

115TH CONGRESS  
2D SESSION

# H. R. 6388

To amend title 5, United States Code, to provide for the reduction of the annuity for any Federal employee who is convicted of a felony that resulted in, or would have resulted in, removal from the civil service, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2018

Mrs. BROOKS of Indiana introduced the following bill; which was referred to the Committee on Oversight and Government Reform

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## A BILL

To amend title 5, United States Code, to provide for the reduction of the annuity for any Federal employee who is convicted of a felony that resulted in, or would have resulted in, removal from the civil service, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Employee Re-  
5 tirement Accountability Act”.

1 SEC. 2. REDUCTION OF ANNUITY OF EMPLOYEE CON-  
2 VICTED OF A FELONY FOR WHICH AN AD-  
3 VERSE ACTION IS OR WOULD HAVE BEEN  
4 TAKEN.

5 (a) REDUCTION OF ANNUITY OF EMPLOYEE CON-  
6 VICTED OF A FELONY FOR WHICH AN ADVERSE ACTION  
7 IS TAKEN.—

8 (1) IN GENERAL.—Subchapter II of chapter 83  
9 of title 5, United States Code, is amended by adding  
10 at the end the following:

11 “§ 8323. Reduction of benefits of employees convicted  
12 of certain crimes

13 “(a) REDUCTION OF ANNUITY.—

14 “(1) IN GENERAL.—The felonious service of a  
15 covered individual shall not be taken into account  
16 for purposes of calculating an annuity with respect  
17 to such individual under subchapter III of this chap-  
18 ter or chapter 84 if—

19 “(A) the covered individual is finally con-  
20 victed of a felony; and

21 “(B) the head of the agency at which the  
22 individual was employed determines that the  
23 conviction was based on the acts or omissions  
24 of the covered individual that—

1 “(i) were taken or not taken in the  
2 performance of the covered individual’s of-  
3 ficial duties at the agency; and

4 “(ii) are sufficient to support a re-  
5 moval action under section 7513, 7543, or  
6 any other provision of law against the cov-  
7 ered individual.

8 “(2) PROCEDURES.—A covered individual  
9 against whom a determination is made under para-  
10 graph (1) shall be afforded—

11 “(A) notice of the determination 15 busi-  
12 ness days in advance of a final order under  
13 paragraph (3); and

14 “(B) an opportunity to respond to the de-  
15 termination by not later than ten business days  
16 following receipt of such notice.

17 “(3) FINAL ORDER.—The head of the agency  
18 shall issue a final order to carry out paragraph  
19 (1)—

20 “(A) in the case of a covered individual  
21 who responds under paragraph (2)(B), five  
22 business days after receiving the response from  
23 the covered individual, to the maximum extent  
24 practicable; or

1           “(B) in the case of a covered individual  
2           who does not so respond, 15 business days after  
3           the date the head of the agency provided notice  
4           to the individual under paragraph (2)(A), to the  
5           maximum extent practicable.

6           “(4) APPEAL.—Any covered individual with re-  
7           spect to whom an annuity is to be reduced under  
8           this subsection may appeal the final order under  
9           paragraph (3) to the Merit Systems Protection  
10          Board pursuant to such regulations as the Board  
11          may prescribe for purposes of this subsection. An  
12          appeal may not be made under this paragraph later  
13          than that date that is 10 business days after the  
14          date an order is issued under paragraph (3).

15          “(b) ADMINISTRATIVE REQUIREMENTS.—

16               “(1) IN GENERAL.—Not later than 30 business  
17          days after the date that the head of an agency issues  
18          a final order under subsection (a) or a final decision  
19          of the Merit Systems Protection Board is rendered  
20          (as the case may be) with respect to an individual,  
21          the applicable employing agency shall amend the  
22          covered individual’s retirement records to reflect the  
23          period of service that is no longer creditable by oper-  
24          ation of this section and transmit the amended

1 records to the Director of the Office of Personnel  
2 Management.

