S 241

Non-Federal Employee Whistleblower Protection Act of 2012

Congress: 112 (2011–2013, Ended)
Chamber: Senate
Policy Area: Government Operations and Politics
Introduced: Jan 31, 2011
Current Status: Placed on Senate Legislative Calendar under General Orders. Calendar No. 569.
Latest Action: Placed on Senate Legislative Calendar under General Orders. Calendar No. 569. (Dec 19, 2012)
Official Text: https://www.congress.gov/bill/112th-congress/senate-bill/241

Sponsor

Name: Sen. McCaskill, Claire [D-MO]
Party: Democratic • **State:** MO • **Chamber:** Senate

Cosponsors (2 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Webb, Jim [D-VA]	D · VA		Jan 31, 2011
Sen. Tester, Jon [D-MT]	D · MT		Dec 6, 2011

Committee Activity

Committee	Chamber	Activity	Date
Homeland Security and Governmental Affairs Committee	Senate	Hearings By (subcommittee)	Dec 6, 2011

Subjects & Policy Tags

Policy Area:

Government Operations and Politics

Related Bills

Bill	Relationship	Last Action
112 HR 6406	Related bill	**Sep 13, 2012:** Referred to the Committee on Oversight and Government Reform, and in addition to the Committees on Armed Services, and Education and the Workforce, 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.

Summary (as of Dec 19, 2012)

Non-Federal Employee Whistleblower Protection Act of 2012 - Repeals and replaces provisions prohibiting reprisals against employees of civilian and defense contractors for disclosures to federal officials of information concerning a substantial violation of law related to a public contract.

Prohibits an employee of any non-federal employer receiving covered funds (defined as any contract, grant, or other payment received by a non-federal employer if the federal government provides any portion of the money or property that is provided, requested, or demanded) from being discharged, demoted, or discriminated against as a reprisal for initiating or participating in any proceeding related to the misuse of federal funds, for reasonably opposing the misuse of federal funds, or for disclosing to specified federal agencies or officials information that the employee reasonably believes is evidence of: (1) gross mismanagement of an agency contract or grant relating to covered funds; (2) a gross waste of covered funds; (3) a substantial and specific danger to public health or safety, or an abuse of authority related to the implementation or use of covered funds; or (4) a violation of a law, rule, or regulation related to an agency contract, subcontract, or grant relating to covered funds.

Authorizes any person who believes that he or she has been subjected to a reprisal (complainant) to submit a complaint to an appropriate inspector general. Requires an inspector general to investigate and report on nonfrivolous complaints within 180 days after receipt. Grants an inspector general an extension of time to investigate and report on a complaint and discretion not to conduct or continue an investigation of a complaint.

Grants a complainant access to the investigative file of an inspector general. Allows an inspector general to exclude from disclosure any information in a file protected from disclosure by law and any additional information which the inspector general determines would impede a continuing investigation.

Requires an agency head, after receiving a report by an inspector general and determining that a reprisal has taken place, to take remedial action, including: (1) ordering the employer to take affirmative action to abate the reprisal; (2) ordering the employer to reinstate the complainant and pay compensation; (3) ordering the employer to pay the complainant costs and expenses, including attorney fees; (4) posting a copy of the decision of the inspector general to notify other employees of the employer of the reprisal; and (5) ordering the employer to pay a complainant no more than 10 times the amount of lost wages and compensatory damages for reprisals that were willful, wanton, or malicious.

Establishes a presumption that a reprisal has occurred if a complainant demonstrates that a whistleblower disclosure was a contributing factor in the reprisal. Grants a complainant who has exhausted all administrative remedies the right to bring a de novo civil action against the employer in an appropriate U.S. district court.

Prohibits a waiver of any rights or remedies provided by this Act in any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement.

Actions Timeline

- **Dec 19, 2012:** Committee on Homeland Security and Governmental Affairs. Reported by Senator Lieberman with an amendment in the nature of a substitute. Without written report.
- **Dec 19, 2012:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 569.
- **Apr 25, 2012:** Committee on Homeland Security and Governmental Affairs. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Dec 6, 2011:** Committee on Homeland Security and Governmental Affairs Subcommittee on Contracting Oversight. Hearings held. With printed Hearing: S.Hrg. 112-547.
- **Jan 31, 2011:** Introduced in Senate
- **Jan 31, 2011:** Read twice and referred to the Committee on Homeland Security and Governmental Affairs.

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