

115TH CONGRESS
1ST SESSION

H. R. 2538

To provide certain workplace protections to interns relating to discriminatory practices.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2017

Ms. MENG introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on House Administration, Oversight and Government Reform, and 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 provide certain workplace protections to interns relating to discriminatory practices.

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 “Intern Protection Act”.

5 **SEC. 2. DEFINITIONS.**

6 As used in this Act—

1 (1) COMMISSION.—The term “Commission”
2 means the Equal Employment Opportunity Commis-
3 sion.

4 (2) EMPLOYER.—The term “employer”
5 means—

6 (A) a person engaged in an industry affect-
7 ing commerce (as defined in section 701(h) of
8 the Civil Rights Act of 1964 (42 U.S.C.
9 2000e(h))) who has 15 or more employees (as
10 defined in subparagraphs (A)(i) and (B) of
11 paragraph (3)) for each working day in each of
12 20 or more calendar weeks in the current or
13 preceding calendar year, and any agent of such
14 a person, but does not include a bona fide pri-
15 vate membership club (other than a labor orga-
16 nization) that is exempt from taxation under
17 section 501(c) of the Internal Revenue Code of
18 1986;

19 (B) an employing authority to which sec-
20 tion 302(a)(1) of the Government Employee
21 Rights Act of 1991 applies;

22 (C) an employing office, as defined in sec-
23 tion 101 of the Congressional Accountability
24 Act of 1995 or section 411(c) of title 3, United
25 States Code; or

1 (D) an entity to which section 717(a) of
2 the Civil Rights Act of 1964 applies.

3 (3) DISABILITY.—The term “disability” has the
4 meaning given such term in section 3 of the Ameri-
5 cans with Disabilities Act of 1990 (42 U.S.C.
6 12102).

7 (4) GENDER IDENTITY.—The term “gender
8 identity” means the gender-related identity, appear-
9 ance, or mannerisms or other gender-related charac-
10 teristics of an individual, with or without regard to
11 the individual’s designated sex at birth.

12 (5) INTERN.—The term “intern” means an in-
13 dividual who performs work for an employer, wheth-
14 er paid or unpaid for the purpose of training under
15 the following circumstances:

16 (A) The employer is not committed to hire
17 the individual performing the work at the con-
18 clusion of the training period.

19 (B) The work performed—

20 (i) provides or supplements training
21 that may enhance the employability of the
22 intern;

23 (ii) provides experience for the benefit
24 of the individual performing the work;

1 (iii) does not displace regular employ-
2 ees; and

3 (iv) is performed under the close su-
4 pervision of existing staff.

5 (6) INTERNSHIP.—The term “internship”
6 means a position or job with an employer that is
7 filled by an intern.

8 (7) MILITARY STATUS.—The term “military
9 status” means an individual’s status as a member of
10 the Armed Forces or a veteran.

11 (8) PREDISPOSING GENETIC CHARACTERIS-
12 TICS.—The term “predisposing genetic characteris-
13 tics” means, with respect to an individual, any infor-
14 mation revealed by a genetic test of the individual or
15 a family member of the individual, or the manifesta-
16 tion of a disease or disorder in any family member
17 of the individual.

18 (9) RELIGION.—The term “religion” has the
19 meaning given such term in section 701(j) of the
20 Civil Rights Act of 1964 (42 U.S.C. 2000e(j)).

21 (10) SEX.—The term “sex” includes all of the
22 aspects related to sex described in the term “because
23 of sex” defined in section 701(k) of the Civil Rights
24 Act of 1964 (42 U.S.C. 2000e(k)).

1 (11) SEXUAL ORIENTATION.—The term “sexual
2 orientation” means homosexuality, heterosexuality,
3 or bisexuality.

4 **SEC. 3. UNLAWFUL DISCRIMINATORY PRACTICES RELAT-**
5 **ING TO INTERNS.**

6 (a) TERMS AND CONDITIONS OF EMPLOYMENT.—It
7 shall be an unlawful employment practice for an employer
8 to—

9 (1) refuse to hire or employ or to bar or to dis-
10 charge from internship an intern or to discriminate
11 against such intern in the terms, conditions, or privi-
12 leges of employment as an intern because of the in-
13 tern’s age, race, religion, color, national origin, sex,
14 sexual orientation, military status, disability, gender
15 identity, predisposing genetic characteristics, marital
16 status, or status as a victim of domestic violence;

17 (2) discriminate against an intern in terms of
18 receiving, classifying, disposing, or otherwise acting
19 upon applications for internships because of the in-
20 tern’s age, race, religion, color, national origin, sex,
21 sexual orientation, military status, disability, gender
22 identity, predisposing genetic characteristics, marital
23 status, or status as a victim of domestic violence;

