

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

S. 1524

To ensure that whistleblowers, including contractors, are protected from retaliation when a Federal employee orders a reprisal, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. PETERS (for himself and Mr. BRAUN)

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Expanding Whistle-
5 blower Protections for Contractors Act of 2024”.

6 **SEC. 2. DEFENSE CONTRACTOR EMPLOYEES: PROTECTION**
7 **FROM REPRISAL FOR DISCLOSURE OF CER-**
8 **TAIN INFORMATION.**

9 Section 4701 of title 10, United States Code, is
10 amended—

11 (1) in subsection (a)—

1 (A) in paragraph (1)—

2 (i) in the matter preceding subpara-
3 graph (A)—

4 (I) by striking “An employee”
5 and all that follows through “services
6 contractor” and inserting “A pro-
7 tected individual”; and

8 (II) by striking “disclosing” and
9 all that follows through “evidence of”;
10 and

11 (ii) by striking subparagraphs (A),
12 (B), and (C) and inserting the following
13 subparagraphs:

14 “(A) Refusing to obey an order that would re-
15 quire the protected individual to violate a law, rule,
16 or regulation related to any contract, subcontract,
17 grant, or subgrant.

18 “(B) Disclosing to a person or body described
19 in paragraph (2) information that the protected indi-
20 vidual reasonably believes is evidence of the fol-
21 lowing:

22 “(i) Gross mismanagement of any Depart-
23 ment of Defense contract or grant, any gross
24 waste of Department funds, any abuse of au-
25 thority relating to any Department contract,

1 subcontract, grant, or subgrant, or any viola-
2 tion of law, rule, or regulation related to any
3 Department contract or subcontract (including
4 the competition for or negotiation of a contract
5 or subcontract) or grant or subgrant.

6 “(ii) Gross mismanagement of any Na-
7 tional Aeronautics and Space Administration
8 contract or grant, any gross waste of Adminis-
9 tration funds, any abuse of authority relating to
10 an Administration contract, subcontract, grant,
11 or subgrant, or any violation of law, rule, or
12 regulation related to any Administration con-
13 tract or subcontract (including the competition
14 for or negotiation of a contract or subcontract)
15 or grant or subgrant.

16 “(iii) A substantial and specific danger to
17 public health or safety.”; and

18 (B) in paragraph (3)—

19 (i) in subparagraph (A), by striking
20 “an employee” and inserting “a protected
21 individual”; and

22 (ii) by striking subparagraph (B) and
23 inserting the following subparagraph:

24 “(B) it shall not be within the authority of an
25 executive branch official to request that a con-

1 tractor, subcontractor, grantee, or subgrantee en-
2 gage in a reprisal prohibited by paragraph (1).”;

3 (2) in subsection (c)—

4 (A) in paragraph (1), by adding at the end
5 the following subparagraph:

6 “(E) Propose appropriate disciplinary action
7 against any executive branch official for any request
8 made of a contractor, subcontractor, grantee, or sub-
9 grantee that subjected the complainant to a reprisal
10 prohibited by subsection (a).”; and

11 (B) by striking paragraph (7) and insert-
12 ing the following paragraph:

13 “(7) CLARIFICATION FOR SCOPE OF WAIVER RE-
14 STRICTIONS.—(A) The rights, forum, and remedies pro-
15 vided for in this section may not be waived by any public
16 or private agreement, policy, form, or condition of employ-
17 ment, including by any predispute arbitration agreement.

18 “(B) No provision of the predispute arbitration
19 agreement shall be valid or enforceable if it requires arbi-
20 tration of a dispute arising under this section.”;

21 (3) by striking subsection (e) and redesignating
22 subsections (f) and (g) as subsections (e) and (f), re-
23 spectively;

24 (4) in subsection (e), as so redesignated—

1 (A) by striking “an employee” and insert-
2 ing “a protected individual”; and

3 (B) by striking “the employee” and insert-
4 ing “the protected individual”; and

5 (5) in subsection (f), as so redesignated, by
6 adding at the end the following new paragraph:

7 “(8) The term ‘protected individual’ means—

8 “(A) a contractor, subcontractor, grantee,
9 or subgrantee of the Department of Defense or
10 the National Aeronautics and Space Adminis-
11 tration, including—

