

118TH CONGRESS
2D SESSION

H. R. 7398

To ensure the ability of public safety officers to retain their right to free speech on matters related to public safety, working conditions, and other matters.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2024

Mr. VAN DREW (for himself and Mr. COHEN) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To ensure the ability of public safety officers to retain their right to free speech on matters related to public safety, working conditions, and other matters.

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 “Public Safety Free
5 Speech Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COVERED EMPLOYEE.—The term “covered
9 employee” means—

1 (A) a qualified law enforcement officer (as
2 defined in section 926B(e) of title 18, United
3 States Code);

4 (B) an individual employed by an employer
5 for the purposes of providing fire-fighting serv-
6 ices or emergency medical services; or

7 (C) a Federal firefighter described in sec-
8 tion 8331(21) or 8401(14) of title 5, United
9 States Code.

10 (2) EMPLOYER.—The term “employer”
11 means—

12 (A) a law enforcement agency, fire depart-
13 ment, fire district, or emergency medical serv-
14 ices agency which employs a covered employee
15 on either a full-time or part-time basis; or

16 (B) a county, township, village, city, mu-
17 nicipality, special district, fire authority, county
18 improvement district, authority, public entity
19 with the authority to spend or receive public
20 funds, or other political subdivisions of a State
21 and includes any entity jointly created by 2 or
22 more public employers.

23 (3) PERSONALLY IDENTIFIABLE INFORMA-
24 TION.—The term “personally identifiable informa-
25 tion” means information—

1 (A) that directly identifies an individual,
2 including name, address, social security number
3 or other identifying number or code, telephone
4 number, email address; or

5 (B) by which an organization is able to
6 identify specific individuals in conjunction with
7 other data elements.

8 **SEC. 3. CAUSE OF ACTION FOR VIOLATING THE RIGHT TO**
9 **FREE SPEECH.**

10 (a) IN GENERAL.—Notwithstanding any other provi-
11 sion of law, a covered employee may bring an action
12 against an employer if the employer engages in termi-
13 nation or any adverse employment action against the em-
14 ployee for making oral or written statements expressing
15 the employee’s personal opinion on matters pertaining
16 to—

17 (1) delivery of public safety services;

18 (2) employee compensation or benefits;

19 (3) working conditions or scheduling, including
20 the provision of personal protective equipment, work
21 tools and equipment, or work vehicles;

22 (4) employer’s policies or procedures;

23 (5) other expectations or requirements that the
24 employer places on a covered employee as a term or
25 condition of their employment; or

1 (6) political and religious opinions.

2 (b) RELIEF.—A plaintiff that prevails in an action
3 under subsection (a) may receive actual damages, compen-
4 satory damages, punitive damages, injunctive relief, any
5 combination of those, attorneys' fees and costs, and any
6 other appropriate relief.

7 (c) LIMITATIONS.—Subsection (a) shall not apply to
8 written or oral comments that—

9 (1) are made while the covered employee is on
10 duty;

11 (2) express any encouragement of, or intent, to
12 commit violence or other illegal actions;

13 (3) advocate for discrimination or support fa-
14 voritism when discharging their professional duties;

15 (4) intentionally disclose confidential or person-
16 ally identifiable information pertaining to specific in-
17 dividuals with whom the covered employee has
18 interacted with in the course of performing their
19 work or other job-related duties; or

20 (5) suggest, advocate for, support, or otherwise
21 communicate that essential services should be with-
22 held, delayed, or diminished as a form of job action
23 or protest.

24 This Act shall not be construed to preempt, preclude, or
25 supersede section 1979 of the Revised Statutes (42 U.S.C.

- 1 1983) or any State law that provides a cause of action
- 2 for deprivation of rights under color of law.

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