

118TH CONGRESS
2D SESSION

S. 4648

To require the President to establish a task force on streamlining the classified national security information system and narrowing of the criteria for classification of information, to make improvements with respect to such classification system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 9, 2024

Mr. PETERS (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require the President to establish a task force on streamlining the classified national security information system and narrowing of the criteria for classification of information, to make improvements with respect to such classification system, 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 “Classification Reform
5 for Transparency Act of 2024”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) CLASSIFICATION.—The term “classifica-
2 tion” means the act or process by which information
3 is determined to be classified information.

4 (2) CLASSIFICATION SYSTEM.—The term “clas-
5 sification system” means the system of the Federal
6 Government for classification and declassification.

7 (3) CLASSIFIED INFORMATION.—The term
8 “classified information” has the meaning given the
9 term “classified information of the United States” in
10 section 1924(c) of title 18, United States Code.

11 (4) DECLASSIFICATION.—The term “declas-
12 sification” means the authorized change in the sta-
13 tus of information from classified information to un-
14 classified information.

15 (5) EXECUTIVE AGENCY.—The term “Executive
16 agency” has the meaning given such term in section
17 105 of title 5, United States Code.

18 (6) INFORMATION.—The term “information”
19 means any knowledge that can be communicated or
20 documentary material, regardless of its physical
21 form or characteristics, that is owned by, is pro-
22 duced by or for, or is under the control of the Fed-
23 eral Government.

24 (7) NATIONAL DECLASSIFICATION CENTER.—
25 The term “National Declassification Center” means

1 the National Declassification Center established by
2 section 3.7 of Executive Order 13526 (50 U.S.C.
3 3161 note; relating to classified national security in-
4 formation), or successor center.

5 (8) PANEL.—The term “Panel” means the
6 Interagency Security Classification Appeals Panel
7 established by section 5.3 of Executive Order 13526
8 (50 U.S.C. 3161 note; relating to classified national
9 security information), or successor panel.

10 **SEC. 3. CLASSIFICATION PROHIBITIONS AND LIMITATIONS.**

11 (a) IN GENERAL.—Notwithstanding any other provi-
12 sion of law, in no case shall information be classified, con-
13 tinue to be maintained as classified, or fail to be declas-
14 sified in order—

15 (1) to conceal a violation of law, inefficiency,
16 mismanagement, or administrative error;

17 (2) to prevent embarrassment to a person, or-
18 ganization, or element of the Federal Government;

19 (3) to restrain competition; or

20 (4) to prevent or delay the release of informa-
21 tion that does not require protection in the interest
22 of the national security.

23 (b) BASIC SCIENTIFIC RESEARCH.—Basic scientific
24 research information not clearly related to the national se-
25 curity of the United States shall not be classified.

1 (c) RECLASSIFICATION.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), information may not be reclassified after
4 declassification and release to the public under prop-
5 er authority.

6 (2) WAIVER.—The National Security Advisor
7 may authorize the reclassification of information
8 after declassification and release as described in
9 paragraph (1) in a case in which the National Secu-
10 rity Advisor determines that doing so is in the inter-
11 est of national security.

12 **SEC. 4. TASK FORCE ON STREAMLINING CLASSIFICATION**
13 **SYSTEM AND NARROWING OF CLASSIFICA-**
14 **TION CRITERIA.**

15 (a) ESTABLISHMENT REQUIRED.—Not later than 90
16 days after the date of the enactment of this Act, the Presi-
17 dent shall establish a task force to streamline the classi-
18 fication system and to narrow the criteria for classifica-
19 tion.

20 (b) MEMBERSHIP.—The task force established pursu-
21 ant to subsection (a) shall be composed of members se-
22 lected as follows:

23 (1) At least 1 member selected by the Director
24 of National Intelligence.

1 (2) At least 1 member selected by the Archivist
2 of the United States.

3 (3) At least 1 member selected by the Secretary
4 of Defense.

5 (4) At least 1 member selected by the Secretary
6 of State.

7 (5) At least 1 member selected by the Attorney
8 General.

9 (6) Such additional members as the President
10 considers appropriate.

11 (c) DUTIES.—The duties of the task force established
12 pursuant to subsection (a) are as follows:

13 (1) To create a plan for phasing out the use in
14 the classification system of the classification level
15 designated as “Confidential”.

16 (2) To develop specific guidance on the precise
17 meaning of “damage to the national security” as it
18 pertains to Executive Order 13526 (50 U.S.C. 3161
19 note; relating to classified national security informa-
20 tion), or successor order.

