapter immediately
19 before appointment to the Senior Executive
20 Service;”.

21 **SEC. 3. INVESTIGATIVE LEAVE FOR SENIOR EXECUTIVE**
22 **SERVICE EMPLOYEES.**

23 (a) IN GENERAL.—Chapter 75 of title 5, United
24 States Code, is amended by adding at the end the fol-
25 lowing:

1 “SUBCHAPTER VI—INVESTIGATIVE LEAVE FOR
2 SENIOR EXECUTIVE SERVICE EMPLOYEES

3 **“§ 7551. Definitions**

4 “For the purposes of this subchapter—

5 “(1) ‘employee’ has the meaning given such
6 term in section 7541; and

7 “(2) ‘investigative leave’ means a temporary ab-
8 sence without duty for disciplinary reasons, of a pe-
9 riod not greater than 90 days.

10 **“§ 7552. Actions covered**

11 “This subchapter applies to investigative leave.

12 **“§ 7553. Cause and procedure**

13 “(a)(1) Under regulations prescribed by the Office of
14 Personnel Management, an agency may place an employee
15 on investigative leave, without loss of pay and without
16 charge to annual or sick leave, only for misconduct, ne-
17 glect of duty, malfeasance, or misappropriation of funds.

18 “(2) If an agency determines that such employee’s
19 conduct is serious or flagrant, the agency may place such
20 employee on investigative leave under this subchapter
21 without pay.

22 “(b)(1) At the end of each 45-day period during a
23 period of investigative leave implemented under this sec-
24 tion, the relevant agency shall review the investigation into

1 the employee with respect to the misconduct, neglect of
2 duty, malfeasance, or misappropriation of funds.

3 “(2) Not later than 5 business days after the end of
4 each such 45-day period, the agency shall submit a report
5 describing such review to the Committee on Oversight and
6 Government Reform of the House of Representatives and
7 the Committee on Homeland Security and Governmental
8 Affairs of the Senate.

9 “(3) At the end of a period of investigative leave im-
10 plemented under this section, the agency shall—

11 “(A) remove an employee placed on investiga-
12 tive leave under this section;

13 “(B) suspend such employee without pay; or

14 “(C) reinstate or restore such employee to duty.

15 “(4) The agency may extend the period of investiga-
16 tive leave with respect to an action under this subchapter
17 for an additional period not to exceed 90 days.

18 “(c) An employee against whom an action covered by
19 this subchapter is proposed is entitled to, before being
20 placed on investigative leave under this section—

21 “(1) at least 30 days’ advance written notice,
22 stating specific reasons for the proposed action, un-
23 less—

24 “(A) there is reasonable cause to believe
25 that the employee has committed a crime for

1 which a sentence of imprisonment can be im-
2 posed; or

3 “(B) the agency determines that the em-
4 ployee’s conduct with respect to which an action
5 covered by this subchapter is proposed is seri-
6 ous or flagrant as prescribed in regulation by
7 the Office of Personnel Management;

8 “(2) a reasonable time, but not less than 7
9 days, to answer orally and in writing and to furnish
10 affidavits and other documentary evidence in sup-
11 port of the answer;

12 “(3) be represented by an attorney or other
13 representative; and

14 “(4) a written decision and specific reasons
15 therefor at the earliest practicable date.

16 “(d) An agency may provide, by regulation, for a
17 hearing which may be in lieu of or in addition to the op-
18 portunity to answer provided under subsection (c)(2).

19 “(e) An employee against whom an action is taken
20 under this section is entitled to appeal to the Merit Sys-
21 tems Protection Board under section 7701.

22 “(f) Copies of the notice of proposed action, the an-
23 swer of the employee when written, and a summary there-
24 of when made orally, the notice of decision and reasons
25 therefor, and any order effecting an action covered by this

1 subchapter, together with any supporting material, shall
2 be maintained by the agency and shall be furnished to the
3 Merit Systems Protection Board upon its request and to
4 the employee affected upon the employee's request.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 at the beginning of chapter 75 of title 5, United States
7 Code, is amended by adding after the item relating to sec-
8 tion 7543 the following:

“SUBCHAPTER VI—INVESTIGATIVE LEAVE FOR SENIOR EXECUTIVE SERVICE
EMPLOYEES

“7551. Definitions.

“7552. Actions covered.

“7553. Cause and procedure.”.

9 **SEC. 4. SUSPENSION OF SENIOR EXECUTIVE SERVICE EM-**
10 **PLOYEES.**

11 Section 7543 of title 5, United States Code, is
12 amended—

13 (1) in subsection (a), by inserting “misappro-
14 priation of funds,” after “malfeasance,”; and

15 (2) in subsection (b), by amending paragraph
16 (1) to read as follows:

17 “(1) at least 30 days’ advance written notice,
18 stating specific reasons for the proposed action, un-
19 less—

20 “(A) there is reasonable cause to believe
21 that the employee has committed a crime for

1 which a sentence of imprisonment can be im-
2 posed; or

3 “(B) the agency determines that the em-
4 ployee’s conduct with respect to which an action
5 covered by this subchapter is proposed is seri-
6 ous or flagrant as prescribed in regulation by
7 the Office of Personnel Management;”.

8 **SEC. 5. MISAPPROPRIATION OF FUNDS AMENDMENTS.**

9 (a) REINSTATEMENT IN THE SENIOR EXECUTIVE
10 SERVICE.—Section 3593 of title 5, United States Code,
11 is amended—

12 (1) in subsection (a)(2), by inserting “mis-
13 appropriation of funds,” after “malfeasance,”; and

14 (2) in subsection (b), by striking “or malfea-
15 sance” and inserting “malfeasance, or misappropria-
16 tion of funds”.

17 (b) PLACEMENT IN OTHER PERSONNEL SYSTEMS.—
18 Section 3594(a) of title 5, United States Code, is amended
19 by striking “or malfeasance” and inserting “malfeasance,
20 or misappropriation of funds”.

 Amend the title so as to read: “A bill to amend title
5, United States Code, to provide for investigative leave
requirements with respect to Senior Executive Service
employees, and for other purposes.”.