24 (3) print or circulate or cause to be printed or
25 circulated any statement, advertisement, or publica-

1 tion, or to use any form of application for employ-
2 ment as an intern or to make any inquiry in connec-
3 tion with prospective employment as an intern,
4 which expresses directly or indirectly, any limitation,
5 specification, or discrimination as to age, race, reli-
6 gion, color, national origin, sex, sexual orientation,
7 military status, disability, gender identity, predis-
8 posing genetic characteristics, marital status, or sta-
9 tus as a victim of domestic violence;

10 (4) to compel an intern who is pregnant to take
11 a leave of absence, unless the intern is prevented by
12 such pregnancy from performing the activities in-
13 volved in the internship in a reasonable manner; or

14 (5) to discharge, expel, or otherwise discrimi-
15 nate against any person because he or she has op-
16 posed any practices forbidden under this Act or be-
17 cause he or she has filed a complaint, testified, or
18 assisted in any proceeding under this Act.

19 (b) **SEXUAL OR OTHER HARASSMENT.**—It shall be
20 an unlawful employment practice for an employer to—

21 (1) engage in unwelcome sexual advances, re-
22 quests for sexual favors, or other verbal or physical
23 conduct of a sexual nature to an intern when—

1 (A) submission to such conduct is made ei-
2 ther explicitly or implicitly a term or condition
3 of the intern's continued position as an intern;

4 (B) submission to or rejection of such con-
5 duct by the intern is used as the basis for em-
6 ployment decisions affecting such intern; or

7 (C) such conduct has the purpose or effect
8 of unreasonably interfering with the intern's
9 work performance by creating an intimidating,
10 hostile, or offensive working environment; or

11 (2) subject an intern to unwelcome harassment
12 based on age, race, religion, color, national origin,
13 sex, sexual orientation, military status, disability,
14 gender identity, predisposing genetic characteristics,
15 marital status, or status as a victim of domestic vio-
16 lence, where such harassment has the purpose or ef-
17 fect of unreasonably interfering with the intern's
18 work performance by creating an intimidating, hos-
19 tile, or offensive working environment.

20 (c) AGE LIMITATION.—The prohibitions in this sec-
21 tion relating to discrimination based on age shall be lim-
22 ited to individuals who are at least 40 years of age.

23 **SEC. 4. ENFORCEMENT.**

24 (a) ENFORCEMENT POWERS.—With respect to the
25 administration and enforcement of this Act, in the case

1 of a claim alleged by an individual for a violation of this
2 Act—

3 (1) the Commission shall have the same powers
4 as the Commission has to administer and enforce—

5 (A) title VII of the Civil Rights Act of
6 1964 (42 U.S.C. 2000e et seq.); or

7 (B) sections 302 and 304 of the Govern-
8 ment Employee Rights Act of 1991 (42 U.S.C.
9 2000e–16b and 2000e–16c),

10 in the case of a claim alleged by such individual for
11 a violation of such title, or of section 302(a)(1) of
12 the Government Employee Rights Act of 1991 (42
13 U.S.C. 2000e–16b(a)(1)), respectively;

14 (2) the Librarian of Congress shall have the
15 same powers as the Librarian of Congress has to ad-
16 minister and enforce title VII of the Civil Rights Act
17 of 1964 (42 U.S.C. 2000e et seq.) in the case of a
18 claim alleged by such individual for a violation of
19 such title;

20 (3) the Board (as defined in section 101 of the
21 Congressional Accountability Act of 1995 (2 U.S.C.
22 1301)) shall have the same powers as the Board has
23 to administer and enforce the Congressional Ac-
24 countability Act of 1995 (2 U.S.C. 1301 et seq.) in
25 the case of a claim alleged by such individual for a

1 violation of section 201(a)(1) of such Act (2 U.S.C.
2 1311(a)(1));

3 (4) the Attorney General shall have the same
4 powers as the Attorney General has to administer
5 and enforce—

6 (A) title VII of the Civil Rights Act of
7 1964 (42 U.S.C. 2000e et seq.); or

8 (B) sections 302 and 304 of the Govern-
9 ment Employee Rights Act of 1991 (42 U.S.C.
10 2000e–16b and 2000e–16c);

11 in the case of a claim alleged by such individual for
12 a violation of such title, or of section 302(a)(1) of
13 the Government Employee Rights Act of 1991 (42
14 U.S.C. 2000e–16b(a)(1)), respectively;

