

(5) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent harassment of the victim or witness but in no case for a period in excess of three years from the date of such order's issuance. The attorney for the Government may, at any time within ninety days before the expiration of such order, apply for a new protective order under this section, except that in the case of a minor victim or witness, the court may order that such protective order expires on the later of 3 years after the date of issuance or the date of the eighteenth birthday of that minor victim or witness.

(c) Whoever knowingly and intentionally violates or attempts to violate an order issued under this section shall be fined under this title, imprisoned not more than 5 years, or both.

(d)(1) As used in this section—

(A) the term “course of conduct” means a series of acts over a period of time, however short, indicating a continuity of purpose;

(B) the term “harassment” means a serious act or course of conduct directed at a specific person that—

- (i) causes substantial emotional distress in such person; and
- (ii) serves no legitimate purpose;

(C) the term “immediate family member” has the meaning given that term in section 115 and includes grandchildren;

(D) the term “intimidation” means a serious act or course of conduct directed at a specific person that—

- (i) causes fear or apprehension in such person; and
- (ii) serves no legitimate purpose;

(E) the term “restricted personal information” has the meaning given that term in section 119;

(F) the term “serious act” means a single act of threatening, retaliatory, harassing, or violent conduct that is reasonably likely to influence the willingness of a victim or witness to testify or participate in a Federal criminal case or investigation; and

(G) the term “specific person” means a victim or witness in a Federal criminal case or investigation, and includes an immediate family member of such a victim or witness.

(2) For purposes of subparagraphs (B)(ii) and (D)(ii) of paragraph (1), a court shall presume, subject to rebuttal by the person, that the distribution or publication using the Internet of a photograph of, or restricted personal information regarding, a specific person serves no legitimate purpose, unless that use is authorized by that specific person, is for news reporting purposes, is designed to locate that specific person (who has been reported to law enforcement as a missing person), or is part of a government-authorized effort to locate a fugitive or person of interest in a criminal, antiterrorism, or national security investigation.

(Added Pub. L. 97-291, §4(a), Oct. 12, 1982, 96 Stat. 1250; amended Pub. L. 111-16, §3(2), (3), May 7, 2009, 123 Stat. 1607; Pub. L. 112-206, §3(a), Dec. 7, 2012, 126 Stat. 1490.)

<sup>1</sup> So in original. Probably should be “given”.

#### AMENDMENTS

2012—Subsec. (b)(1). Pub. L. 112-206, §3(a)(1)(A), inserted “or its own motion,” after “attorney for the Government,” and inserted “or investigation” after “Federal criminal case” in two places.

Subsec. (b)(2), (3). Pub. L. 112-206, §3(a)(1)(B), (C), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 112-206, §3(a)(1)(B), (D), redesignated par. (3) as (4) and struck out “(and not by reference to the complaint or other document)” after “describe in reasonable detail”. Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 112-206, §3(a)(1)(B), (E), redesignated par. (4) as (5) and inserted “, except that in the case of a minor victim or witness, the court may order that such protective order expires on the later of 3 years after the date of issuance or the date of the eighteenth birthday of that minor victim or witness” before period at end of second sentence.

Subsecs. (c), (d). Pub. L. 112-206, §3(a)(2), added subsecs. (c) and (d) and struck out former subsec. (c) which defined “harassment” and “course of conduct”.

2009—Subsec. (a)(2)(C). Pub. L. 111-16, §3(2), substituted “14 days” for “10 days” in two places.

Subsec. (a)(2)(E). Pub. L. 111-16, §3(3), inserted “, excluding intermediate weekends and holidays,” after “the Government”.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-16 effective Dec. 1, 2009, see section 7 of Pub. L. 111-16, set out as a note under section 109 of Title 11, Bankruptcy.

#### EFFECTIVE DATE

Section effective Oct. 12, 1982, see section 9(a) of Pub. L. 97-291, set out as a note under section 1512 of this title.

#### § 1514A. Civil action to protect against retaliation in fraud cases

(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)) including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company, or nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c),<sup>1</sup> or any officer, employee, contractor, subcontractor, or agent of such company or nationally recognized statistical rating organization, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

<sup>1</sup> So in original. Another closing parenthesis probably should precede the comma.

(A) a Federal regulatory or law enforcement agency;

(B) any Member of Congress or any committee of Congress; or

(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

(b) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

(A) filing a complaint with the Secretary of Labor; or

(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) PROCEDURE.—

(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the violation occurs, or after the date on which the employee became aware of the violation.

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

(c) REMEDIES.—

(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

(B) the amount of back pay, with interest; and

(C) compensation for any special damages sustained as a result of the discrimination,

including litigation costs, expert witness fees, and reasonable attorney fees.

(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

(e) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.—

(1) WAIVER OF RIGHTS AND REMEDIES.—The rights and remedies provided for in this section may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement.

(2) PREDISPUTE ARBITRATION AGREEMENTS.—No predispute arbitration agreement shall be valid or enforceable, if the agreement requires arbitration of a dispute arising under this section.

(Added Pub. L. 107-204, title VIII, §806(a), July 30, 2002, 116 Stat. 802; amended Pub. L. 111-203, title IX, §§922(b), (c), 929A, July 21, 2010, 124 Stat. 1848, 1852.)

#### AMENDMENTS

2010—Subsec. (a). Pub. L. 111-203, §929A, in introductory provisions, inserted “including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company” after “the Securities Exchange Act of 1934 (15 U.S.C. 78o(d))”.

Pub. L. 111-203, §922(b), in introductory provisions, inserted “or nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c),” before “or any officer,” and “or nationally recognized statistical rating organization” before “, may discharge.”.

Subsec. (b)(2)(D). Pub. L. 111-203, §922(c)(1)(A), substituted “180” for “90” and inserted “, or after the date on which the employee became aware of the violation” before period at end.

Subsec. (b)(2)(E). Pub. L. 111-203, §922(c)(1)(B), added subpar. (E).

Subsec. (e). Pub. L. 111-203, §922(c)(2), added subsec. (e).

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

#### § 1515. Definitions for certain provisions; general provision

(a) As used in sections 1512 and 1513 of this title and in this section—

(1) the term “official proceeding” means—

(A) a proceeding before a judge or court of the United States, a United States magistrate judge, a bankruptcy judge, a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Court of Federal Claims, or a Federal grand jury;

(B) a proceeding before the Congress;

(C) a proceeding before a Federal Government agency which is authorized by law; or

(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner