

114TH CONGRESS
1ST SESSION

H. R. 473

To amend title 38, United States Code, to improve the accountability of employees of the Department of Veterans Affairs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 22, 2015

Mr. MILLER of Florida introduced the following bill; which was referred to the Committee on Veterans' Affairs, and in addition to the Committee on Oversight and Government Reform, 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 title 38, United States Code, to improve the accountability of employees of the Department of Veterans Affairs, 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 “Increasing the Depart-
5 ment of Veterans Affairs Accountability to Veterans Act
6 of 2015”.

1 **SEC. 2. REDUCTION OF BENEFITS FOR MEMBERS OF THE**
2 **SENIOR EXECUTIVE SERVICE WITHIN THE**
3 **DEPARTMENT OF VETERANS AFFAIRS CON-**
4 **VICTED OF CERTAIN CRIMES.**

5 (a) IN GENERAL.—Chapter 7 of title 38, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 **“§ 715. Senior executives: reduction of benefits of in-**
9 **dividuals convicted of certain crimes**

10 “(a) REDUCTION OF ANNUITY FOR REMOVED EM-
11 PLOYEE.—The covered service of an individual removed
12 from a senior executive position under section 713 shall
13 not be taken into account for purposes of calculating an
14 annuity with respect to such individual under chapter 83
15 or chapter 84 of title 5, if the individual is convicted of
16 a felony that influenced the individual’s performance while
17 employed in the senior executive position.

18 “(b) REDUCTION OF ANNUITY FOR RETIRED EM-
19 PLOYEE.—(1) The Secretary may order that the covered
20 service of an individual who is subject to a removal or
21 transfer action under section 713 but who leaves employ-
22 ment at the Department prior to the issuance of a final
23 decision with respect to such action shall not be taken into
24 account for purposes of calculating an annuity with re-
25 spect to such individual under chapter 83 or chapter 84
26 of title 5, if the individual is convicted of a felony that

1 influenced the individual's performance while employed in
2 the senior executive position.

3 “(2) The Secretary shall make such an order not
4 later than 7 days after the date on which such individual
5 is convicted of such felony.

6 “(3) Not later than 30 days after the Secretary issues
7 any order with respect to an individual under paragraph
8 (1), the Director of the Office of Personnel Management
9 shall recalculate the annuity of the individual.

10 “(c) LUMP-SUM ANNUITY CREDIT.—Any individual
11 with respect to whom an annuity is reduced under sub-
12 section (a) or (b) shall be entitled to be paid so much of
13 such individual's lump-sum credit as is attributable to the
14 period of covered service.

15 “(d) DEFINITIONS.—In this section:

16 “(1) The term ‘covered service’ means, with re-
17 spect to an individual subject to a removal or trans-
18 fer action under section 713, the period of service
19 beginning on the date that the Secretary determines
20 under such section that such individual engaged in
21 activity that gave rise to such action and ending on
22 the date that such individual is removed from the
23 civil service or leaves employment at the Department
24 prior to the issuance of a final decision with respect
25 to such action, as the case may be.

1 “(2) The term ‘lump-sum credit’ has the mean-
2 ing given such term in section 8331(8) or section
3 8401(19) of title 5, as the case may be.

4 “(3) The term ‘senior executive position’ has
5 the meaning given such term in section 713(g)(3).

6 “(4) The term ‘service’ has the meaning given
7 such term in section 8331(12) or section 8401(26)
8 of title 5, as the case may be.”.

9 (b) APPLICATION.—The amendment made by sub-
10 section (a) shall apply to any action of removal or transfer
11 under section 713 of title 38, United States Code, com-
12 mencing on or after the date of enactment of this section.

13 (c) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of such chapter is amended by adding
15 at the end the following new item:

 “715. Senior executives: reduction of benefits of individuals convicted of certain
 crimes.”.