21 (3) To develop specific guidance on the precise
22 meaning of “intelligence sources or methods” as it
23 pertains to such Executive order.

1 (4) To develop additional guidance related to
2 narrowing the criteria for classification and the ex-
3 emptions from automatic declassification.

4 (d) DEADLINE AND REPORT.—Not later than 1 year
5 after the date on which the President establishes the task
6 force required by subsection (a), the task force shall—

7 (1) complete the duties set forth under sub-
8 section (c); and

9 (2) submit to Congress and make publicly avail-
10 able a report with the plan created under paragraph
11 (1) of subsection (c) and the guidance developed
12 under paragraphs (2) and (3) of such subsection.

13 **SEC. 5. AUTOMATIC EXPIRATION OF CLASSIFICATION STA-**
14 **TUS.**

15 (a) AUTOMATIC EXPIRATION.—

16 (1) IN GENERAL.—Subject to subsection (b),
17 the classification marking on any information that is
18 more than 50 years old shall be considered expired,
19 and the information shall be considered unclassified.

20 (2) EFFECTIVE DATE.—Paragraph (1) shall
21 take effect on the date that is 3 years after the date
22 of the enactment of this Act.

23 (b) AUTHORITY TO EXEMPT.—The President may,
24 as the President considers appropriate, exempt specific in-
25 formation from the requirement of subsection (a)(1) pur-

1 suant to a request received by the President pursuant to
2 subsection (c).

3 (c) REQUESTS FOR EXEMPTIONS.—In extraordinary
4 cases, the head of an Executive agency may request from
5 the President an exemption to the requirement of sub-
6 section (a)(1) for specific information that reveals—

7 (1) the identity of a human source or human
8 intelligence source in a case in which the source or
9 a relative of the source is alive and disclosure would
10 present a clear danger to the safety of the source or
11 relative;

12 (2) a key design concept of a weapon of mass
13 destruction; or

14 (3) information that would result in critical
15 harm to ongoing or future operations.

16 (d) NOTIFICATION.—

17 (1) DEFINITION OF APPROPRIATE COMMITTEES
18 OF CONGRESS.—In this subsection, the term “appro-
19 priate committee of Congress” means—

20 (A) the Committee on Homeland Security
21 and Governmental Affairs and the Select Com-
22 mittee on Intelligence of the Senate; and

23 (B) the Committee on Oversight and Ac-
24 countability and the Permanent Select Com-

1 committee on Intelligence of the House of Rep-
2 resentatives.

3 (2) IN GENERAL.—If an exemption is requested
4 pursuant to subsection (c), the President shall, not
5 later than 30 days after the date on which the Presi-
6 dent approves or rejects the requested exemption,
7 submit to Congress, including the appropriate com-
8 mittees of Congress, notice of such approval or rejec-
9 tion.

10 (3) CONTENTS.—Each notice submitted pursu-
11 ant to paragraph (2) for an approval or rejection
12 shall include a justification for the approval or rejec-
13 tion.

14 (4) FORM.—To the degree practicable, each no-
15 tice submitted pursuant to paragraph (2) shall be
16 submitted in unclassified form.

17 **SEC. 6. REFORMS OF THE CLASSIFICATION SYSTEM.**

18 (a) DECLASSIFICATION AUTHORITY OF NATIONAL
19 DECLASSIFICATION CENTER.—Beginning 1 year after the
20 date that the National Declassification Center refers any
21 information that is among the holdings of the National
22 Archives and eligible for automatic declassification pursu-
23 ant to Executive Order 13526 (50 U.S.C. 3161 note; re-
24 lating to classified national security information), or suc-
25 cessor order, to any relevant Executive agency for review

1 and if such Executive agency has not completed the re-
2 view, the National Declassification Center may declassify
3 the information without requiring review by or approval
4 for declassification or release from any Executive agency.

5 (b) INCORPORATION OF INTERAGENCY SECURITY
6 CLASSIFICATION APPEALS PANEL IN CLASSIFICATION
7 AND DECLASSIFICATION GUIDANCE.—

8 (1) DECISIONS OF PANEL AS BINDING PRECE-
9 DENT.—Decisions of the Panel shall create a bind-
10 ing precedent on each Executive agency with respect
11 to the classification status of information subject to
12 the decision, unless the decision is overturned by the
13 President.

14 (2) TIMING OF BINDING PRECEDENT.—Deci-
15 sions of the Panel shall become binding on each Ex-
16 ecutive agency after an appeal—

17 (A) is not exercised by an agency; or

18 (B) is rejected by the President.

