

113TH CONGRESS
1ST SESSION

S. 1377

To amend title 5, United States Code, to establish certain procedures for conducting in-person or telephonic interactions by executive branch employees with individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2013

Mr. BLUNT (for himself, Mr. RISCH, Mr. ROBERTS, Mr. CORNYN, and Mrs. FISCHER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 5, United States Code, to establish certain procedures for conducting in-person or telephonic interactions by executive branch employees with individuals, 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 “Citizen Empowerment
5 Act”.

1 **SEC. 2. AMENDMENTS.**

2 (a) IN GENERAL.—Part III of title 5, United States
 3 Code, is amended by inserting after chapter 79 the fol-
 4 lowing:

5 **“CHAPTER 79A—SERVICES TO MEMBERS**
 6 **OF THE PUBLIC**

“Sec.

“7921. Procedures for in-person and telephonic interactions conducted by execu-
 tive branch employees.

7 **“§ 7921. Procedures for in-person and telephonic**
 8 **interactions conducted by executive**
 9 **branch employees**

10 “(a) DEFINITIONS.—For purposes of this section—

11 “(1) the term ‘telephonic’ means by telephone
 12 or other similar electronic device; and

13 “(2) the term ‘State’ means each of the several
 14 States, the District of Columbia, and any common-
 15 wealth, territory, or possession of the United States.

16 “(b) RECORDING OF ENFORCEMENT ACTIONS.—

17 “(1) RECORDING BY INDIVIDUALS.—Any em-
 18 ployee of an executive agency who is conducting an
 19 in-person or a telephonic interview, audit, investiga-
 20 tion, inspection, or other official in-person or tele-
 21 phonic interaction with an individual, relating to a
 22 possible or alleged violation of any Federal statute
 23 or regulation that could result in the imposition of
 24 a fine, forfeiture of property, civil monetary penalty,

1 or criminal penalty against, or the collection of an
2 unpaid tax, fine, or penalty from, such individual or
3 a business owned or operated by such individual,
4 shall allow such individual to make an audio record-
5 ing of such in-person or telephonic interaction at the
6 individual's own expense and with the individual's
7 own equipment.

8 “(2) RECORDING BY FEDERAL EMPLOYEES.—
9 Any employee of an executive agency that is con-
10 ducting an in-person or a telephonic interaction de-
11 scribed in paragraph (1) may record that interaction
12 if such employee—

13 “(A) informs the individual of such record-
14 ing prior to or at the initiation of the in-person
15 or telephonic interaction; and

16 “(B) upon request of the individual, pro-
17 vides the individual with a transcript or copy of
18 such recording, but only if the individual pro-
19 vides reimbursement for the cost of the tran-
20 scription and reproduction of such transcript or
21 copy.

22 “(c) EXPLANATIONS OF RIGHTS.—

23 “(1) IN GENERAL.—Any employee of an execu-
24 tive agency shall, before or at an initial in-person or
25 telephonic interview, audit, investigation, inspection,

1 or other official in-person or telephonic interaction,
 2 described in subsection (b)(1), provide to the indi-
 3 vidual a verbal or written notice of the individual's
 4 rights under this section.

5 “(2) SEPARATE NOTIFICATIONS FOR SEPARATE
 6 VIOLATIONS.—Paragraph (1) shall not, for purposes
 7 of any interaction described in subsection (b)(1), be
 8 considered satisfied based on a notification pre-
 9 viously given if that previous notification was given
 10 in the case of a possible or alleged violation separate
 11 from the possible or alleged violation at hand.

12 “(d) APPLICATION TO OFFICIAL REPRESENTATIVE
 13 OR THOSE HOLDING POWER OF ATTORNEY.—Any person
 14 who is permitted to represent, before an executive agency
 15 described in subsection (b)(1), an individual permitted to
 16 make an audio recording under such subsection of an in-
 17 person or a telephonic interaction conducted by an em-
 18 ployee of that executive agency—

19 “(1) shall be permitted—

20 “(A) to make an audio recording under
 21 subsection (b)(1) as if the person were such in-
 22 dividual; and

23 “(B) to receive a transcript or copy of an
 24 audio recording under subsection (b)(2) as if
 25 the person were such individual;

1 “(2) shall receive the same notice as that which
2 is required to be provided to the individual under
3 subsection (c); and

4 “(3) with respect to an audio recording (as re-
5 ferred to in paragraph (1)(A)) and a transcript or
6 copy of a recording (as referred to in paragraph
7 (1)(B)), shall have the same rights as described in
8 subsection (e).

9 “(e) PROPERTY OF AUDIO RECORDING.—Any audio
10 recording or transcript of an audio recording made pursu-
11 ant to subsection (b)(1) or provided to an individual pur-
12 suant to subsection (b)(2)(B) shall be the property of such
13 individual.

14 “(f) NO CAUSE OF ACTION.—This section does not
15 create any express or implied private right of action.

16 “(g) EXCEPTIONS.—

17 “(1) CLASSIFIED INFORMATION, PUBLIC SAFE-
18 TY, CRIMINAL INVESTIGATION.—This section shall
19 not apply to any in-person or telephonic inter-
20 action—

21 “(A) that is likely to include the discussion
22 of classified material;

23 “(B) that is likely to include the discussion
24 of information that, if released publicly, would
25 endanger public safety; or

1 “(C) that, if released, would endanger an
2 ongoing criminal investigation if such investiga-
3 tion is being conducted by a Federal law en-
4 forcement officer (as defined by section 2 of the
5 Law Enforcement Congressional Badge of
6 Bravery Act of 2008 (42 U.S.C. 15231 note))
7 who is employed by a Federal law enforcement
8 agency.

9 “(2) DETERMINATION BY EMPLOYEES.—An
10 employee of an executive agency who makes a deter-
11 mination that an exception created by paragraph (1)
12 applies to an in-person or a telephonic interaction or
13 to a series of such interactions shall provide written
14 notification of such determination to any person who
15 would otherwise be permitted to make an audio re-
16 cording of the interaction under subsection (b)(1) or
17 (d).

18 “(h) PRIOR LAW.—For the purposes set forth in
19 paragraphs (1) and (2) of subsection (b), this section su-
20 persedes section 2511(2)(d) of title 18 and any provision
21 of Federal or State law insofar as such section or provision
22 relates to the recording of an in-person or a telephonic
23 interaction described in subsection (b)(1).

24 “(i) DISCIPLINARY ACTION.—An employee who vio-
25 lates this section shall be subject to appropriate discipli-

1 nary action in accordance with otherwise applicable provi-
2 sions of law.”.

3 (b) CLERICAL AMENDMENT.—The analysis for part
4 III of title 5, United States Code, is amended by inserting
5 after the item relating to chapter 79 the following:

“79A. Services to Members of the Public 7921”.