16 **SEC. 3. REFORM OF PERFORMANCE APPRAISAL SYSTEM**
17 **FOR SENIOR EXECUTIVE SERVICE EMPLOY-**
18 **EES OF THE DEPARTMENT OF VETERANS AF-**
19 **FAIRS.**

20 (a) PERFORMANCE APPRAISAL SYSTEM.—

21 (1) IN GENERAL.—Chapter 7 of title 38, United
22 States Code, as amended by section 2, is further
23 amended by adding at the end the following new sec-
24 tion:

1 **“§ 717. Senior executives: performance appraisal**

2 “(a) PERFORMANCE APPRAISAL SYSTEM.—(1) The
3 performance appraisal system for individuals employed in
4 senior executive positions in the Department required by
5 section 4312 of title 5 shall provide, in addition to the
6 requirements of such section, for five annual summary rat-
7 ings of levels of performance as follows:

8 “(A) One outstanding level.

9 “(B) One exceeds fully successful level.

10 “(C) One fully successful level.

11 “(D) One minimally satisfactory level.

12 “(E) One unsatisfactory level.

13 “(2) The following limitations apply to the rating of
14 the performance of such individuals:

15 “(A) For any year, not more than 10 percent
16 of such individuals who receive a performance rating
17 during that year may receive the outstanding level
18 under paragraph (1)(A).

19 “(B) For any year, not more than 20 percent
20 of such individuals who receive a performance rating
21 during that year may receive the exceeds fully suc-
22 cessful level under paragraph (1)(B).

23 “(3) In evaluating the performance of an individual
24 under the performance appraisal system, the Secretary
25 shall take into consideration any complaint or report (in-
26 cluding any pending or published report) submitted by the

1 Inspector General of the Department, the Comptroller
2 General of the United States, the Equal Employment Op-
3 portunity Commission, or any other appropriate person or
4 entity, related to any facility or program managed by the
5 individual.

6 “(b) CHANGE OF POSITION.—(1) At least once every
7 five years, the Secretary shall reassign each individual em-
8 ployed in a senior executive position to a position at a dif-
9 ferent location that does not include the supervision of the
10 same personnel or programs.

11 “(2) The Secretary may waive the requirement under
12 paragraph (1) for any such individual, if the Secretary
13 submits to the Committees on Veterans’ Affairs of the
14 Senate and House of Representatives notice of the waiver
15 and an explanation of the reasons for the waiver.

16 “(c) REPORT.—Not later than March 1 of each year,
17 the Secretary shall submit to the Committees on Veterans’
18 Affairs of the Senate and House of Representatives a re-
19 port on the performance appraisal system of the Depart-
20 ment under subsection (a). Each such report shall include,
21 for the year preceding the year during which the report
22 is submitted, all documentation concerning each of the fol-
23 lowing for each individual employed in a senior executive
24 position in the Department:

25 “(1) The initial performance appraisal.

1 “(2) The higher level review, if requested.

2 “(3) The recommendations of the performance
3 review board.

4 “(4) The final summary review.

5 “(5) The review of the Inspector General of the
6 Department of the information described in para-
7 graphs (1) through (4).

8 “(d) DEFINITION OF SENIOR EXECUTIVE POSI-
9 TION.—In this section, the term ‘senior executive position’
10 has the meaning given that term in section 713(g)(3) of
11 this title.”.

12 (2) CLERICAL AMENDMENT.—The table of sec-
13 tions at the beginning of such chapter is further
14 amended by adding at the end the following new
15 item:

“717. Senior executives: performance appraisal.”.

16 (3) CONFORMING AMENDMENT.—Section
17 4312(b) of title 5, United States Code, is amend-
18 ed—

19 (A) in paragraph (2), by striking “and” at
20 the end;

21 (B) in paragraph (3), by striking the pe-
22 riod at the end and inserting “; and”; and

23 (C) by adding at the end the following:

24 “(4) that, in the case of the Department of
25 Veterans Affairs, the performance appraisal

1 system meets the requirements of section 716
2 of title 38.”.

