

118TH CONGRESS
1ST SESSION

H. R. 140

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2023

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

To amend title 5, United States Code, to prohibit Federal employees from advocating for censorship of viewpoints in their official capacity, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting Speech
3 from Government Interference Act”.

4 **SEC. 2. PROHIBITION ON FEDERAL EMPLOYEE CENSOR-**
5 **SHIP.**

6 (a) IN GENERAL.—Chapter 73 of title 5, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 “SUBCHAPTER VIII—PROHIBITION ON
10 FEDERAL EMPLOYEE CENSORSHIP
11 “§ 7381. Policy regarding Federal employee censor-
12 ship

13 “It is the policy of the Congress that employees act-
14 ing in their official capacity should neither take action
15 within their authority or influence to promote the censor-
16 ship of any lawful speech, nor advocate that a third party,
17 including a private entity, censor such speech.

18 “§ 7382. Prohibition on Federal employee censorship

19 “(a) IN GENERAL.—An employee may not—

20 “(1) use the employee’s official authority to
21 censor any private entity, including outside of nor-
22 mal duty hours and while such employee is away
23 from the employee’s normal duty post; or

24 “(2) engage in censorship of a private entity—

25 “(A) while the employee is on duty;

1 “(B) in any room or building occupied in
2 the discharge of official duties by an individual
3 employed or holding office in the Government of
4 the United States or any agency or instrumen-
5 tality thereof;

6 “(C) while wearing a uniform or official in-
7 signia identifying the office or position of the
8 employee;

9 “(D) while using any vehicle owned or
10 leased by the Government of the United States
11 or any agency or instrumentality thereof; or

12 “(E) while using any information system
13 or information technology (as defined under
14 section 11101 of title 40).

15 “(b) EXCEPTIONS FOR LAW ENFORCEMENT FUNC-
16 TIONS AND REPORTING REQUIREMENTS.—

17 “(1) IN GENERAL.—Nothing in this section
18 shall be construed to prohibit an employee from en-
19 gaging in lawful actions against unlawful speech
20 within the official authority of such employee for the
21 purpose of exercising legitimate law enforcement
22 functions.

23 “(2) REPORTING.—

24 “(A) IN GENERAL.—Not later than 72
25 hours before an employee exercises a legitimate

1 law enforcement function under paragraph (1)
2 to take any action to censor any unlawful
3 speech (in this paragraph referred to as a ‘cen-
4 sorship action’), and consistent with subpara-
5 graph (D), the head of the agency that employs
6 the employee shall submit, to the Office of Spe-
7 cial Counsel and the chair and ranking member
8 of the committees of Congress described under
9 subparagraph (B), a report that includes—

10 “(i) an overview of the action, or ac-
11 tions, to be taken, including a summary of
12 the action being taken and the rationale
13 for why a censorship action is necessary;

14 “(ii) the name of the entity which the
15 action is being requested of;

16 “(iii) the person and entity targeted
17 by the censorship action, including the as-
18 sociated name or number of any account
19 used or maintained by the entity and a de-
20 scription of the specific speech content tar-
21 geted;

22 “(iv) the agency’s legal authority for
23 exercising the law enforcement function;

24 “(v) the agency employee or employ-
25 ees involved in the censorship action, in-

1 cluding their position and any direct super-
2 visor;

3 “(vi) a list of other agencies that have
4 been involved, consulted, or communicated
5 with in coordination with the censorship
6 action; and

7 “(vii) a classified annex, if the agency
8 head deems it appropriate.

9 “(B) COMMITTEES.—The committees of
10 Congress described under this subparagraph are
11 the following:

12 “(i) The Committee on Oversight and
13 Accountability, the Committee on the Judi-
14 ciary, the Permanent Select Committee on
15 Intelligence, and the Committee on Energy
16 and Commerce of the House of Represent-
17 atives.

18 “(ii) The Committee on Homeland Se-
19 curity and Governmental Affairs, the Com-
20 mittee on the Judiciary, Select Committee
21 on Intelligence, and the Committee on
22 Commerce, Science, and Transportation of
23 the Senate.

24 “(C) CLARIFICATION OF OFFICE OF SPE-
25 CIAL COUNSEL REPORTING REQUIREMENTS.—

1 The reporting requirements in this paragraph
2 do not apply to the Office of Special Counsel’s
3 advisory and enforcement functions under sub-
4 chapter II of chapter 12.

5 “(D) REPORTING REQUIREMENTS FOR
6 CERTAIN ACTIONS.—

7 “(i) Any censorship action relating to
8 combating child pornography and exploi-
9 tation, human trafficking, or the illegal
10 transporting of or transacting in controlled
11 substances shall be exempt from the re-
12 porting requirement under this paragraph.

13 “(ii) With respect to any censorship
14 action related to safeguarding, or pre-
15 venting the unlawful dissemination of,
16 properly classified national security infor-
17 mation, subparagraph (A) shall be applied
18 by substituting ‘Not later than 72 hours
19 after’ for ‘Not later than 72 hours before’.

20 “(c) PENALTIES.—

21 “(1) IN GENERAL.—An employee who violates
22 this section shall be subject to—

23 “(A) disciplinary action consisting of re-
24 moval, reduction in grade, debarment from

1 Federal employment for a period not to exceed
2 10 years, suspension, or reprimand;

3 “(B) an assessment of a civil penalty not
4 to exceed \$1,000; or

5 “(C) any combination of the penalties de-
6 scribed in subparagraph (A) or (B).