3 “(2) ANNUITANTS.—With respect to any cov-  
4 ered individual who is an annuitant on the date a  
5 final order is so issued, the Director of the Office of  
6 Personnel Management shall, not later than 30 busi-  
7 ness days after the receipt of amended retirement  
8 records from an agency under paragraph (1), recal-  
9 culate such annuity.

10 “(c) LUMP-SUM ANNUITY CREDIT.—Any covered in-  
11 dividual with respect to whom an annuity is reduced under  
12 subsection (a) shall be entitled to be paid so much of such  
13 individual’s lump-sum credit as is attributable to the pe-  
14 riod of felonious service.

15 “(d) SPOUSE EXCEPTION.—The spouse of any cov-  
16 ered individual referred to in subsection (a) shall be eligi-  
17 ble for spousal annuity benefits that, but for subsection  
18 (a), would otherwise have been payable if the Attorney  
19 General of the United States or the attorney general of  
20 any state, territory, or the District of Columbia deter-  
21 mines that the spouse fully cooperated with authorities in  
22 the conduct of a criminal investigation and subsequent  
23 prosecution of the individual which resulted in such benefit  
24 reduction.

1       “(e) APPLICATION.—Nothing in this section shall be  
2 construed to effect or otherwise mitigate the application  
3 of any other section in this subchapter.

4       “(f) DEFINITIONS.—In this section—

5           “(1) the term ‘covered individual’ means—

6               “(A) an individual who was an employee  
7 (as that term is defined in section 2105) re-  
8 moved from a position in the civil service for  
9 performance or misconduct under section 7513,  
10 7543, or any other provision of law; or

11               “(B) an individual who—

12                   “(i) was an employee (as that term is  
13 defined in section 2105) subject to a re-  
14 moval action for performance or mis-  
15 conduct under section 7513, 7543, or any  
16 other provision of law; and

17                   “(ii) who leaves employment at the  
18 agency prior to the issuance of a final deci-  
19 sion with respect to such action;

20           “(2) the term ‘felonious service’ means, with re-  
21 spect to a covered individual, the period of service—

22               “(A) beginning on the date that the head  
23 of the agency determines that the individual  
24 commenced engaging in the acts or omissions

1           that gave rise to the removal action or proposed  
2           removal action; and

3           “(B) ending on the date that is the earlier  
4           of—

5           “(i) the date that the individual is re-  
6           moved from or leaves a position at the  
7           agency; or

8           “(ii) the date that the individual  
9           ceases engaging in the acts or omissions  
10          that gave rise to the removal action or pro-  
11          posed removal action;

12          “(3) the term ‘finally convicted’ and ‘final con-  
13          viction’ refers to a conviction of a felony—

14               “(A) that has not been appealed and is no  
15               longer appealable because the time for taking  
16               an appeal has expired; or

17               “(B) that has been appealed and the ap-  
18               peals process for which is completed;

19          “(4) the term ‘lump-sum credit’ has the mean-  
20          ing given that term in section 8331(8) or 8401(19)  
21          (as the case may be); and

22          “(5) the term ‘service’ has the meaning given  
23          that term under section 8331(12) or 8401(26) (as  
24          the case may be).”.

1           (2) CLERICAL AMENDMENT.—The table of sec-  
2           tions for Subchapter II of chapter 83 of title 5,  
3           United States Code, is amended by adding after the  
4           item relating to section 8322 the following new item:

“8323. Reduction of benefits of employees convicted of certain crimes.”.

5           (b) APPLICATION.—Section 8323 of title 5, United  
6           States Code, as added by subsection (a), shall apply to  
7           acts or omissions described in subsection (a)(1)(B) of such  
8           section occurring after the date of the enactment of this  
9           Act.

10          (c) REGULATIONS.—The Office of Personnel Man-  
11          agement may prescribe regulations to carry out the pur-  
12          poses of this section and the amendments made by this  
13          Act.

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