

[Subcommittee Print]

(Reflecting the actions of the Subcommittee on Oversight and Investigations of the Committee on Veterans' Affairs on April 17, 2024)

118TH CONGRESS
2^D SESSION

H. R. 7734

To amend title 38, United States Code, to require a notation in the personnel record file of certain employees of the Department of Veterans Affairs who resign from Government employment under certain circumstances.

IN THE HOUSE OF REPRESENTATIVES

A BILL

To amend title 38, United States Code, to require a notation in the personnel record file of certain employees of the Department of Veterans Affairs who resign from Government employment under certain circumstances.

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 “Personnel Integrity
5 in Veterans Affairs Act of 2024”.

1 **SEC. 2. NOTATION IN DEPARTMENT OF VETERANS AFFAIRS**
2 **EMPLOYEE PERSONNEL RECORD FILE OF**
3 **PERSONNEL INVESTIGATION REQUIRED.**

4 (a) IN GENERAL.—Subchapter I of chapter 7 of title
5 38, United States Code, is amended by adding at the end
6 the following new section:

7 **“§ 729. Notation in Department of Veterans Affairs**
8 **employee personnel record file of eligible**
9 **personnel investigation**

10 “(a) NOTATION REQUIRED.—Notwithstanding sec-
11 tion 3322 of title 5 or chapter 74 of this title, with respect
12 to a covered employee who is the subject of an eligible
13 personnel investigation and who resigns, retires, transfers,
14 or otherwise separates from employment with the Depart-
15 ment prior to the resolution of such eligible personnel in-
16 vestigation, the Secretary shall—

17 “(1) continue such eligible personnel investiga-
18 tion until it is completed; and

19 “(2) not later than 40 days after the date such
20 eligible personnel investigation is completed, make a
21 permanent notation of such eligible personnel inves-
22 tigation in the official personnel record file of such
23 covered employee.

24 “(b) CERTAIN CONSIDERATION PROHIBITED.—In
25 carrying out an eligible personnel investigation, the Sec-
26 retary may not consider the resignation, retirement, trans-

1 fer, or any other separation from employment with the De-
2 partment of the covered employee subject to such eligible
3 personnel investigation.

4 “(c) NOTIFICATION REQUIRED.—Prior to making a
5 permanent notation in the official personnel record of a
6 covered employee under subsection (a), the Secretary
7 shall—

8 “(1) notify the employee in writing within 5
9 days of the resolution of the eligible personnel inves-
10 tigation and provide such covered employee a copy
11 of the adverse finding and any supporting docu-
12 mentation;

13 “(2) provide the covered employee with a rea-
14 sonable time, but not less than 30 days, to respond
15 in writing and to furnish affidavits and other docu-
16 mentary evidence to show why the adverse finding
17 was unfounded (a summary of which shall be in-
18 cluded in any notation made to the personnel file of
19 such employee under subsection (e)); and

20 “(3) provide a written decision and the specific
21 reasons therefore to the employee at the earliest
22 practicable date.

23 “(d) RIGHT TO APPEAL.—A covered employee is enti-
24 tled to appeal the decision of the Secretary to make a per-
25 manent notation under subsection (a) to—

1 “(1) the Merit Systems Protection Board under
2 section 7701 of title 5; and

3 “(2) a Disciplinary Appeals Board under sec-
4 tion 7464 of this title.

5 “(e) NOTATION OF APPEAL.—(1) If a covered em-
6 ployee files an appeal with the Merit Systems Protection
7 Board pursuant to subsection (c), the Secretary shall
8 make a notation in the official personnel record file of the
9 covered employee indicating that an appeal disputing the
10 notation is pending not later than 2 weeks after the date
11 on which such appeal was filed.

12 “(2) If the Secretary is the prevailing party on ap-
13 peal, not later than 2 weeks after the date that the Board
14 issues the appeal decision, the Secretary shall remove the
15 notation made under paragraph (1) from the official per-
16 sonnel record file of the covered employee.

17 “(3) If the covered employee is the prevailing party
18 on appeal, not later than 2 weeks after the date that the
19 Board issues the appeal decision, the Secretary shall re-
20 move the notation made under paragraph (1) and the no-
21 tation of an adverse finding made under subsection (a)
22 from the official personnel record file of the covered em-
23 ployee.

24 “(f) DEFINITIONS.—In this section:

1 “(1) The term ‘covered employee’ means an em-
2 ployee in the competitive service, the excepted serv-
3 ice, or the Senior Executive Service within the De-
4 partment.

5 “(2) The term ‘eligible personnel investiga-
6 tion’—

7 “(A) means a personnel investigation that
8 commences not later than 60 days after the
9 date on which the covered employee subject to
10 such personnel investigation resigns, retires,
11 transfers, or otherwise separates from employ-
12 ment with the Department; and

13 “(B) includes—

14 “(i) an investigation by an Inspector
15 General; and

16 “(ii) a prospective investigation that
17 may recommend an adverse personnel ac-
18 tion as a result of alleged performance,
19 misconduct, or for such cause as will pro-
20 mote the efficiency of the service under—

21 “(I) chapter 43 of title 5;

22 “(II) chapter 75 of such title;

23 “(III) chapter 74 of this title; or

24 “(IV) section 501 of this title;

1 “(iii) an adverse personnel action as a
2 result of performance, misconduct, or for
3 such cause as will promote the efficiency of
4 the service under the provisions specified
5 in subclauses (I) through (IV) of clause
6 (ii);

7 “(iv) an internal investigation carried
8 out by the Secretary, including through—

9 “(I) the Office of Accountability
10 and Whistleblower Protection of the
11 Department;

12 “(II) the Office of the Medical
13 Inspector of the Veterans Health Ad-
14 ministration; and

15 “(III) the General Counsel of the
16 Department; and

17 “(v) an investigation carried out by
18 the head of any other Federal agency re-
19 sponsible for investigation allegations of
20 employee misconduct, including the head
21 of—

22 “(I) the Office of the Special
23 Counsel; and

24 “(II) the Equal Employment Op-
25 portunity Commission.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of such chapter is amended by inserting
3 after the item relating to section 728 the following new
4 item:

“729. Notation in Department of Veterans Affairs employee personnel
record file of personnel investigation.”.