

103^D CONGRESS
2^D SESSION

H. R. 5139

To amend title 39, United States Code, to provide for procedures under which persons involuntarily separated by the United States Postal Service as a result of having been improperly arrested by the Postal Inspection Service on narcotics charges may seek reemployment.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 1994

Mr. CLAY introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 39, United States Code, to provide for procedures under which persons involuntarily separated by the United States Postal Service as a result of having been improperly arrested by the Postal Inspection Service on narcotics charges may seek reemployment.

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. PROCEDURES.**

4 (a) IN GENERAL.—Chapter 4 of title 39, United
5 States Code, is amended by adding at the end the follow-
6 ing:

1 **“§ 414. Provisions relating to certain improperly ar-**
2 **rested individuals**

3 “(a) Not later than 90 days after the date of the en-
4 actment of this section, the Judicial Officer shall by regu-
5 lation establish procedures under which any individual de-
6 scribed in subsection (b)(1)(A) may seek reemployment
7 under this section.

8 “(b) The regulations shall include provisions under
9 which—

10 “(1) a petition for reemployment may be
11 brought—

12 “(A) by any individual involuntarily sepa-
13 rated from a position in the Postal Service as
14 a result of having been arrested by the Postal
15 Inspection Service—

16 “(i) after December 31, 1983;

17 “(ii) pursuant to any investigation in
18 which one or more paid confidential in-
19 formants were used;

20 “(iii) for violating any law of the
21 United States, or of any State, prohibiting
22 the use, sale, or possession of a controlled
23 substance;

24 but only if such individual—

1 “(I) is not convicted, pursuant to such
2 arrest, of a violation of any law described
3 in clause (iii); and

4 “(II) has not been reemployed by the
5 Postal Service; and

6 “(B) after all administrative procedures
7 otherwise available to petitioner for seeking re-
8 employment have been exhausted, but not later
9 than 2 years after the date as of which—

10 “(i) the exhaustion requirement is
11 met; or

12 “(ii) if later, any such petition may
13 first be filed under this section;

14 “(2) a petition for reemployment under this sec-
15 tion shall be considered by a panel of 3 administra-
16 tive law judges who shall be—

17 “(A) qualified by virtue of their back-
18 ground, objectivity, and experience; and

19 “(B) individuals detailed to the Postal
20 Service, for purposes of this section, on a reim-
21 bursable basis;

22 “(3) the provisions of sections 556 and 557 of
23 title 5 shall apply to any proceeding conducted by a
24 panel under this section;

1 “(4) a panel may require the Postal Service to
2 reemploy the petitioner if, in the panel’s judgment,
3 the petitioner was improperly arrested due to the ac-
4 tions of the Inspection Service or its paid confiden-
5 tial informants;

6 “(5)(A) paragraph (4) shall not be considered
7 satisfied unless—

8 “(i) the position in which the petitioner is
9 reemployed is reasonably similar to the position
10 from which the petitioner was separated; and

11 “(ii) the rate of pay for the position in
12 which petitioner is reemployed is not less than
13 the rate which would have been payable to peti-
14 tioner, as of the date of reemployment, had the
15 petitioner remained continuously employed in
16 the position from which separated; and

17 “(B) the provisions of section 5596(b) (1) and
18 (2) of title 5 shall (for purposes of this section)
19 apply with respect to any separation referred to in
20 paragraph (1)(A) of this subsection, except that the
21 total amount of back pay (including interest) which
22 may be awarded under such provisions by any panel
23 (described in paragraph (2)) may not, in connection
24 with any particular separation, exceed \$100,000;

1 “(6) the Postal Service shall be required to con-
2 tribute to the Civil Service Retirement and Disability
3 Fund for the benefit of petitioner an amount equal
4 to that required (under regulations which the Office
5 of Personnel Management shall prescribe) in order
6 that, with respect to the period beginning on the
7 date of involuntary separation and ending on the
8 date of reemployment, petitioner shall, for retire-
9 ment purposes, be treated as if such separation had
10 not occurred; and

11 “(7) any payments required under this section
12 shall be payable out of the Postal Service Fund.

13 “(c) A determination under this section shall not be
14 subject to any administrative or judicial review.

15 “(d) For purposes of this section—

16 “(1) the term ‘Judicial Officer’ means the Judi-
17 cial Officer appointed under section 204;

18 “(2) the term ‘controlled substance’ has the
19 meaning given such term by section 102(6) of the
20 Controlled Drug Abuse Prevention and Control Act
21 of 1970;

22 “(3) the term ‘administrative law judge’ means
23 an administrative law judge appointed under section
24 3105 of title 5; and

1 “(4) a confidential informant shall be consid-
2 ered to be ‘paid’ if such informant receives, or is to
3 receive, a monetary or nonmonetary benefit (includ-
4 ing any forbearance from a civil or criminal action)
5 for the services involved.”.

6 (b) CHAPTER ANALYSIS.—The analysis for chapter
7 4 of title 39, United States Code, is amended by adding
8 at the end the following:

“414. Provisions relating to certain improperly arrested individuals.”.

