

116TH CONGRESS
1ST SESSION

S. 314

To improve the processing and oversight by the Federal Government of security clearances and background investigations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2019

Mr. WARNER introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To improve the processing and oversight by the Federal Government of security clearances and background 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Modernizing the Trusted Workforce for the 21st Century
6 Act of 2019”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

- Sec. 3. Reports and plans relating to security clearances and background investigations.
- Sec. 4. Improving the process for security clearances.
- Sec. 5. Goals for promptness of determinations regarding security clearances.
- Sec. 6. Security Executive Agent.
- Sec. 7. Report on unified, simplified, Governmentwide standards for positions of trust and security clearances.
- Sec. 8. Report on clearance in person concept.
- Sec. 9. Budget request documentation on funding for background investigations.
- Sec. 10. Reports on reciprocity for security clearances inside of departments and agencies.
- Sec. 11. Intelligence community reports on security clearances.
- Sec. 12. Periodic report on positions in the intelligence community that can be conducted without access to classified information, networks, or facilities.
- Sec. 13. Information sharing program for positions of trust and security clearances.
- Sec. 14. Report on protections for confidentiality of whistleblower-related communications.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE CONGRESSIONAL COMMIT-
 4 TEES.—The term “appropriate congressional com-
 5 mittees” means—

6 (A) the congressional intelligence commit-
 7 tees;

8 (B) the Committee on Armed Services of
 9 the Senate;

10 (C) the Committee on Appropriations of
 11 the Senate;

12 (D) the Committee on Homeland Security
 13 and Governmental Affairs of the Senate;

14 (E) the Committee on Armed Services of
 15 the House of Representatives;

1 (F) the Committee on Appropriations of
2 the House of Representatives;

3 (G) the Committee on Homeland Security
4 of the House of Representatives; and

5 (H) the Committee on Oversight and Re-
6 form of the House of Representatives.

7 (2) APPROPRIATE INDUSTRY PARTNERS.—The
8 term “appropriate industry partner” means a con-
9 tractor, licensee, or grantee (as defined in section
10 101(a) of Executive Order 12829 (50 U.S.C. 3161
11 note; relating to National Industrial Security Pro-
12 gram)) that is participating in the National Indus-
13 trial Security Program established by such Executive
14 Order.

15 (3) CONGRESSIONAL INTELLIGENCE COMMIT-
16 TEES.—The term “congressional intelligence com-
17 mittees” has the meaning given such term in section
18 3 of the National Security Act of 1947 (50 U.S.C.
19 3003).

20 (4) CONTINUOUS VETTING.—The term “contin-
21 uous vetting” has the meaning given such term in
22 Executive Order 13467 (50 U.S.C. 3161 note; relat-
23 ing to reforming processes related to suitability for
24 Government employment, fitness for contractor em-

1 employees, and eligibility for access to classified na-
2 tional security information).

3 (5) COUNCIL.—The term “Council” means the
4 Security, Suitability, and Credentialing Performance
5 Accountability Council established pursuant to such
6 Executive Order, or any successor entity.

7 (6) INTELLIGENCE COMMUNITY.—The term
8 “intelligence community” has the meaning given
9 such term in section 3 of the National Security Act
10 of 1947 (50 U.S.C. 3003).

11 (7) SUITABILITY AND CREDENTIALING EXECU-
12 TIVE AGENT.—The term “Suitability and Credential-
13 ing Executive Agent” means the Director of the Of-
14 fice of Personnel Management acting as the Suit-
15 ability and Credentialing Executive Agent in accord-
16 ance with Executive Order 13467 (50 U.S.C. 3161
17 note; relating to reforming processes related to suit-
18 ability for Government employment, fitness for con-
19 tractor employees, and eligibility for access to classi-
20 fied national security information), or any successor
21 entity.

1 **SEC. 3. REPORTS AND PLANS RELATING TO SECURITY**
2 **CLEARANCES AND BACKGROUND INVESTIGA-**
3 **TIONS.**

4 (a) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that—

6 (1) ensuring the trustworthiness and security of
7 the workforce, facilities, and information of the Fed-
8 eral Government is of the highest priority to na-
9 tional security and public safety;

10 (2) the President and Congress should priori-
11 tize the modernization of the personnel security
12 framework to improve its efficiency, effectiveness,
13 and accountability;

14 (3) the current system for security clearance,
15 suitability and fitness for employment, and creden-
16 tialing lacks efficiencies and capabilities to meet the
17 current threat environment, recruit and retain a
18 trusted workforce, and capitalize on modern tech-
19 nologies; and

20 (4) changes to policies or processes to improve
21 this system should be vetted through the Council to
22 ensure standardization, portability, and reciprocity
23 in security clearances across the Federal Govern-
24 ment.

25 (b) ACCOUNTABILITY PLANS AND REPORTS.—

1 (1) PLANS.—Not later than 90 days after the
2 date of the enactment of this Act, the Council shall
3 submit to the appropriate congressional committees
4 and make available to appropriate industry partners
5 the following:

6 (A) A plan, with milestones, to reduce the
7 background investigation inventory to 200,000,
8 or an otherwise sustainable steady-level, by the
9 end of year 2020. Such plan shall include notes
10 of any required changes in investigative and ad-
11 judicative standards or resources.

12 (B) A plan to consolidate the conduct of
13 background investigations associated with the
14 processing for security clearances in the most
15 effective and efficient manner between the Na-
16 tional Background Investigation Bureau and
17 the Defense Security Service, or a successor or-
18 ganization. Such plan shall address required
19 funding, personnel, contracts, information tech-
20 nology, field office structure, policy, governance,
21 schedule, transition costs, and effects on stake-
22 holders.

23 (2) REPORT ON THE FUTURE OF PERSONNEL
24 SECURITY.—

1 (A) IN GENERAL.—Not later than 180
2 days after the date of the enactment of this
3 Act, the Chairman of the Council, in coordina-
4 tion with the members of the Council, shall sub-
5 mit to the appropriate congressional committees
6 and make available to appropriate industry
7 partners a report on the future of personnel se-
8 curity to reflect changes in threats, the work-
9 force, and technology.

10 (B) CONTENTS.—The report submitted
11 under subparagraph (A) shall include the fol-
12 lowing:

13 (i) A risk framework for granting and
14 renewing access to classified information.

15 (ii) A discussion of the use of tech-
16 nologies to prevent, detect, and monitor
17 threats.

18 (iii) A discussion of efforts to address
19 reciprocity and portability.

20 (iv) A discussion of the characteristics
21 of effective insider threat programs.

22 (v) An analysis of how to integrate
23 data from continuous evaluation, insider
24 threat programs, and human resources
25 data.

1 (vi) Recommendations on interagency
2 governance.

3 (3) PLAN FOR IMPLEMENTATION.—Not later
4 than 180 days after the date of the enactment of
5 this Act, the Chairman of the Council, in coordina-
6 tion with the members of the Council, shall submit
7 to the appropriate congressional committees and
8 make available to appropriate industry partners a
9 plan to implement the report’s framework and rec-
10 ommendations submitted under paragraph (2)(A).

11 (4) CONGRESSIONAL NOTIFICATIONS.—Not less
12 frequently than quarterly, the Security Executive
13 Agent shall make available to the public a report re-
14 garding the status of the disposition of requests re-
15 ceived from departments and agencies of the Federal
16 Government for a change to, or approval under, the
17 Federal investigative standards, the national adju-
18 dicative guidelines, continuous evaluation, or other
19 national policy regarding personnel security.

20 **SEC. 4. IMPROVING THE PROCESS FOR SECURITY CLEAR-**
21 **ANCES.**

22 (a) REVIEWS.—Not later than 180 days after the
23 date of the enactment of this Act, the Security Executive
24 Agent, in coordination with the members of the Council,
25 shall submit to the appropriate congressional committees

1 and make available to appropriate industry partners a re-
2 port that includes the following:

3 (1) A review of whether the information re-
4 quested on the Questionnaire for National Security
5 Positions (Standard Form 86) and by the Federal
6 Investigative Standards prescribed by the Office of
7 Personnel Management and the Office of the Direc-
8 tor of National Intelligence appropriately supports
9 the adjudicative guidelines under Security Executive
10 Agent Directive 4 (known as the “National Security
11 Adjudicative Guidelines”). Such review shall include
12 identification of whether any such information cur-
13 rently collected is unnecessary to support the adju-
14 dicative guidelines.

