

115TH CONGRESS
2D SESSION

H. R. 7032

To amend the Intelligence Reform and Terrorism Prevention Act of 2004 to enhance protections for individuals who hold a security clearance and who are subject to whistleblower retaliation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 5, 2018

Mr. GOHMERT introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To amend the Intelligence Reform and Terrorism Prevention Act of 2004 to enhance protections for individuals who hold a security clearance and who are subject to whistleblower retaliation, 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 “Adam S. Lovinger
5 Whistleblower Reprisal Act of 2018”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) United States Government employees and
2 contractors who properly and lawfully report gross
3 mismanagement; gross waste of public funds; viola-
4 tion of law, rule, or regulation; abuses of authority;
5 or substantial and specific dangers to public health
6 or safety further the interests of good governance
7 and provide a valuable service to the American pub-
8 lic.

9 (2) Despite efforts in recent years to protect
10 whistleblowers—specifically, Presidential Policy Di-
11 rective 19 and the codification of certain provisions
12 of the Directive at section 3001(j) of the Intelligence
13 Reform and Terrorism Prevention Act of 2004—re-
14 taliatory denial, suspension, or revocation of security
15 clearance remains a very real threat for whistle-
16 blowers. Government officials can wield this threat
17 with impunity due to the lack of defined penalties
18 for misusing the security clearance system.

19 (3) Because those found to have engaged in un-
20 lawful whistleblower reprisal are often senior agency
21 officials, and because punishment for such mis-
22 conduct is, under current law, both undefined and
23 exclusively within the discretion of agency manage-
24 ment officials, the retaliator often goes unpunished
25 while the whistleblower is left to pick up the pieces

1 of his or her career, livelihood, and reputation, often
2 after months or years without a paycheck.

3 (4) Defining penalties for unlawful whistle-
4 blower reprisal in the form of suspension, denial, or
5 revocation of a security clearance, or the rec-
6 ommendation, threat, or furtherance of the same,
7 places those contemplating misusing the security
8 clearance system on notice that such behavior will
9 not be tolerated, serves as a strong deterrent to un-
10 lawful retaliation, and ensures appropriate con-
11 sequences are implemented when necessary. The
12 Whistleblower Protection Act of 1989, which covers
13 all reprisal except that pertaining to security clear-
14 ances, has for many years done precisely that. The
15 lack of penalty congruence between the Whistle-
16 blower Protection Act and section 3001(j) of the In-
17 telligence Reform and Terrorism Prevention Act of
18 2004, is inexplicable, unwarranted, and remedied by
19 this Act.

20 (5) This Act recognizes that the suspension, de-
21 nial, or revocation of security clearance often has an
22 even more insidious impact on a whistleblower than
23 other forms of retaliation due to the inherent stigma
24 of national security risk it carries.

1 **SEC. 3. PENALTIES FOR RETALIATORY ACTION AGAINST**
2 **WHISTLEBLOWER WHO HOLD A SECURITY**
3 **CLEARANCE.**

4 (a) IN GENERAL.—Section 3001(j)(4) of the Intel-
5 ligence Reform and Terrorism Prevention Act of 2004 (50
6 U.S.C. 3341(j)(4)) is amended by adding at the end the
7 following:

8 “(D) PENALTIES FOR REPRISALS.—(i)
9 Upon a finding by an inspector general of an
10 agency or the Inspector General of the Intel-
11 ligence Community that an officer or employee
12 of an agency directed, recommended, or materi-
13 ally furthered a reprisal prohibited by para-
14 graph (1), the officer or employee shall be sub-
15 ject to one or more of the following adverse ac-
16 tions, as determined by the head of the employ-
17 ing agency:

18 “(I) A suspension from duty
19 without pay for a period of at least 14
20 days.

21 “(II) A reduction in grade.

22 “(III) Revocation of security
23 clearance.

24 “(IV) Removal from the Federal
25 service.

1 “(V) Referral to the Office of
2 Personnel Management for debarment
3 from the Federal service for a period
4 not to exceed 10 years.

5 “(ii) For purposes of carrying out clause
6 (i), an officer or employee materially furthered
7 a reprisal if the officer or employee knew, or
8 reasonably should have known, that the action
9 was a reprisal prohibited by paragraph (1).”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall take effect on the date that is 30 days
12 after the date of the enactment of this Act.

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