

119TH CONGRESS
1ST SESSION

S. _____

To prohibit employment discrimination against whistleblowers reporting AI security vulnerabilities or AI violations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. GRASSLEY (for himself, Mr. COONS, Mrs. BLACKBURN, Ms. KLOBUCHAR, Mr. HAWLEY, and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To prohibit employment discrimination against whistleblowers reporting AI security vulnerabilities or AI violations, 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 “AI Whistleblower Pro-
5 tection Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **AI SECURITY VULNERABILITY.**—The term
9 “AI security vulnerability” means any failure or

1 lapse in security that could potentially allow emerg-
2 ing artificial intelligence technology to be acquired
3 by a person (including a foreign entity) by theft or
4 other means.

5 (2) AI VIOLATION.—The term “AI violation”
6 means—

7 (A) any violation of Federal law, including
8 rules and regulations, related to or committed
9 during the development, deployment, or use of
10 artificial intelligence; or

11 (B) any failure to appropriately respond to
12 a substantial and specific danger that the devel-
13 opment, deployment, or use of artificial intel-
14 ligence may pose to public safety, public health,
15 or national security.

16 (3) ARTIFICIAL INTELLIGENCE.—The term “ar-
17 tificial intelligence” includes any of the following:

18 (A) An artificial system that performs
19 tasks under varying and unpredictable cir-
20 cumstances without significant human over-
21 sight, or that can learn from experience and im-
22 prove performance when exposed to data sets.

23 (B) An artificial system developed in com-
24 puter software, physical hardware, or other con-
25 text that solves tasks requiring human-like per-

1 ception, cognition, planning, learning, commu-
2 nication, or physical action.

3 (C) An artificial system designed to think
4 or act like a human, including cognitive archi-
5 tectures and neural networks.

6 (D) A set of techniques, including machine
7 learning, that are designed to approximate a
8 cognitive task.

9 (E) An artificial system designed to act ra-
10 tionally, including an intelligent software agent
11 or embodied robot that achieves goals using
12 perception, planning, reasoning, learning, com-
13 municating, decision making, and acting.

14 (4) ARTIFICIAL SYSTEM.—The term “artificial
15 system”—

16 (A) means any data system, software, ap-
17 plication, tool, or utility that operates in whole
18 or in part using dynamic or static machine
19 learning algorithms or other forms of artificial
20 intelligence, including in the case—

21 (i) the data system, software, applica-
22 tion, tool, or utility is established primarily
23 for the purpose of researching, developing,
24 or implementing artificial intelligence tech-
25 nology; or

1 (ii) artificial intelligence capability is
2 integrated into another system or agency
3 business process, operational activity, or
4 technology system; and

5 (B) does not include any common commer-
6 cial product within which artificial intelligence
7 is embedded, such as a word processor or map
8 navigation system.

9 (5) COMMERCE.—The terms “commerce” and
10 “industry or activity affecting commerce” mean any
11 activity, business, or industry in commerce or in
12 which a labor dispute would hinder or obstruct com-
13 merce or the free flow of commerce, and include
14 “commerce” and any “industry affecting com-
15 merce”, as defined in paragraphs (1) and (3) of sec-
16 tion 501 of the Labor Management Relations Act,
17 1947 (29 U.S.C. 142 (1) and (3)).

18 (6) COVERED INDIVIDUAL.—The term “covered
19 individual” includes—

20 (A) an employee, including a former em-
21 ployee; and

22 (B) an independent contractor, including a
23 former independent contractor.

24 (7) EMERGING ARTIFICIAL INTELLIGENCE
25 TECHNOLOGY.—The term “emerging artificial intel-

1 ligence technology”, with respect to an AI security
2 vulnerability, means any artificial system that exhib-
3 its a level of performance, complexity, or autonomy
4 that is comparable to or exceeds capabilities that are
5 generally considered state-of-the-art as of the time
6 of the AI security vulnerability.

7 (8) EMPLOYER.—The term “employer” means
8 any person (including any officer, employee, con-
9 tractor, subcontractor, agent, company, partnership,
10 or other individual or entity) engaged in commerce
11 or an industry or activity affecting commerce who
12 pays any compensation to a covered individual in ex-
13 change for the covered individual providing work to
14 the person.

