

In the Senate of the United States,

March 15, 2018.

Resolved, That the bill from the House of Representatives (H.R. 3210) entitled “An Act to require the Director of the National Background Investigations Bureau to submit a report on the backlog of personnel security clearance investigations, and for other purposes.”, do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Securely Expediting*
3 *Clearances Through Reporting Transparency Act of 2018”*
4 *or the “SECRET Act of 2018”.*

5 ***SEC. 2. DEFINITIONS.***

6 *In this Act—*

7 *(1) the term “Bureau” means the National Back-*
8 *ground Investigations Bureau of the Office;*

1 (2) *the term “Director” means the Director of*
2 *National Intelligence acting as the Security Executive*
3 *Agent; and*

4 (3) *the term “Office” means the Office of Per-*
5 *sonnel Management acting as the Suitability and*
6 *Credentialing Executive Agent.*

7 **SEC. 3. REPORT ON BACKLOG OF PERSONNEL SECURITY**
8 **CLEARANCE INVESTIGATIONS.**

9 *Not later than 90 days after the date of enactment of*
10 *this Act, and quarterly thereafter for 5 years, the Director*
11 *of the Bureau, in coordination with the Director, shall sub-*
12 *mit to Congress a report on the backlog of personnel security*
13 *clearance investigations at the Bureau for the most recent*
14 *full calendar quarter, which shall include—*

15 (1) *the size of the backlog of personnel security*
16 *clearance investigations of the Bureau, including, for*
17 *each sensitivity level—*

18 (A) *the number of interim clearances grant-*
19 *ed;*

20 (B) *the number of initial investigations for*
21 *Federal employees;*

22 (C) *the number of periodic reinvestigations*
23 *for Federal employees;*

24 (D) *the number of initial investigations for*
25 *employees of Federal contractors;*

1 (E) the number of periodic reinvestigations
2 for employees of Federal contractors;

3 (F) the number of initial investigations for
4 employees of, and employees of contractors of, the
5 Department of Defense;

6 (G) the number of periodic reinvestigations
7 for employees of and employees of contractors of
8 the Department of Defense;

9 (H) the number of employees of the Bureau
10 conducting background investigations for the Bu-
11 reau; and

12 (I) the number of employees of contractors
13 of the Bureau conducting background investiga-
14 tions for the Bureau;

15 (2) the average length of time, for each sensi-
16 tivity level, for the Bureau to carry out an initial in-
17 vestigation and a periodic reinvestigation;

18 (3) a discussion of the factors contributing to the
19 average length of time to carry out an initial inves-
20 tigation and a periodic reinvestigation;

21 (4) a backlog mitigation plan, which shall in-
22 clude—

23 (A) the identification of the cause of, and
24 recommendations to remedy, the backlog at the
25 Bureau;

1 (B) the steps the Director of the Bureau
2 shall take to reduce the backlog;

3 (C) process reforms to improve efficiencies
4 in, and the quality of, background investigations
5 by the Bureau; and

6 (D) a projection of when the backlog at the
7 Bureau will be sufficiently reduced to meet re-
8 quired timeliness standards; and

9 (5) a description of improvements in the infor-
10 mation and data security of the Bureau.

11 **SEC. 4. REPORT ON SECURITY CLEARANCE INVESTIGA-**
12 **TIONS OF PERSONNEL OF THE EXECUTIVE**
13 **OFFICE OF THE PRESIDENT.**

14 *Not later than 90 days after the date of enactment of*
15 *this Act, the Director of the Office of Administration of the*
16 *Executive Office of the President, in coordination with the*
17 *Director and the Director of the Office, shall submit to Con-*
18 *gress a report that explains the process for conducting and*
19 *adjudicating security clearance investigations for personnel*
20 *of the Executive Office of the President, including personnel*
21 *of the White House Office.*

22 **SEC. 5. REPORT ON COSTS ASSOCIATED WITH BIFURCATED**
23 **BACKGROUND INVESTIGATION SYSTEMS.**

24 *Not later than 120 days after the date of enactment*
25 *of this Act, the Director of the Office, in consultation with*

1 *the other members of the Suitability and Security Clearance*
2 *Performance Accountability Council established under Ex-*
3 *ecutive Order 13467 (73 Fed. Reg. 38103) and the Under*
4 *Secretary of Defense for Intelligence, shall submit to Con-*
5 *gress a report on the cost of maintaining comprehensive*
6 *background investigations capability within the Office*
7 *under the control or direction of the Bureau and a back-*
8 *ground investigations capability for Department of Defense*
9 *personnel under the control or direction of the Department*
10 *of Defense for implementation of the plan referenced in sec-*
11 *tion 925 of the National Defense Authorization Act for Fis-*
12 *cal Year 2018 (Public Law 115–91), as compared to the*
13 *cost of sustaining a single Government-wide background in-*
14 *vestigations enterprise.*

15 **SEC. 6. REPORTS ON CONTINUOUS EVALUATION, RECI-**
16 **PROCITY, AND TIMELINESS MEASURES.**

17 *Not later than 120 days after the date of enactment*
18 *of this Act, the Director shall submit to Congress reports*
19 *that provide—*