15 (2) An assessment of whether such Question-
16 naire, Standards, and guidelines should be revised to
17 account for the prospect of a holder of a security
18 clearance becoming an insider threat.

19 (3) Recommendations to improve the back-
20 ground investigation process by—

21 (A) simplifying the Questionnaire for Na-
22 tional Security Positions (Standard Form 86)
23 and increasing customer support to applicants
24 completing such Questionnaire;

1 (B) using remote techniques and central-
2 ized locations to support or replace field inves-
3 tigation work;

4 (C) using secure and reliable digitization of
5 information obtained during the clearance proc-
6 ess;

7 (D) building the capacity of the back-
8 ground investigation labor sector; and

9 (E) replacing periodic reinvestigations with
10 continuous evaluation techniques in all appro-
11 priate circumstances.

12 (b) POLICY, STRATEGY, AND IMPLEMENTATION.—

13 Not later than 180 days after the date of the enactment
14 of this Act, the Security Executive Agent shall, in coordi-
15 nation with the members of the Council, establish the fol-
16 lowing:

17 (1) A policy and implementation plan for the
18 issuance of interim security clearances.

19 (2) A policy and implementation plan to ensure
20 contractors are treated consistently in the security
21 clearance process across agencies and departments
22 of the United States as compared to employees of
23 such agencies and departments. Such policy shall
24 address—

1 (A) prioritization of processing security
2 clearances based on the mission the contractors
3 will be performing;

4 (B) standardization in the forms that
5 agencies issue to initiate the process for a secu-
6 rity clearance;

7 (C) digitization of background investiga-
8 tion-related forms;

9 (D) use of the polygraph;

10 (E) the application of the adjudicative
11 guidelines under Security Executive Agent Di-
12 rective 4 (known as the “National Security Ad-
13 judicative Guidelines”);

14 (F) reciprocal recognition of clearances
15 across agencies and departments of the United
16 States, regardless of status of periodic reinves-
17 tigation;

18 (G) tracking of clearance files as individ-
19 uals move from employment with an agency or
20 department of the United States to employment
21 in the private sector;

22 (H) collection of timelines for movement of
23 contractors across agencies and departments;

24 (I) reporting on security incidents and job
25 performance, consistent with section 552a of

1 title 5, United States Code (commonly known
2 as the “Privacy Act of 1974”), that may affect
3 the ability to hold a security clearance;

4 (J) any recommended changes to the Fed-
5 eral Acquisition Regulations (FAR) necessary
6 to ensure that information affecting contractor
7 clearances or suitability is appropriately and ex-
8 peditiously shared between and among agencies
9 and contractors; and

10 (K) portability of contractor security clear-
11 ances between or among contracts at the same
12 agency and between or among contracts at dif-
13 ferent agencies that require the same level of
14 clearance.

15 (3) A strategy and implementation plan that—

16 (A) provides for periodic reinvestigations
17 as part of a security clearance determination
18 only on an as-needed, risk-based basis;

19 (B) includes actions to assess the extent to
20 which automated records checks and other con-
21 tinuous evaluation methods may be used to ex-
22 pedite or focus reinvestigations; and

23 (C) provides an exception for certain popu-
24 lations if the Security Executive Agent—

1 (i) determines such populations re-
2 quire reinvestigations at regular intervals;
3 and

4 (ii) provides written justification to
5 the appropriate congressional committees
6 for any such determination.

7 (4) A policy and implementation plan for agen-
8 cies and departments of the United States, as a part
9 of the security clearance process, to accept auto-
10 mated records checks generated pursuant to a secu-
11 rity clearance applicant's employment with a prior
12 employer.

13 (5) A policy for the use of certain background
14 materials on individuals collected by the private sec-
15 tor for background investigation purposes.

