

Calendar No. 264

115TH CONGRESS
1ST SESSION**H. R. 3210****[Report No. 115–185]**

IN THE SENATE OF THE UNITED STATES

JULY 27, 2017

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

NOVEMBER 27, 2017

Reported by Mr. JOHNSON, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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.

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 “Securely Expediting
5 Clearances Through Reporting Transparency Act of
6 2017” or the “SECRET Act of 2017”.

1 **SEC. 2. REPORT ON BACKLOG OF PERSONNEL SECURITY**
2 **CLEARANCE INVESTIGATIONS.**

3 Not later than 90 days after the date of enactment
4 of this Act, and quarterly thereafter for 5 years, the Direc-
5 tor of the National Background Investigations Bureau of
6 the Office of Personnel Management shall submit to Con-
7 gress a report on the backlog of security clearance inves-
8 tigations that includes—

9 (1) the size of the personnel security clearance
10 investigation process backlog; and

11 (2) the average length of time, for each sensi-
12 tivity level, to carry out an initial investigation and
13 a periodic investigation.

14 **SEC. 3. REPORT ON SECURITY CLEARANCE INVESTIGA-**
15 **TIONS OF PERSONNEL OF THE EXECUTIVE**
16 **OFFICE OF THE PRESIDENT.**

17 Not later than 90 days after the date of enactment
18 of this Act, the Director of the National Background In-
19 vestigations Bureau of the Office of Personnel Manage-
20 ment shall submit to Congress a report that explains the
21 process for conducting and adjudicating security clearance
22 investigations for personnel of the Executive Office of the
23 President, including White House personnel.

24 **SEC. 4. REPORT ON DUPLICATIVE COSTS.**

25 Not later than 120 days after the date of enactment
26 of this Act, the Director of the National Background In-

1 vestigations Bureau of the Office of Personnel Manage-
2 ment shall submit to Congress a report on the cost of du-
3 plicating resources under the control or direction of the
4 National Background Investigations Bureau for imple-
5 mentation of the plan referenced in section 951(a)(1) of
6 the National Defense Authorization Act for Fiscal Year
7 2017 (10 U.S.C. 1564 note).

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Securely Expediting*
10 *Clearances Through Reporting Transparency Act of 2017”*
11 *or the “SECRET Act of 2017”.*

12 **SEC. 2. REPORT ON BACKLOG OF PERSONNEL SECURITY**

13 **CLEARANCE INVESTIGATIONS.**

14 *Not later than 90 days after the date of enactment of*
15 *this Act, and quarterly thereafter for 5 years, the Director*
16 *of the National Background Investigations Bureau of the*
17 *Office of Personnel Management shall submit to Congress*
18 *a report on the backlog of security clearance investigations*
19 *that includes, for the most recent full calendar quarter—*

20 *(1) the size of the personnel security clearance*
21 *investigation process backlog, including, for each sen-*
22 *sitivity level—*

23 *(A) the number of interim clearances grant-*
24 *ed;*

1 (B) the number of initial investigations for
2 Federal employees;

3 (C) the number of periodic reinvestigations
4 for Federal employees;

5 (D) the number of initial investigations for
6 employees of Federal contractors;

7 (E) the number of periodic reinvestigations
8 for employees of Federal contractors;

9 (F) the number of initial investigations for
10 employees of, and employees of contractors of, the
11 Department of Defense;

12 (G) the number of periodic reinvestigations
13 for employees of and employees of contractors of
14 the Department of Defense;

15 (H) the number of Federal employees con-
16 ducting background investigations; and

17 (I) the number of employees of Federal con-
18 tractors conducting background investigations;

19 (2) the average length of time, for each sensi-
20 tivity level, to carry out an initial investigation and
21 a periodic reinvestigation;

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

1 (4) a backlog mitigation plan, which shall in-
2 clude—

3 (A) the identification of the cause of, and
4 recommendations to remedy, the backlog;

5 (B) the steps the Director shall take to re-
6 duce the backlog;

7 (C) process reforms to improve efficiencies
8 in, and the quality of, background investigations;
9 and

10 (D) a projection of when the backlog will be
11 sufficiently reduced to meet required timeliness
12 standards; and

13 (5) a description of improvements in informa-
14 tion and data security.

15 **SEC. 3. REPORT ON SECURITY CLEARANCE INVESTIGA-**
16 **TIONS OF PERSONNEL OF THE EXECUTIVE**
17 **OFFICE OF THE PRESIDENT.**

18 Not later than 90 days after the date of enactment of
19 this Act, the Director of the Office of Administration of the
20 Executive Office of the President shall submit to Congress
21 a report that explains the process for conducting and adju-
22 dicating security clearance investigations for personnel of
23 the Executive Office of the President, including White
24 House personnel.