19 (3) INCORPORATION OF DECISIONS INTO GUID-
20 ANCE.—The National Declassification Center and
21 each head of an Executive agency shall incorporate
22 decisions of the Panel into classification and declas-
23 sification guidance as may be applicable.

24 (4) CONGRESSIONAL OVERSIGHT.—

1 (A) DEFINITION OF APPROPRIATE COM-
2 MITTEES OF CONGRESS.—In this paragraph,
3 the term “appropriate committee of Congress”
4 means—

5 (i) the Committee on Homeland Secu-
6 rity and Governmental Affairs and the Se-
7 lect Committee on Intelligence of the Sen-
8 ate; and

9 (ii) the Committee on Oversight and
10 Accountability and the Permanent Select
11 Committee on Intelligence of the House of
12 Representatives.

13 (B) ANNUAL REPORT.—Each year, the
14 Panel shall submit to the appropriate commit-
15 tees of Congress an annual report summarizing
16 the decisions of the Panel for the year covered
17 by the report and the precedents that were cre-
18 ated.

19 (c) DECLASSIFICATION UPON REQUEST OF CON-
20 GRESS.—

21 (1) IN GENERAL.—Not later than 90 days after
22 the date on which the head of an Executive agency
23 receives a request from a chair, vice-chair, or rank-
24 ing member of an appropriate committee of Con-
25 gress for declassification of specific information in

1 the possession of the Executive agency, the head of
2 the Executive agency shall—

3 (A) review the information for declassifica-
4 tion; and

5 (B) provide the member of Congress—

6 (i) the declassified information or doc-
7 ument; or

8 (ii) notice that, pursuant to review
9 under subparagraph (A), the information
10 is not being declassified, along with a jus-
11 tification for not declassifying the informa-
12 tion.

13 (2) COMPLEX OR LENGTHY REQUESTS.—In a
14 case in which the head of an Executive agency re-
15 ceives a request as described in paragraph (1) and
16 the head determines that such request is particularly
17 complex or lengthy, such paragraph shall be applied
18 by substituting “180 days” for “90 days”.

19 (d) MANDATORY DECLASSIFICATION REVIEW FOR
20 MATTERS IN THE PUBLIC INTEREST.—The President
21 shall require that the mandatory declassification review
22 process established pursuant to Executive Order 13526
23 (50 U.S.C. 3161 note; relating to classified national secu-
24 rity information), or successor order, include—

1 (1) a process by which members of the public
2 may request declassification of information in cases
3 in which—

4 (A) the information meets the standards
5 for classification; and

6 (B) the public interest in disclosure would
7 outweigh the national security harm that could
8 reasonably be expected to result from disclosure
9 of the information; and

10 (2) an expedited process for consideration of de-
11 classification of information in cases in which there
12 is urgency to inform the public concerning actual or
13 alleged Federal Government activity.

14 (e) REMEDIATION TO ADDRESS EXCESSIVE CLASSI-
15 FICATION AND INSUFFICIENT DECLASSIFICATION AC-
16 TIONS OF EMPLOYEES AND CONTRACTORS.—

17 (1) IN GENERAL.—Not later than 1 year after
18 the date of the enactment of this Act, each head of
19 an Executive agency shall develop and implement, in
20 consultation with the Director of the Office of Per-
21 sonnel Management, the Director of National Intel-
22 ligence, and the Director of the Information Security
23 Oversight Office, a system that includes the fol-
24 lowing elements:

1 (A) Periodic audits, or other evidence-
2 based approaches, to identify and correct agen-
3 cy-wide trends in employees of Executive agen-
4 cies who knowingly, willfully, negligently, or fre-
5 quently classify information—

6 (i) that does not meet the standard
7 for classification set forth in the applicable
8 Executive order or statute; or

9 (ii) at a higher level than warranted
10 under the applicable Executive order or
11 statute.

12 (B) Remedial measures or administrative
13 penalties, as may be appropriate, including rep-
14 rimand, suspension without pay, removal, ter-
15 mination of classification authority, loss or de-
16 nial of access to classified information, or other
17 sanctions in accordance with applicable law and
18 agency regulation.

19 (C) At a minimum, the prompt removal of
20 the classification authority of any individual
21 who demonstrates reckless disregard or a pat-
22 tern of error in applying the classification
23 standards of Executive Order 13526 (50 U.S.C.
24 3161 note; relating to classified national secu-
25 rity information), or successor order.