12 “(i) the government of each of the
13 several States, the District of Columbia, an
14 Indian tribe or authorized tribal organiza-
15 tion, the Commonwealth of Puerto Rico,
16 Guam, American Samoa, the Virgin Is-
17 lands, the Commonwealth of the Northern
18 Mariana Islands, or any other territory or
19 possession of the United States;

20 “(ii) the government of any political
21 subdivision of, agency of, or instrumen-
22 tality of, a government listed in clause (i);
23 and

24 “(iii) an element of the intelligence
25 community (as defined in section 3 of the

1 National Security Act of 1947 (50 U.S.C.
2 3003)) within the Department of Defense;
3 “(B) an employee of a contractor, subcon-
4 tractor, grantee, or subgrantee of the Depart-
5 ment of Defense or the National Aeronautics
6 and Space Administration, or a former em-
7 ployee of such contractor, subcontractor, grant-
8 ee, or subgrantee whose protected disclosure or
9 engagement in any activity protected against
10 reprisal under this section occurred prior to ter-
11 mination, including an employee of—

12 “(i) the government of each of the
13 several States, the District of Columbia, an
14 Indian tribe or authorized tribal organiza-
15 tion, the Commonwealth of Puerto Rico,
16 Guam, American Samoa, the Virgin Is-
17 lands, the Commonwealth of the Northern
18 Mariana Islands, or any other territory or
19 possession of the United States;

20 “(ii) the government of any political
21 subdivision of, agency of, or instrumen-
22 tality of, a government listed in clause (i);
23 and

24 “(iii) an element of the intelligence
25 community (as defined in section 3 of the

1 National Security Act of 1947 (50 U.S.C.
2 3003)) within the Department of Defense;

3 or

4 “(C) a person performing personal services
5 for the Department of Defense or the National
6 Aeronautics and Space Administration pursuant
7 to a contractual agreement for the performance
8 of personal services, including a personal serv-
9 ices contract or personal services agreement,
10 and who engages in an activity for which any
11 reprisal is prohibited under subsection (a), in-
12 cluding a person performing personal services
13 pursuant such a contractual agreement for—

14 “(i) the government of each of the
15 several States, the District of Columbia, an
16 Indian tribe or authorized tribal organiza-
17 tion, the Commonwealth of Puerto Rico,
18 Guam, American Samoa, the Virgin Is-
19 lands, the Commonwealth of the Northern
20 Mariana Islands, or any other territory or
21 possession of the United States;

22 “(ii) the government of any political
23 subdivision of, agency of, or instrumen-
24 tality of, a government listed in clause (i);
25 and

1 “(iii) an element of the intelligence
2 community (as defined in section 3 of the
3 National Security Act of 1947 (50 U.S.C.
4 3003)) within the Department of De-
5 fense.”.

6 **SEC. 3. ENHANCEMENT OF NON-DEFENSE CONTRACTOR**
7 **PROTECTION FROM REPRISAL FOR DISCLO-**
8 **SURE OF CERTAIN INFORMATION.**

9 Section 4712 of title 41, United States Code, is
10 amended—

11 (1) in subsection (a)—

12 (A) by striking paragraph (1) and insert-
13 ing the following paragraph:

14 “(1) IN GENERAL.—A protected individual may
15 not be discharged, demoted, or otherwise discrimi-
16 nated against as a reprisal for the following:

17 “(A) Refusing to obey an order that would
18 require the protected individual to violate a law,
19 rule, or regulation related to any contract, sub-
20 contract, grant, or subgrant.

21 “(B) Disclosing to a person or body de-
22 scribed in paragraph (2) information that the
23 protected individual reasonably believes is evi-
24 dence of the following:

1 “(i) Gross mismanagement of any
2 Federal contract or grant, any gross waste
3 of Federal funds, any abuse of authority
4 relating to any Federal contract, sub-
5 contract, grant, or subgrant, or any viola-
6 tion of law, rule, or regulation related to
7 any Federal contract or subcontract (in-
8 cluding the competition for or negotiation
9 of a contract or subcontract) or grant or
10 subgrant.

