

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To provide that all Federal employees in the executive branch of the Federal Government are at-will employees, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. SCOTT of Florida (for himself and Mr. SCHMITT) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To provide that all Federal employees in the executive branch of the Federal Government are at-will 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 “Public Service Reform  
5 Act”.

6 **SEC. 2. AT-WILL EMPLOYMENT FOR FEDERAL EXECUTIVE**  
7 **BRANCH EMPLOYEES.**

8 (a) DEFINITIONS.—In this section—

1           (1) the term “adverse personnel action” means,  
2           with respect to an employee, a removal, a suspension  
3           for more than 14 days, a reduction in grade, a re-  
4           duction in pay, or a furlough of 30 days or less;

5           (2) the term “career employee” means any em-  
6           ployee who is not a political appointee;

7           (3) the term “covered position” has the mean-  
8           ing given the term in section 2302(a)(2)(B) of title  
9           5, United States Code;

10          (4) the term “employee”—

11                (A) has the meaning given the term in sec-  
12                tion 2105 of title 5, United States Code; and

13                (B) includes—

14                   (i) an officer or employee of the  
15                   United States Postal Service or the Postal  
16                   Regulatory Commission; and

17                   (ii) notwithstanding subsection (b) of  
18                   section 7425 of title 38, United States  
19                   Code, any employee described in subsection  
20                   (a) of such section 7425; and

21          (5) the term “political appointee” means any  
22          employee who—

23                (A) is appointed by the President;

1 (B) is a noncareer appointee (as that term  
2 is defined in section 3132(a)(7) of title 5,  
3 United States Code);

4 (C) occupies a position under schedule C of  
5 subpart C of part 213 of title 5, Code of Fed-  
6 eral Regulations, or any successor regulations;  
7 or

8 (D) occupies any other position in the civil  
9 service (as that term is defined in section 2101  
10 of title 5, United States Code) that is classified  
11 as a political position after the date of enact-  
12 ment of this Act under regulations prescribed  
13 by the Director of the Office of Personnel Man-  
14 agement.

15 (b) AT-WILL EMPLOYMENT.—

16 (1) IN GENERAL.—Notwithstanding any other  
17 provision of law, rule, or regulation, and except as  
18 provided in paragraph (2), any employee in the exec-  
19 utive branch of the Federal Government—

20 (A) shall be considered at-will;

21 (B) may be subject to any adverse per-  
22 sonnel action (up to and including removal) for  
23 good cause, bad cause, or no cause at all; and

1 (C) may not challenge or otherwise appeal  
2 an action described in subparagraph (B), except  
3 as provided in subsections (c) and (g).

4 (2) LIMITATION.—An employee may not be  
5 subject to any adverse personnel action under this  
6 Act for a reason that is prohibited under section  
7 2302(b) of title 5, United States Code.

8 (3) PROCEDURES.—

9 (A) IN GENERAL.—The President shall es-  
10 tablish procedures to enforce compliance with  
11 paragraph (2).

12 (B) RULE OF CONSTRUCTION.—Nothing in  
13 this paragraph may be construed to grant an  
14 employee the right to review or appeal an ad-  
15 verse personnel action outside of the procedures  
16 described in subparagraph (A), subsection (g),  
17 or subsection (h), as applicable.

18 (c) REMOVAL OF CAREER EMPLOYEES.—With re-  
19 spect to the removal of a career employee, the following  
20 procedures shall apply:

21 (1) Before the applicable agency removes the  
22 career employee—

23 (A) the agency official authorized to pro-  
24 pose such action (referred to in this subsection  
25 as the “proposing official”) shall provide the ca-

1           reer employee with written notification of the  
2           proposed removal and the reasons for the pro-  
3           posed removal; and

4                   (B) the career employee shall have 14 days  
5           to provide a written response to the notification  
6           received under subparagraph (A), except that  
7           the head of the applicable agency shall have  
8           sole and exclusive discretion to alter that re-  
9           sponse period on a case-by-case basis.

10           (2) Under procedures prescribed by the applica-  
11           ble agency head, in the sole and exclusive discretion  
12           of the agency head, an agency official (who, except  
13           when the proposing official is the agency head, shall  
14           be an agency official other than the proposing offi-  
15           cial) (referred to in this subsection as the “deciding  
16           official”)—

17                   (A) shall review the proposed removal and  
18           the response of the career employee under para-  
19           graph (1);

20                   (B) may, in the sole and exclusive discre-  
21           tion of the deciding official, conduct a hearing  
22           on the matter; and

23                   (C) after the review conducted under sub-  
24           paragraph (A), and any hearing conducted

1           under subparagraph (B), shall decide whether  
2           to remove or retain the career employee.

3           (3) The determination of a deciding official  
4           under paragraph (2) shall be the final decision of  
5           the applicable agency with respect to the career em-  
6           ployee, unless, not later than 7 days after the date  
7           on which the deciding official makes that determina-  
8           tion, the agency head reverses the determination of  
9           the deciding official, in which case the decision of  
10          the agency head shall be the final agency decision.