3 (b) REVIEW OF SES MANAGEMENT TRAINING.—

4 (1) REVIEW.—Not later than 180 days after
5 the date of the enactment of this Act, the Secretary
6 of Veterans Affairs shall enter into a contract with
7 a nongovernmental entity to review the management
8 training program for individuals employed in senior
9 executive positions (as such term is defined in sec-
10 tion 713(g)(3) of title 38, United States Code) of
11 the Department of Veterans Affairs that is being
12 provided as of the date of the enactment of this Act.
13 Such review shall include a comparison of the train-
14 ing provided by the Department of Veterans Affairs
15 to the management training provided for senior ex-
16 ecutives of other Federal departments and agencies
17 and to the management training provided to senior
18 executives in the private sector. The contract shall
19 provide that the nongovernmental entity must com-
20 plete and submit to the Secretary a report con-
21 taining the findings and conclusions of the review by
22 not later than 180 days after the date on which the
23 Secretary and the nongovernmental entity enter into
24 the contract.

1 (2) REPORT TO CONGRESS.—Not later than 60
2 days after the date on which the Secretary receives
3 the report under paragraph (1), the Secretary shall
4 submit to the Committees on Veterans’ Affairs of
5 the Senate and House of Representatives the report
6 together with a plan for carrying out the rec-
7 ommendations contained in the report.

8 **SEC. 4. LIMITATION ON ADMINISTRATIVE LEAVE FOR MEM-**
9 **BERS OF THE SENIOR EXECUTIVE SERVICE**
10 **WITHIN THE DEPARTMENT OF VETERANS AF-**
11 **FAIRS.**

12 (a) IN GENERAL.—Chapter 7 of title 38, United
13 States Code, is further amended by adding after section
14 717 (as added by section 3) the following new section:

15 **“§ 719. Administrative leave limitation and report**

16 “(a) LIMITATION APPLICABLE TO MEMBERS OF THE
17 SENIOR EXECUTIVE SERVICE WITHIN THE DEPARTMENT
18 OF VETERANS AFFAIRS.—(1) The Secretary may not
19 place any covered individual on administrative leave, or
20 any other type of paid non-duty status, for more than a
21 total of 14 days during any 365-day period.

22 “(2) The Secretary may waive the limitation under
23 paragraph (1) and extend the administrative leave or other
24 paid non-duty status of a covered individual placed on
25 such leave or status under paragraph (1) if the Secretary

1 submits to the Committees on Veterans' Affairs of the
2 Senate and House of Representatives a detailed expla-
3 nation of the reasons the individual was placed on admin-
4 istrative leave or other paid non-duty status and the rea-
5 sons for the extension of such leave or status. Such expla-
6 nation shall include the name of the covered individual,
7 the location where the individual is employed, and the indi-
8 vidual's job title.

9 “(3) In this subsection, the term ‘covered individual’
10 means an individual (as defined in section 713(g)(1)) oc-
11 cupying a senior executive position (as defined in section
12 714(g)(3))—

13 “(A) who is subject to an investigation for pur-
14 poses of determining whether such individual should
15 be subject to any disciplinary action under this title
16 or title 5; or

17 “(B) against whom any disciplinary action is
18 proposed or initiated under this title or title 5.

19 “(b) REPORT ON ADMINISTRATIVE LEAVE.—(1) Not
20 later than 30 days after the end of each quarter of any
21 calendar year, the Secretary shall submit to the Commit-
22 tees on Veterans' Affairs of the House of Representatives
23 and the Senate a report listing the name of any employee
24 of the Department (if any) who has been placed on admin-

1 istrative leave, or any other type of paid non-duty status,
2 for a period longer than 7 days during such quarter.

3 “(2) Any report submitted under subsection (a) shall
4 include, with respect to any employee listed in such report,
5 the position occupied by the employee, the number of days
6 of such leave, and the reason that such employee was
7 placed on such leave.”.

8 (b) APPLICATION.—

9 (1) ADMINISTRATIVE LEAVE LIMITATION.—Sec-
10 tion 719(a) of title 38, United States Code (as
11 added by subsection (a)), shall apply to any action
12 of removal or transfer under section 713 of such
13 title or title 5, United States Code, commencing on
14 or after the date of enactment of this section.

15 (2) REPORT.—The report under section 719(b)
16 of such title (as added by subsection (a)) shall begin
17 to apply in the quarter that ends after the date that
18 is 6 months after the date of enactment of this sec-
19 tion.

20 (c) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of such chapter is amended by adding
22 at the end the following new item:

“719. Administrative leave limitation and report.”.

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