7 “(2) APPLICATION TO SENIOR GOVERNMENT
8 OFFICIALS.—Paragraph (1)(B) shall be applied by
9 substituting ‘\$50,000’ for ‘\$1,000’ for any employee
10 who is—

11 “(A) paid from an appropriation for the
12 White House Office; or

13 “(B) appointed by the President, by and
14 with the advice and consent of the Senate.

15 “(d) ENFORCEMENT.—

16 “(1) IN GENERAL.—Except as provided in para-
17 graph (2) and subsection (c)(2), this section shall be
18 enforced in the same manner as subchapter III of
19 this chapter.

20 “(2) APPLICATION.—Notwithstanding any other
21 provision of law, including section 1215(b), the Spe-
22 cial Counsel may, in lieu of sending a report to the
23 President under section 1215(b), seek civil monetary
24 penalties under subsection (c)(2) pursuant to section
25 1215(a). This paragraph shall not be construed to

1 limit or otherwise affect the President’s authority to
2 enforce any disciplinary action against an employee
3 described under subsection (c)(2).

4 “(e) REPORT.—

5 “(1) IN GENERAL.—Not later than 240 days
6 after the date of the enactment of this section, and
7 annually thereafter, the Attorney General, in con-
8 sultation with the Assistant Attorney General for
9 Civil Rights and the Office of Special Counsel, shall
10 submit to the committees of Congress described in
11 subsection (b)(2)(B) a report evaluating the compli-
12 ance by the Federal Government with this section,
13 including a description of any action by the head of
14 an agency or department in the executive branch
15 to—

16 “(A) consult with any third parties about
17 censorship by employees in the executive
18 branch; or

19 “(B) engage in any activity prohibited
20 under this section.

21 “(2) SUNSET.—This subsection shall terminate
22 on the date that is 10 years after the date of the
23 enactment of this subsection.

24 “(f) ANNUAL TRAINING.—Not less than annually, the
25 head of each employing agency shall provide mandatory

1 training on this section and the requirements of this sec-
2 tion to each agency employee.

3 “(g) DEFINITIONS.—In this subchapter—

4 “(1) the term ‘censor’ or ‘censorship’ means in-
5 fluencing or coercing, or directing another to influ-
6 ence or coerce, for—

7 “(A) the removal or suppression of lawful
8 speech, in whole or in part, from or on any
9 interactive computer service;

10 “(B) the addition of any disclaimer, infor-
11 mation, or other alert to lawful speech being ex-
12 pressed on an interactive computer service; or

13 “(C) the removal or restriction of access of
14 any person or entity on an interactive computer
15 service generally available to the public, unless
16 such person or entity is engaged in unlawful
17 speech or criminal activities on such service;

18 “(2) the term ‘employee’ has the meaning given
19 that term in section 7322;

20 “(3) the term ‘interactive computer service’ has
21 the meaning given that term in section 230(f) of the
22 Communications Act of 1934 (47 U.S.C. 230(f));

23 “(4) the term ‘lawful speech’ means speech pro-
24 tected by the First Amendment of the Constitution;
25 and

1 “(5) the term ‘unlawful speech’ means speech
2 not protected by the First Amendment of the Con-
3 stitution.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for chapter 73 of title 5, United States Code, is amended
6 by adding at the end the following:

“SUBCHAPTER VIII—PROHIBITION ON FEDERAL EMPLOYEE CENSORSHIP

“7381. Policy regarding Federal employee censorship.

“7382. Prohibition on Federal employee censorship.”.

7 (c) INCLUDING CENSORSHIP ACTIVITIES UNDER JU-
8 RISDICTION OF OFFICE OF SPECIAL COUNSEL.—Strike
9 paragraph (1) of section 1216(a) of title 5, United States
10 Code, and insert the following:

11 “(1) political activity and censorship prohibited
12 under subchapter III and subchapter VIII of chapter
13 73, relating to political and censorship activities, re-
14 spectively, by Federal employees;”.

15 (d) RULE OF CONSTRUCTION.—Nothing in this Act
16 or any amendment made by this Act should be interpreted
17 as prohibiting a lawful action by a Federal agency to en-
18 force a Federal law or regulation (including any action to
19 enforce a Federal law or regulation addressing obscene
20 matters), to establish or enforce the terms and conditions
21 of Federal financial assistance, or to prohibit a Federal
22 employee from using an official Federal account on an
23 interactive computer service to communicate an official

1 policy position, and relevant information, to the public, or
2 provide information through normal press and public af-
3 fairs relations.

4 (e) SEVERABILITY.—If any provision of this Act or
5 any amendment made by this Act, or the application of
6 a provision of this Act or an amendment made by this
7 Act to any person or circumstance, is held to be unconsti-
8 tutional, the remainder of this Act, and the application
9 of the provisions to any person or circumstance, shall not
10 be affected by the holding.

11 **SEC. 3. CONGRESSIONAL FINDINGS.**

12 The Congress finds that inspectors general should not
13 less than annually for the next seven years publicly report
14 the number of complaints and tips received, the number
15 of investigations opened, and statistics on how investiga-
16 tions were managed and their disposition by that inspector
17 general related to compliance with this Act and the
18 amendments made by this Act.

Passed the House of Representatives March 9,
2023.

Attest: CHERYL L. JOHNSON,
Clerk.