15 (5) the President, the Commission, and the
16 Merit Systems Protection Board shall have the same
17 powers as the President, the Commission, and the
18 Board, respectively, have to administer and enforce
19 chapter 5 of title 3, United States Code, in the case
20 of a claim alleged by such individual for a violation
21 of section 411 of such title; and

22 (6) a court of the United States shall have the
23 same jurisdiction and powers as the court has to en-
24 force—

1 (A) title VII of the Civil Rights Act of
2 1964 (42 U.S.C. 2000e et seq.) in the case of
3 a claim alleged by such individual for a viola-
4 tion of such title;

5 (B) sections 302 and 304 of the Govern-
6 ment Employee Rights Act of 1991 (42 U.S.C.
7 2000e–16b and 2000e–16c) in the case of a
8 claim alleged by such individual for a violation
9 of section 302(a)(1) of such Act (42 U.S.C.
10 2000e–16b(a)(1));

11 (C) the Congressional Accountability Act
12 of 1995 (2 U.S.C. 1301 et seq.) in the case of
13 a claim alleged by such individual for a viola-
14 tion of section 201(a)(1) of such Act (2 U.S.C.
15 1311(a)(1)); and

16 (D) chapter 5 of title 3, United States
17 Code, in the case of a claim alleged by such in-
18 dividual for a violation of section 411 of such
19 title.

20 (b) PROCEDURES AND REMEDIES.—The procedures
21 and remedies applicable to a claim alleged by an individual
22 for a violation of this Act are—

23 (1) the procedures and remedies applicable for
24 a violation of title VII of the Civil Rights Act of
25 1964 (42 U.S.C. 2000e et seq.) in the case of a

1 claim alleged by such individual for a violation of
2 such title;

3 (2) the procedures and remedies applicable for
4 a violation of section 302(a)(1) of the Government
5 Employee Rights Act of 1991 (42 U.S.C. 2000e–
6 16b(a)(1)) in the case of a claim alleged by such in-
7 dividual for a violation of such section;

8 (3) the procedures and remedies applicable for
9 a violation of section 201(a)(1) of the Congressional
10 Accountability Act of 1995 (2 U.S.C. 1311(a)(1)) in
11 the case of a claim alleged by such individual for a
12 violation of such section; and

13 (4) the procedures and remedies applicable for
14 a violation of section 411 of title 3, United States
15 Code, in the case of a claim alleged by such indi-
16 vidual for a violation of such section.

17 (c) OTHER APPLICABLE PROVISIONS.—With respect
18 to a claim alleged by an individual for a violation of this
19 Act, title III of the Congressional Accountability Act of
20 1995 (2 U.S.C. 1381 et seq.) shall apply in the same man-
21 ner as such title applies with respect to a claim alleged
22 by a covered employee (as defined in section 101 of the
23 Congressional Accountability Act of 1995 (2 U.S.C.
24 1301)) for a violation of section 201(a)(1) of such Act (2
25 U.S.C. 1311(a)(1)).

1 SEC. 5. ATTORNEYS' FEES.

2 Notwithstanding any other provision of this Act, in
3 an action or administrative proceeding for a violation of
4 this Act, an entity described in section 4(a) (other than
5 paragraph (4) of such section), in the discretion of the
6 entity, may allow the prevailing party, other than the
7 Commission or the United States, a reasonable attorney's
8 fee (including expert fees) as part of the costs. The Com-
9 mission and the United States shall be liable for the costs
10 to the same extent as a private person.

11 SEC. 6. REGULATIONS.

12 (a) IN GENERAL.—Except as provided in subsections
13 (b), (c), and (d), the Commission shall have authority to
14 issue regulations to carry out this Act.

15 (b) LIBRARIAN OF CONGRESS.—The Librarian of
16 Congress shall have authority to issue regulations to carry
17 out this Act with respect to employees and applicants for
18 employment of the Library of Congress.

19 (c) BOARD.—The Board referred to in section
20 10(a)(3) shall have authority to issue regulations to carry
21 out this Act, in accordance with section 304 of the Con-
22 gressional Accountability Act of 1995 (2 U.S.C. 1384),
23 with respect to covered employees, as defined in section
24 101 of such Act (2 U.S.C. 1301).

25 (d) PRESIDENT.—The President shall have authority
26 to issue regulations to carry out this Act with respect to

1 covered employees, as defined in section 411(c) of title 3,
2 United States Code, and applicants for employment as
3 such employees.

4 **SEC. 7. RELATIONSHIP TO OTHER LAWS.**

5 This Act shall not invalidate or limit the rights, rem-
6 edies, or procedures available to an individual claiming
7 discrimination prohibited under any other Federal law or
8 regulation or any law or regulation of a State or political
9 subdivision of a State.

○