1 (D) Periodic reevaluation for employees
2 who are identified pursuant to subparagraph
3 (A).

4 (E) Development of criteria to incorporate
5 responsible use of the classification system in
6 the performance standards and reviews of em-
7 ployees whose duties significantly involve the
8 creation or handling of classified information.

9 (F) A safe harbor for employees who fail
10 to apply classification markings to, or otherwise
11 protect, classified information in cases in
12 which—

13 (i) the employee identifies significant
14 ambiguity as to the classification status of
15 the information; or

16 (ii) the failure is an isolated or rare
17 instance and is neither willful, knowing, or
18 negligent.

19 (G) Employees who meet the criteria to
20 utilize a safe harbor as specified in subpara-
21 graph (F) shall not be subject to any remedial
22 measures or administrative penalties, including
23 suspension or termination of clearance or classi-
24 fication authority, as a result of their failure to

1 apply classification markings to, or otherwise
2 protect, classified information.

3 (H) Cash awards or other incentives to
4 promote meritorious challenges to unnecessary
5 classification, pursuant to section 1.8 of Execu-
6 tive Order 13526 (50 U.S.C. 3161 note; relat-
7 ing to classified national security information),
8 or comparable provision of a successor order, or
9 significant contributions to the declassification
10 of information that is eligible for declassifica-
11 tion.

12 (I) The incorporation of the standards, re-
13 quirements, and other elements of the system
14 into existing and future contracts that involve
15 the handling of classified information.

16 (2) PRESERVATION OF EXISTING EMPLOYEE
17 PROTECTIONS.—Paragraph (1) shall not be con-
18 strued to require the elimination of any employee
19 protections in effect on the day before the date of
20 the enactment of this Act.

21 (3) REPORT.—

22 (A) IN GENERAL.—Not later than 1 year
23 after the date of the enactment of this Act, the
24 Director of the Office of Personnel Manage-
25 ment, the Director of National Intelligence, and

1 the Director of the Information Security Over-
2 sight Office shall jointly submit to Congress a
3 report on the status of Executive agency imple-
4 mentation of systems pursuant to paragraph
5 (1).

6 (B) CONTENTS.—The report required by
7 subparagraph (A) shall include the following:

8 (i) Identification of any relevant lead-
9 ing practices by Executive agencies.

10 (ii) Identification of Executive agen-
11 cies that have failed to develop a system in
12 accordance with paragraph (1).

13 (f) IDENTIFICATION OF HARM TO NATIONAL SECUR-
14 RITY.—At the time of original classification, in addition
15 to the identifications and markings required by section 1.6
16 of Executive Order 13526 (50 U.S.C. 3161 note; relating
17 to classified national security information), or successor
18 order, the original classification authority shall identify in
19 writing the specific harm to national security that could
20 reasonably be expected to result from disclosure.

21 (g) CONGRESSIONAL AUTHORITY TO RELEASE IN-
22 FORMATION.—Nothing in this Act shall be deemed in con-
23 flict with, or to otherwise impede the authority of, Con-
24 gress under clause 3 of section 5 of article I of the Con-
25 stitution of the United States to release information in

1 its possession, and such information so released shall be
2 deemed declassified or otherwise released in full.

3 **SEC. 7. FUNDING FOR CLASSIFICATION AND DECLASSIFICATION.**
4

5 (a) IN GENERAL.—The President shall ensure that
6 for each fiscal year, the budget of the President submitted
7 pursuant to section 1105(a) of title 31, United States
8 Code, includes estimated expenditures and proposed ap-
9 propriations that the President decides are necessary to
10 support the classification, declassification, and safe-
11 guarding activities of the Federal Government in the fiscal
12 year for which the budget is submitted and the 4 fiscal
13 years after that year.

14 (b) DETAILED ANALYSIS.—Estimates included pur-
15 suant to subsection (a) shall be accompanied by a detailed
16 analysis, disaggregated by budget function, Executive
17 agency, program, project, activity, and fiscal year, of the
18 estimated amounts that will be expended on classification,
19 declassification, and safeguarding activities by the Federal
20 Government over the same period.

21 (c) MINIMUM AMOUNT.—Estimates and proposed ap-
22 propriations included pursuant to subsection (a) for a fis-
23 cal year shall estimate and propose an amount of funding
24 available for declassification activities that is equal to or
25 greater than 10 percent of the amount estimated and pro-

- 1 posed for classification and safeguarding activities for the
- 2 same fiscal year.