16 (6) Uniform standards for agency continuous
17 evaluation programs to ensure quality and reci-
18 procity in accepting enrollment in a continuous vet-
19 ting program as a substitute for a periodic investiga-
20 tion for continued access to classified information.

21 **SEC. 5. GOALS FOR PROMPTNESS OF DETERMINATIONS RE-**
22 **GARDING SECURITY CLEARANCES.**

23 (a) RECIPROCITY DEFINED.—In this section, the
24 term “reciprocity” means reciprocal recognition by Fed-

1 eral departments and agencies of eligibility for access to
2 classified information.

3 (b) IN GENERAL.—The Council shall reform the se-
4 curity clearance process with the objective that, by Decem-
5 ber 31, 2021, 90 percent of all determinations, other than
6 determinations regarding populations identified under sec-
7 tion 4(b)(3)(C), regarding—

8 (1) security clearances—

9 (A) at the secret level are issued in 30
10 days or fewer; and

11 (B) at the top secret level are issued in 90
12 days or fewer; and

13 (2) reciprocity of security clearances at the
14 same level are recognized in 2 weeks or fewer.

15 (c) CERTAIN REINVESTIGATIONS.—The Council shall
16 reform the security clearance process with the goal that
17 by December 31, 2021, reinvestigation on a set periodicity
18 is not required for more than 10 percent of the population
19 that holds a security clearance.

20 (d) EQUIVALENT METRICS.—

21 (1) IN GENERAL.—If the Council develops a set
22 of performance metrics that it certifies to the appro-
23 priate congressional committees should achieve sub-
24 stantially equivalent outcomes as those outlined in
25 subsections (b) and (c), the Council may use those

1 metrics for purposes of compliance within this provi-
2 sion.

3 (2) NOTICE.—If the Council uses the authority
4 provided by paragraph (1) to use metrics as de-
5 scribed in such paragraph, the Council shall, not
6 later than 30 days after communicating such metrics
7 to departments and agencies, notify the appropriate
8 congressional committees that it is using such au-
9 thority.

10 (e) PLAN.—Not later than 180 days after the date
11 of the enactment of this Act, the Council shall submit to
12 the appropriate congressional committees and make avail-
13 able to appropriate industry partners a plan to carry out
14 this section. Such plan shall include recommended interim
15 milestones for the goals set forth in subsections (b) and
16 (c) for 2019, 2020, and 2021.

17 **SEC. 6. SECURITY EXECUTIVE AGENT.**

18 (a) IN GENERAL.—Title VIII of the National Secu-
19 rity Act of 1947 (50 U.S.C. 3161 et seq.) is amended—

20 (1) by redesignating sections 803 and 804 as
21 sections 804 and 805, respectively; and

22 (2) by inserting after section 802 the following:

23 **“SEC. 803. SECURITY EXECUTIVE AGENT.**

24 “(a) IN GENERAL.—The Director of National Intel-
25 ligence, or such other officer of the United States as the

1 President may designate, shall serve as the Security Exec-
2 utive Agent for all departments and agencies of the United
3 States.

4 “(b) DUTIES.—The duties of the Security Executive
5 Agent are as follows:

6 “(1) To direct the oversight of investigations,
7 reinvestigations, adjudications, and, as applicable,
8 polygraphs for eligibility for access to classified in-
9 formation or eligibility to hold a sensitive position
10 made by any Federal agency.

11 “(2) To review the national security back-
12 ground investigation and adjudication programs of
13 Federal agencies to determine whether such pro-
14 grams are being implemented in accordance with
15 this section.

16 “(3) To develop and issue uniform and con-
17 sistent policies and procedures to ensure the effec-
18 tive, efficient, timely, and secure completion of inves-
19 tigation, polygraphs, and adjudications relating to
20 determinations of eligibility for access to classified
21 information or eligibility to hold a sensitive position.

