

113TH CONGRESS
2D SESSION

S. 2232

To protect the right to freedom of speech secured by the First Amendment to the Constitution, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 9, 2014

Mr. TOOMEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect the right to freedom of speech secured by the First Amendment to the Constitution, 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 “First Amendment Pro-
5 tection Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (a) the term “Executive agency” has the meaning
9 given the term in section 105 of title 5, United States
10 Code; and

1 (b) the term “record” means any item, collection, or
2 grouping of information about an individual or group that
3 is maintained by an Executive agency, including, but not
4 limited to, education, financial transactions, medical infor-
5 mation, tax information, address, and criminal or employ-
6 ment history and that contains his name, or the identi-
7 fying number, symbol, or other identifying particular as-
8 signed to the individual, such as a finger or voice print
9 or a photograph.

10 **SEC. 3. PROTECTION OF FREEDOM OF SPEECH.**

11 (a) CAUSE OF ACTION.—Any officer or employee of
12 an Executive agency who in the course of an investigation,
13 audit, decision to disclose any record, or decision to grant
14 a license, permit, or recognition of tax exempt status, dis-
15 criminate against a person or group on the basis of the
16 person’s or group’s political or religious viewpoint or affili-
17 ation in violation of the First Amendment’s guarantee of
18 freedom of speech, shall be considered to have violated this
19 Act.

20 (b) REMEDIES.—

21 (1) IN GENERAL.—A person or group aggrieved
22 of a violation of this Act may bring a civil action
23 against the officer or employee, or former officer or
24 employee, of an Executive agency in an appropriate

1 district court of the United States for damages or
2 other legal or equitable relief.

3 (2) CONSIDERATIONS.—In determining whether
4 to award compensatory damages, other restitution,
5 or punitive damages in a civil action brought under
6 paragraph (1), the court shall consider the amount
7 of the benefits the officer or employee of the Execu-
8 tive agency is entitled to collect relating to service as
9 an officer or employee, including retirement benefits,
10 and may include the amount of those benefits, or a
11 percentage of the amount of those benefits, in the
12 amount of any damages awarded.

13 (c) ATTORNEY'S FEES AND EXPERT FEES.—In a
14 civil action brought under subsection (b)(1), the court, in
15 its discretion, may allow the prevailing party, other than
16 the United States, a reasonable attorney's fees as part of
17 the costs. In awarding an attorney's fees under this sec-
18 tion, the court, in its discretion, may include expert fees
19 as part of the attorney's fees.

20 (d) EFFECTS ON EMPLOYMENT AND BENEFITS.—
21 Notwithstanding any other provision of law, including title
22 5, United States Code, or any contract, on and at any
23 time after the date on which a court enters final judgment
24 in an action brought under subsection (b)(1) in which the
25 court determines that the officer or employee violated this

1 Act, the head of the Executive agency may, without prior
2 notice, terminate the officer or employee without cause
3 and may terminate any or all of the benefits of the officer
4 or employee relating to service as an officer or employee,
5 including retirement benefits, without cause.

6 (e) RETROACTIVE.—Subsections (a) through (d) shall
7 apply to conduct that occurred before the date of enact-
8 ment of this Act.

9 (f) NO PREEMPTION.—The rights and remedies cre-
10 ated by this Act shall be in addition to, and do not pre-
11 empt, any other rights and remedies available at Federal
12 or State law.

13 (g) EXCLUSION FOR EMPLOYMENT DISPUTES.—This
14 Act does not create a cause of action for any claim arising
15 out of Federal employment, including, but not limited to,
16 any cause of action that may be redressed by the Merit
17 Systems Protection Board, the Equal Employment Oppor-
18 tunity Commission, or the Federal Labor Relations Au-
19 thority.

20 **SEC. 4. PROTECTION FROM GOVERNMENT DELAY.**

21 Section 7428(a)(1)(A) of the Internal Revenue Code
22 of 1986 is amended by striking “organization described
23 in section 501(c)(3) which is exempt” and inserting “orga-

1 nization described in paragraph (3), (4), (5), or (6) of sub-
2 section (c) of section 501, which is exempt”.

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