1 **SEC. 4. REPORT ON DUPLICATIVE COSTS.**

2 *Not later than 120 days after the date of enactment*
3 *of this Act, the Director of the Office of Management and*
4 *Budget, in consultation with the other members of the Suit-*
5 *ability and Security Clearance Performance Accountability*
6 *Council established under Executive Order 13467 (73 Fed.*
7 *Reg. 38103), shall submit to Congress a report on the cost*
8 *of duplicating resources under the control or direction of*
9 *the National Background Investigations Bureau for imple-*
10 *mentation of the plan referenced in section 951(a)(1) of the*
11 *National Defense Authorization Act for Fiscal Year 2017*
12 *(10 U.S.C. 1564 note).*

13 **SEC. 5. REPORT ON CONTINUOUS EVALUATION AND RECI-**
14 **PROCITY.**

15 *Not later than 120 days after the date of enactment*
16 *of this Act, the Director of National Intelligence and the*
17 *Director of the Office of Personnel Management shall submit*
18 *to Congress a report that provides—*

19 *(1) the status of implementing continuous eval-*
20 *uation Governmentwide, including—*

21 *(A) the number of agencies with continuous*
22 *evaluation programs and how many of those*
23 *programs are currently meeting the investigative*
24 *standards;*

1 (B) a risk assessment of replacing current
2 reinvestigation requirements with continuous
3 evaluation programs by 2020;

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

9 (D) plans, including timelines, for imple-
10 menting continuous evaluation Governmentwide
11 and phasing out periodic reinvestigations;

12 (2) a detailed explanation of efforts by agencies
13 to meet requirements for reciprocal recognition to ac-
14 cess classified information, including—

15 (A) the range of the length of time for agen-
16 cies to grant reciprocal recognition to access clas-
17 sified information;

18 (B) additional requirements for reinvestiga-
19 tions or readjudications, by agency; and

20 (C) any other barriers to the timely grant-
21 ing of reciprocity, by agency, including any re-
22 quirement under a statute, regulation, Executive
23 Order, or other administrative requirement;

24 (3) recommendations, including timelines, to im-
25 prove the background investigation process to—

1 (A) *simplify the Questionnaire for National*
2 *Security Positions (Standard Form 86) and in-*
3 *crease customer support for applicants com-*
4 *pleting such questionnaire;*

5 (B) *use remote and virtual techniques and*
6 *centralized locations during field investigation*
7 *work;*

8 (C) *use secure and reliable digitization of*
9 *information obtained during the clearance proc-*
10 *ess; and*

11 (D) *build the capacity of the background in-*
12 *vestigation labor sector; and*

13 (4) *a review of whether the schedule for proc-*
14 *essing security clearances under section 3001 of the*
15 *Intelligence Reform and Terrorism Prevention Act of*
16 *2004 (50 U.S.C. 3341) should be modified.*

17 **SEC. 6. REVIEW AND UPDATE OF POSITION DESIGNATION**

18 **GUIDANCE.**

19 (a) *DEFINITIONS.—In this section—*

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

23 (2) *the term “appropriate congressional commit-*
24 *tees” means—*

1 (A) *the Committee on Homeland Security*
2 *and Governmental Affairs and the Select Com-*
3 *mittee on Intelligence of the Senate; and*

4 (B) *the Committee on Oversight and Gov-*
5 *ernment Reform and the Permanent Select Com-*
6 *mittee on Intelligence of the House of Represent-*
7 *atives;*

8 (3) *the term “background investigation” means*
9 *any investigation required for the purpose of deter-*
10 *mining the—*

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

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

16 (C) *eligibility of a covered individual for*
17 *access to classified information or to hold a na-*
18 *tional security sensitive position; or*

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

22 (4) *the term “covered individual” means an in-*
23 *dividual who—*

24 (A) *performs work for or on behalf of an*
25 *agency; or*

1 (B) seeks to perform work for or on behalf
2 of an agency.

3 (b) *REVIEW AND UPDATING.*—

4 (1) *INITIAL REVIEW AND UPDATE OF GUID-*
5 *ANCE.*—Not later than 180 days after the date of en-
6 actment of this Act, the President shall review and,
7 if appropriate, update the guidance the President
8 issues to assist agencies in determining—

9 (A) position sensitivity designation; and

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

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

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

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

24 (2) the number of position designations revised
25 as a result of the review.

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

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