

S. 585, the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017

Section-by-Section

Section 1. Short title; table of contents

The short title of the bill is the “Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017.”

Title I: Employees Generally

Section 101. Definitions

Paragraph 1 of this section defines “agency” to mean any entity defined under 5 U.S.C. Section 2302, except intelligence community entities.

Paragraph 2 defines “employee” by the definition included in 5 U.S.C. Section 2105.

Paragraph 3 defines “personnel action” by the definition in 5 U.S.C. Section 2302.

Section 102. Stays; Probationary Period Employees

Subsection (a) requires that if the Merit Systems Protection Board (MSPB) grants a stay to a whistleblower facing retaliation, the head of the agency will give that employee priority for transfer requests.

Subsection (b) extends the requirement for transfer priority to probationary period whistleblowers who are granted stays by the MSPB.

Subsection (c) requires the Government Accountability Office to draft a report discussing retaliation against probationary status federal employees.

Section 103. Prohibited personnel practices

This section establishes a new prohibited personnel practice for accessing an employee’s medical record in retaliation for whistleblowing.

Section 104. Discipline of supervisors based on retaliation against whistleblowers

Subsection (a) requires the head of each federal agency (except those in the intelligence community) to propose minimum penalties when the MSPB, Special Counsel, a federal judge, or the inspector general of the agency employing the supervisor determines that a supervisor has committed a prohibited personnel action. The penalty for the first offense is suspension of at least three days, and removal of the supervisor for the second offense.

Subsection (a) also establishes procedures for due process in punishing prohibited personnel actions. A supervisor facing suspension or termination is entitled to written notice and 14 days in which to answer the allegations and furnish evidence.

Subsection (a) further allows heads of agency to delegate the responsibilities laid out in section 104, except the responsibility for determining whether a prohibited personnel action has taken place.

Subsection (b) establishes technical and conforming amendments to the table of sections for subchapter II of chapter 75 of title 5 of the United States Code.

Section 105. Suicide by employees

Subsection (a) requires the head of an agency to refer to the Special Counsel any information indicating that an employee of the agency committed suicide after making a disclosure regarding agency violations of rules, laws, or regulations, or gross mismanagement.

Subsection (b) requires the Special Counsel to examine any such case and take any action he or she deems appropriate under subchapter II of chapter 12 of title 5 of the United States Code.

Section 106. Training for supervisors

This section requires agencies, in consultation with the Special Counsel and the agency's inspector general, to provide training to supervisors on how to respond to whistleblower retaliation complaints.

Section 107. Information on whistleblower protections

This section requires agencies to inform their employees of whistleblower protections, as well as the rights and remedies available to them in the case of a supervisor committing a prohibited personnel practice.

The section further requires agencies to post such information on their public and internal websites.

Title II: Department of Veterans Affairs Employees

Sec. 201. Prevention of unauthorized access to medical records of employees of the Department of Veterans Affairs.

This section requires Veterans Affairs (VA) to devise a plan for preventing unauthorized access to employee medical records. The plan must describe technological measures VA will put in place.

The section further requires VA to cease accessing medical files for demographic information if there is a non-medical database available that contains the same information.

Sec. 202. Outreach on availability of mental health services available to employees of the Department of Veterans Affairs

This section requires VA to conduct an outreach program to VA employees to inform them of mental health services, including telemedicine options, available to them.

Sec. 203. Protocols to address threats against employees of the Department of Veterans Affairs

This section requires VA to ensure protocols are in place to address threats from VA patients directed toward VA employees providing healthcare.

Sec. 204. Comptroller General of the United States study on accountability of chiefs of police of Department of Veterans Affairs medical centers

This section requires GAO to study the reporting, staffing, accountability, and chain of command structure of VA police officers at VA medical centers.