20 *(1) the status of implementing continuous eval-*
21 *uation Government-wide, including—*

22 *(A) the number of agencies with continuous*
23 *evaluation programs and how many of those*
24 *programs are currently conducting automated*

1 *records checks of the required data sources as*
2 *identified by the Director; and*

3 *(B) a discussion of the barriers for agencies*
4 *to implement continuous evaluation programs,*
5 *including any requirement under a statute, regu-*
6 *lation, Executive Order, or other administrative*
7 *requirement;*

8 *(2) a detailed explanation of efforts by agencies*
9 *to meet requirements for reciprocal recognition to ac-*
10 *cess classified information, including—*

11 *(A) the range of the length of time for agen-*
12 *cies to grant reciprocal recognition to access clas-*
13 *sified information;*

14 *(B) additional requirements for reinvestiga-*
15 *tions or readjudications, by agency; and*

16 *(C) any other barriers to the timely grant-*
17 *ing of reciprocity, by agency, including any re-*
18 *quirement under a statute, regulation, Executive*
19 *Order, or other administrative requirement; and*

20 *(3) a review of whether the schedule for proc-*
21 *essing security clearances under section 3001 of the*
22 *Intelligence Reform and Terrorism Prevention Act of*
23 *2004 (50 U.S.C. 3341) should be modified.*

1 **SEC. 7. REVIEW AND UPDATE OF POSITION DESIGNATION**

2 **GUIDANCE.**

3 (a) *DEFINITIONS.—In this section—*

4 (1) *the term “agency” has the meaning given the*
5 *term in Executive Order 13467 (73 Fed. Reg. 38103),*
6 *or any successor thereto;*

7 (2) *the term “appropriate congressional commit-*
8 *tees” means—*

9 (A) *the Committee on Homeland Security*
10 *and Governmental Affairs and the Select Com-*
11 *mittee on Intelligence of the Senate; and*

12 (B) *the Committee on Oversight and Gov-*
13 *ernment Reform and the Permanent Select Com-*
14 *mittee on Intelligence of the House of Represent-*
15 *atives;*

16 (3) *the term “background investigation” means*
17 *any investigation required for the purpose of deter-*
18 *mining the—*

19 (A) *eligibility of a covered individual for*
20 *logical and physical access to Federally con-*
21 *trolled facilities or information systems;*

22 (B) *suitability or fitness of a covered indi-*
23 *vidual for Federal employment;*

24 (C) *eligibility of a covered individual for*
25 *access to classified information or to hold a na-*
26 *tional security sensitive position; or*

1 (D) *fitness of a covered individual to per-*
2 *form work for or on behalf of the United States*
3 *Government as a contractor employee; and*

4 (4) *the term “covered individual”—*

5 (A) *means a person who performs work for*
6 *or on behalf of the executive branch or seeks to*
7 *perform work for or on behalf of the executive*
8 *branch;*

9 (B) *is not limited to Federal employees;*

10 (C) *includes all persons, not excluded under*
11 *subparagraph (D), who require eligibility for ac-*
12 *cess to classified information or eligibility to*
13 *hold a sensitive position, including, but not lim-*
14 *ited to, contractors, subcontractors, licensees, cer-*
15 *tificate holders, grantees, experts, consultants,*
16 *and government employees; and*

17 (D) *does not include—*

18 (i) *the President;*

19 (ii) *employees of the President under*
20 *section 105 or 107 of title 3, United States*
21 *Code (except to the extent otherwise directed*
22 *by the President);*

23 (iii) *the Vice President; or*

24 (iv) *employees of the Vice President*
25 *under section 106 of title 3, United States*

1 Code, or an annual legislative branch ap-
2 propriations Act (except to the extent other-
3 wise directed by the Vice President).

4 **(b) REVIEW AND UPDATING.—**

5 **(1) INITIAL REVIEW AND UPDATE OF GUID-**
6 **ANCE.—**Not later than 180 days after the date of en-
7 actment of this Act, the Director and the Director of
8 the Office shall review and make recommendations to
9 Congress and the President as appropriate to issue
10 guidance to assist agencies in determining—

11 (A) position sensitivity designation; and

12 (B) the appropriate background investiga-
13 tion to initiate for each position designation.

14 **(2) REVIEWS AND REVISIONS OF POSITION DES-**
15 **IGNATIONS.—**Not less frequently than every 4 years,
16 the President, acting through relevant agencies (as de-
17 termined by the President) and in accordance with
18 the guidance described in paragraph (1), shall review
19 and, if necessary, revise the position designation of
20 positions within agencies.

21 **(c) REPORTS TO CONGRESS.—**Not later than 30 days
22 after completing a review under subsection (b)(2), the Presi-
23 dent shall submit to the appropriate congressional commit-
24 tees a report on—

25 (1) any issues identified in the review; and

1 (2) *the number of position designations revised*
2 *as a result of the review.*

3 (d) *NO CHANGE IN AUTHORITY.—Nothing in this sec-*
4 *tion limits or expands the authority of any agency to des-*
5 *ignate a position as sensitive or as requiring its occupant*
6 *to have access to classified information.*

Attest:

Secretary.

115TH CONGRESS
2^D SESSION

H.R. 3210

AMENDMENT