11 “(ii) A substantial and specific danger
12 to public health or safety.”; and
13 (B) in paragraph (3)—

14 (i) in subparagraph (A), by striking
15 “an employee” and inserting “a protected
16 individual”; and

17 (ii) by striking subparagraph (B) and
18 inserting the following subparagraph:

19 “(B) it shall not be within the authority of
20 an executive branch official to request that a
21 contractor, subcontractor, grantee, or sub-
22 grantee engage in a reprisal prohibited by para-
23 graph (1).”;

24 (2) in subsection (c)—

1 (A) in paragraph (1), by adding at the end
2 the following new subparagraph:

3 “(E) Propose appropriate disciplinary ac-
4 tion against any executive branch official for
5 any request made of a contractor, subcon-
6 tractor, grantee, or subgrantee that subjected
7 the complainant to a reprisal prohibited by sub-
8 section (a).”; and

9 (B) by striking paragraph (7) and insert-
10 ing the following paragraph:

11 “(7) RIGHTS, FORUM, AND REMEDIES NOT
12 WAIVABLE.—

13 “(A) IN GENERAL.—The rights, forum,
14 and remedies provided for in this section may
15 not be waived by any public or private agree-
16 ment, policy, form, or condition of employment,
17 including by any predispute arbitration agree-
18 ment.

19 “(B) VALIDITY.—No provision of the
20 predispute arbitration agreement shall be valid
21 or enforceable if it requires arbitration of a dis-
22 pute arising under this section.”;

23 (3) in subsection (e)—

24 (A) by striking “an employee” and insert-
25 ing “a protected individual”; and

1 (B) by striking “the employee” and insert-
2 ing “the protected individual”;

3 (4) by striking subsection (f) and redesignating
4 subsections (g) and (h) as subsections (f) and (g),
5 respectively; and

6 (5) in subsection (f), as so redesignated, by in-
7 serting after paragraph (2) the following new para-
8 graph:

9 “(3) The term ‘protected individual’ means—

10 “(A) a contractor, subcontractor, grantee,
11 or subgrantee of the Federal Government, in-
12 cluding—

13 “(i) the government of each of the
14 several States, the District of Columbia, an
15 Indian tribe or authorized tribal organiza-
16 tion, the Commonwealth of Puerto Rico,
17 Guam, American Samoa, the Virgin Is-
18 lands, the Commonwealth of the Northern
19 Mariana Islands, or any other territory or
20 possession of the United States;

21 “(ii) the government of any political
22 subdivision of, agency of, or instrumen-
23 tality of, a government listed in clause (i);
24 and

1 “(iii) an element of the intelligence
2 community (as defined in section 3 of the
3 National Security Act of 1947 (50 U.S.C.
4 3003));

5 “(B) an employee of a contractor, subcon-
6 tractor, grantee, or subgrantee of the Federal
7 Government or a former employee of such con-
8 tractor, subcontractor, grantee, or subgrantee
9 whose protected disclosure or engagement in
10 any activity protected against reprisal under
11 this section occurred prior to termination, in-
12 cluding an employee of—

13 “(i) the government of each of the
14 several States, the District of Columbia, an
15 Indian tribe or authorized tribal organiza-
16 tion, the Commonwealth of Puerto Rico,
17 Guam, American Samoa, the Virgin Is-
18 lands, the Commonwealth of the Northern
19 Mariana Islands, or any other territory or
20 possession of the United States;

21 “(ii) the government of any political
22 subdivision of, agency of, or instrumen-
23 tality of, a government listed in clause (i);
24 and

1 “(iii) an element of the intelligence
2 community (as defined in section 3 of the
3 National Security Act of 1947 (50 U.S.C.
4 3003)); or

5 “(C) a person performing personal services
6 for the Federal Government pursuant to a con-
7 tractual agreement for the performance of per-
8 sonal services, including a personal services con-
9 tract or personal services agreement, including
10 a person performing personal services pursuant
11 to such a contractual agreement for—

12 “(i) the government of each of the
13 several States, the District of Columbia, an
14 Indian tribe or authorized tribal organiza-
15 tion, the Commonwealth of Puerto Rico,
16 Guam, American Samoa, the Virgin Is-
17 lands, the Commonwealth of the Northern
18 Mariana Islands, or any other territory or
19 possession of the United States;

20 “(ii) the government of any political
21 subdivision of, agency of, or instrumen-
22 tality of, a government listed in clause (i);
23 and

24 “(iii) an element of the intelligence
25 community (as defined in section 3 of the

1 National Security Act of 1947 (50 U.S.C.
2 3003)).”.