11          (4) The final decision of an agency under para-  
12          graph (3) shall be final and not subject to any ap-  
13          peal or challenge, except that the President may  
14          overrule that final decision of the agency in accord-  
15          ance with such procedures or regulations as the  
16          President may prescribe.

17          (d) APPLICATION.—Chapter 43 of title 5, United  
18          States Code, shall not apply to any personnel action taken  
19          with respect to an employee under this Act.

20          (e) ABOLISHMENT OF MSPB.—

21                (1) IN GENERAL.—Effective on the date of en-  
22                actment of this Act, the Merit Systems Protection  
23                Board (referred to in this subsection as the  
24                “Board”) is hereby abolished.

1           (2) DISPOSAL OF ASSETS, OBLIGATIONS, AND  
2           LIABILITIES.—The Chairman of the Board may take  
3           such actions as are necessary to dispose of the as-  
4           sets, obligations, and liabilities of the Board.

5           (f) TECHNICAL AND CONFORMING AMENDMENTS.—

6           (1) REPEAL.—The following provisions of title  
7           5, United States Code, are hereby repealed:

8                   (A) Subchapter I of chapter 12.

9                   (B) Section 1212(c).

10                  (C) With respect to section 1214, the fol-  
11                  lowing provisions:

12                           (i) Subsection (b)(1).

13                           (ii) Subparagraphs (B) through (D)  
14                           of subsection (b)(2).

15                           (iii) Paragraphs (3) and (4) of sub-  
16                           section (b).

17                           (iv) Subsections (c), (g), and (i).

18                   (D) Sections 1215 and 1221.

19                   (E) Section 4303.

20                   (F) Chapter 75.

21                   (G) Chapter 77.

22           (2) OTHER AMENDMENTS.—Chapter 71 of title  
23           5, United States Code, is amended—

24                   (A) in section 7103(a)(14)—

1 (i) by redesignating subparagraphs  
2 (B) and (C) as subparagraphs (C) and  
3 (D), respectively; and

4 (ii) by inserting after subparagraph  
5 (A) the following:

6 “(B) relating to adverse personnel actions,  
7 as provided by the Public Service Reform Act;”;  
8 and

9 (B) in section 7121(c), by amending para-  
10 graph (3) to read as follows:

11 “(3) any adverse personnel action under the  
12 Public Service Reform Act;”.

13 (g) WHISTLEBLOWER PROTECTIONS.—

14 (1) IN GENERAL.—During the period described  
15 in subsection (c)(1)(B), the Office of Special Counsel  
16 may make a recommendation to the applicable agen-  
17 cy head or deciding official (as described in sub-  
18 section (c)(2)) regarding whether an adverse per-  
19 sonnel action proposed against an individual was in  
20 retaliation for making a disclosure described in sec-  
21 tion 2302(b)(8) of title 5, United States Code.

22 (2) APPEAL.—

23 (A) IN GENERAL.—An individual in a cov-  
24 ered position who is subject to an adverse per-  
25 sonnel action and who claims that action was



1 taken for a reason prohibited under paragraph  
2 (8) or (9) of section 2302(b) of title 5, United  
3 States Code, may appeal that action to the  
4 United States court of appeals in the circuit in  
5 which the duty station of the individual is lo-  
6 cated.

7 (B) DECISION.—

8 (i) FRIVOLOUS OR BAD FAITH AP-  
9 PEAL.—If the court, in an appeal brought  
10 by an individual under subparagraph (A),  
11 finds that the appeal is brought in bad  
12 faith or is frivolous, the annuity of the in-  
13 dividual under chapter 83 or 84 of title 5,  
14 United States Code, shall be reduced by 25  
15 percent.

16 (ii) SUCCESSFUL APPEAL.—If an indi-  
17 vidual prevails in an appeal brought under  
18 subparagraph (A), the individual shall—

19 (I) be placed, as nearly as pos-  
20 sible, in the position the individual  
21 would have been in had the adverse  
22 personnel action not been taken  
23 against the individual; and

24 (II) be reimbursed for—

1 (aa) attorney fees, back pay,  
2 and related benefits in accord-  
3 ance with section 5596 of title 5,  
4 United States Code; and

5 (bb) medical costs incurred,  
6 travel expenses, any other rea-  
7 sonable and foreseeable con-  
8 sequential damages, and compen-  
9 satory damages (including inter-  
10 est, reasonable expert witness  
11 fees, and costs).

12 (h) EEOC APPEALS.—Notwithstanding any other  
13 provision of law, including section 717 of the Civil Rights  
14 Act of 1964 (42 U.S.C. 2000e–16), an individual who is  
15 an employee (or an applicant for a position as an em-  
16 ployee) and who alleges that the individual was subject  
17 to an adverse personnel action that is a prohibited per-  
18 sonnel action described in section 2302(b)(1) of title 5,  
19 United States Code, shall seek relief for that action from  
20 the Equal Employment Opportunity Commission as if that  
21 individual were an employee of an employer, as that term  
22 is defined in section 701 of the Civil Rights Act of 1964  
23 (42 U.S.C. 2000e).