

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend chapter 77 of title 5, United States Code, to ensure timely rulings by the Merit Systems Protection Board on appeals by Federal employees and applicants for employment.

---

IN THE SENATE OF THE UNITED STATES

---

Mr. BLUMENTHAL (for himself, Ms. ALSOBROOKS, Mr. VAN HOLLEN, Mr. KAINE, Mr. WARNER, Mr. PETERS, Mr. KIM, Ms. DUCKWORTH, Mr. REED, and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

---

**A BILL**

To amend chapter 77 of title 5, United States Code, to ensure timely rulings by the Merit Systems Protection Board on appeals by Federal employees and applicants for employment.

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 “Fair Access to Swift  
5       and Timely Justice Act” or the “FAST Justice Act”.

1 **SEC. 2. TIMELINESS OF MSPB APPEALS.**

2 (a) IN GENERAL.—Section 7701 of title 5, United  
3 States Code, is amended—

4 (1) by redesignating subsection (k) as sub-  
5 section (l); and

6 (2) by inserting after subsection (j) the fol-  
7 lowing:

8 “(k) UNTIMELY ACTION BY MSPB.—

9 “(1) IN GENERAL.—On and after the date that  
10 is 120 days after the date on which an employee or  
11 applicant for employment files an appeal under this  
12 section, other than an appeal of a case that is sub-  
13 ject to section 7702, if the Merit Systems Protection  
14 Board has not taken an action with respect to the  
15 appeal that is subject to judicial review, the em-  
16 ployee or applicant shall be entitled to file a civil ac-  
17 tion with respect to the personnel action that is the  
18 subject of the appeal.

19 “(2) FILING.—

20 “(A) IN GENERAL.—An employee or appli-  
21 cant may bring a civil action under paragraph  
22 (1) in a district court of the United States  
23 for—

24 “(i) any judicial district in which a  
25 personnel action that is a subject of the  
26 civil action is alleged to have occurred; or

1 “(ii) the judicial district in which the  
2 employee or applicant would have been em-  
3 ployed, but for a personnel action that is  
4 a subject of the civil action.

5 “(B) WHERE PRINCIPAL OFFICE IS LO-  
6 CATED.—If the respondent for a civil action  
7 under paragraph (1) is not subject to personal  
8 jurisdiction in any judicial district described in  
9 subparagraph (A), the civil action may be  
10 brought in a district court of the United States  
11 for the judicial district in which the principal  
12 office of the respondent is located.

13 “(3) STANDARDS FOR JUDICIAL REVIEW.—In a  
14 civil action under paragraph (1), the court—

15 “(A) shall apply the standard of review  
16 under section 7703(c) only with respect to an  
17 order or decision of the Merit Systems Protec-  
18 tion Board; and

19 “(B) in making any other determination,  
20 shall apply the same standard of review that  
21 would have applied to the review of the per-  
22 sonnel action at issue by the Merit Systems  
23 Protection Board.

24 “(4) APPEAL OF DISTRICT COURT DETERMINA-  
25 TION.—An appeal from an order or decision of the

1 district court in a civil action under paragraph (1)  
2 shall, in accordance with section 1291 of title 28, be  
3 filed with the court of appeals of the United States  
4 for the judicial district in which the district court is  
5 located.

6 “(5) STAY.—If an employee or applicant for  
7 employment brings a civil action in accordance with  
8 paragraph (1) with respect to a personnel action, the  
9 Merit Systems Protection Board—

10 “(A) shall stay the appeal relating to the  
11 personnel action upon the filing of the civil ac-  
12 tion; and

13 “(B) if the civil action is dismissed for lack  
14 of jurisdiction, shall resume processing the ap-  
15 peal.”.

16 (b) RULE OF CONSTRUCTION.—Nothing in the  
17 amendments made by subsection (a) shall be construed to  
18 limit the ability of an employee or applicant for employ-  
19 ment to obtain judicial review of an order or decision of  
20 the Merit Systems Protection Board in accordance with  
21 section 7703 of title 5, United States Code.