15 **SEC. 3. ANTI-RETALIATION PROTECTION FOR AI WHISTLE-**
16 **BLOWERS.**

17 (a) PROHIBITION AGAINST RETALIATION.—No em-
18 ployer may, directly or indirectly, discharge, demote, sus-
19 pend, threaten, blacklist, harass, or in any other manner
20 discriminate against a covered individual in the terms and
21 conditions of employment or post-employment of the cov-
22 ered individual (or the terms and conditions of work pro-
23 vided by the covered individual as an independent con-
24 tractor) because of any lawful act done by the covered in-
25 dividual—

1 (1) in providing information regarding an AI
2 security vulnerability or AI violation, or any conduct
3 that the covered individual reasonably believes con-
4 stitutes an AI security vulnerability or AI violation,
5 to—

6 (A) the appropriate regulatory official or
7 the Attorney General;

8 (B) a regulatory or law enforcement agen-
9 cy; or

10 (C) any Member of Congress or any com-
11 mittee of Congress;

12 (2) in initiating, testifying in, or assisting in
13 any investigation or judicial or administrative action
14 of an appropriate regulatory or law enforcement
15 agency or the Department of Justice, or any inves-
16 tigation of Congress, based upon or related to the
17 information described in paragraph (1); or

18 (3) in providing information regarding an AI
19 security vulnerability or AI violation, or any conduct
20 that the covered individual reasonably believes con-
21 stitutes an AI security vulnerability or AI violation,
22 to—

23 (A) a person with supervisory authority
24 over the covered individual at the employer of
25 the covered individual; or

1 (B) another individual working for the em-
2 ployer described in subparagraph (A) whom the
3 covered individual reasonably believes has the
4 authority to—

5 (i) investigate, discover, or terminate
6 the misconduct; or

7 (ii) take any other action to address
8 the misconduct.

9 (b) ENFORCEMENT.—

10 (1) IN GENERAL.—A covered individual who al-
11 leges they are aggrieved by a violation of subsection
12 (a) may seek relief under paragraph (3) by—

13 (A) filing a complaint with the Secretary of
14 Labor in accordance with the requirements of
15 paragraph (2)(A); or

16 (B) if the Secretary of Labor has not
17 issued a final decision in accordance with such
18 paragraph within 180 days of the filing of a
19 complaint under subparagraph (A), and there is
20 no showing that such a delay is due to the bad
21 faith of the covered individual, bringing an ac-
22 tion against the employer at law or in equity in
23 the appropriate district court of the United
24 States, which shall have jurisdiction over such

1 an action without regard to the amount in con-
2 troversy.

3 (2) PROCEDURE.—

4 (A) DEPARTMENT OF LABOR COM-
5 PLAINTS.—

6 (i) IN GENERAL.—Except as provided
7 in clause (ii) and paragraph (3), a com-
8 plaint filed with the Secretary of Labor
9 under paragraph (1)(A) shall be governed
10 by the rules and procedures set forth in
11 section 42121(b) of title 49, United States
12 Code, including the legal burdens of proof
13 described in such section.

14 (ii) EXCEPTIONS.—With respect to a
15 complaint filed under paragraph (1)(A),
16 notification required under section
17 42121(b)(1) of title 49, United States
18 Code, shall be made to each person named
19 in the complaint, including the employer.

20 (B) DISTRICT COURT ACTIONS.—

21 (i) JURY TRIAL.—A party to an action
22 brought under paragraph (1)(B) shall be
23 entitled to trial by jury.

24 (ii) STATUTE OF LIMITATIONS.—

1 (I) IN GENERAL.—An action may
2 not be brought under paragraph
3 (1)(B)—

4 (aa) more than 6 years after
5 the date on which the violation of
6 subsection (a) occurs; or

7 (bb) more than 3 years after
8 the date on which facts material
9 to the right of action are known,
10 or reasonably should have been
11 known, by the covered individual
12 bringing the action.

13 (II) REQUIRED ACTION WITHIN
14 10 YEARS.—Notwithstanding sub-
15 clause (I), an action under paragraph
16 (1)(B) may not in any circumstance
17 be brought more than 10 years after
18 the date on which the violation occurs.

19 (3) RELIEF.—Relief for a covered individual
20 prevailing with respect to a complaint filed under
21 paragraph (1)(A) or an action under paragraph
22 (1)(B) shall include—

23 (A) reinstatement with the same seniority
24 status that the covered individual would have
25 had, but for the violation;

1 (B) 2 times the amount of back pay other-
2 wise owed to the covered individual, with inter-
3 est;

4 (C) the payment of compensatory damages,
5 which shall include compensation for litigation
6 costs, expert witness fees, and reasonable attor-
7 neys' fees; and

8 (D) any other appropriate remedy with re-
9 spect to the violation as determined by the Sec-
10 retary of Labor in a complaint under subpara-
11 graph (A) of paragraph (1) or by the court in
12 an action under subparagraph (B) of such
13 paragraph.

14 (c) NONENFORCEABILITY WAIVERS OF RIGHTS OR
15 REMEDIES.—The rights and remedies provided for in this
16 section may not be waived or altered by any contract,
17 agreement, policy form, or condition of employment (or
18 condition of work as an independent contractor), including
19 by any agreement requiring a covered individual to engage
20 in arbitration, mediation, or any other alternative dispute
21 resolution process prior to seeking relief under subsection
22 (b).