22 “(4) Unless otherwise designated by law, to
23 serve as the final authority to designate a Federal
24 agency or agencies to conduct investigations of per-
25 sons who are proposed for access to classified infor-

1 mation or for eligibility to hold a sensitive position
2 to ascertain whether such persons satisfy the criteria
3 for obtaining and retaining access to classified infor-
4 mation or eligibility to hold a sensitive position, as
5 applicable.

6 “(5) Unless otherwise designated by law, to
7 serve as the final authority to designate a Federal
8 agency or agencies to determine eligibility for access
9 to classified information or eligibility to hold a sen-
10 sitive position in accordance with Executive Order
11 12968 (50 U.S.C. 3161 note; relating to access to
12 classified information).

13 “(6) To ensure reciprocal recognition of eligi-
14 bility for access to classified information or eligibility
15 to hold a sensitive position among Federal agencies,
16 including acting as the final authority to arbitrate
17 and resolve disputes among such agencies involving
18 the reciprocity of investigations and adjudications of
19 eligibility.

20 “(7) To execute all other duties assigned to the
21 Security Executive Agent by law.

22 “(c) AUTHORITIES.—The Security Executive Agent
23 shall—

24 “(1) issue guidelines and instructions to the
25 heads of Federal agencies to ensure appropriate uni-

1 formity, centralization, efficiency, effectiveness, time-
2 liness, and security in processes relating to deter-
3 minations by such agencies of eligibility for access to
4 classified information or eligibility to hold a sensitive
5 position, including such matters as investigations,
6 polygraphs, adjudications, and reciprocity;

7 “(2) have the authority to grant exceptions to,
8 or waivers of, national security investigative require-
9 ments, including issuing implementing or clarifying
10 guidance, as necessary;

11 “(3) have the authority to assign, in whole or
12 in part, to the head of any Federal agency (solely or
13 jointly) any of the duties of the Security Executive
14 Agent described in subsection (b) or the authorities
15 described in paragraphs (1) and (2), provided that
16 the exercise of such assigned duties or authorities is
17 subject to the oversight of the Security Executive
18 Agent, including such terms and conditions (includ-
19 ing approval by the Security Executive Agent) as the
20 Security Executive Agent determines appropriate;
21 and

22 “(4) define and set standards for continuous
23 evaluation for continued access to classified informa-
24 tion and for eligibility to hold a sensitive position.”.

1 (b) REPORT ON RECOMMENDATIONS FOR REVISING
 2 AUTHORITIES.—Not later than 30 days after the date on
 3 which the Chairman of the Council submits to the appro-
 4 priate congressional committees the report required by
 5 section 3(b)(2)(A), the Chairman shall submit to the ap-
 6 propriate congressional committees such recommendations
 7 as the Chairman may have for revising the authorities of
 8 the Security Executive Agent.

9 (c) CONFORMING AMENDMENT.—Section
 10 103H(j)(4)(A) of such Act (50 U.S.C. 3033(j)(4)(A)) is
 11 amended by striking “in section 804” and inserting “in
 12 section 805”.

13 (d) CLERICAL AMENDMENT.—The table of contents
 14 in the matter preceding section 2 of such Act (50 U.S.C.
 15 3002) is amended by striking the items relating to sections
 16 803 and 804 and inserting the following:

“Sec. 803. Security Executive Agent.

“Sec. 804. Exceptions.

“Sec. 805. Definitions.”.

17 **SEC. 7. REPORT ON UNIFIED, SIMPLIFIED, GOVERNMENT-**
 18 **WIDE STANDARDS FOR POSITIONS OF TRUST**
 19 **AND SECURITY CLEARANCES.**

20 Not later than 90 days after the date of the enact-
 21 ment of this Act, the Security Executive Agent and the
 22 Suitability and Credentialing Executive Agent, in coordi-
 23 nation with the other members of the Council, shall jointly
 24 submit to the appropriate congressional committees and

1 make available to appropriate industry partners a report
2 regarding the advisability and the risks, benefits, and
3 costs to the Government and to industry of consolidating
4 to not more than 3 tiers for positions of trust and security
5 clearances.

6 **SEC. 8. REPORT ON CLEARANCE IN PERSON CONCEPT.**

7 (a) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that to reflect the greater mobility of the modern
9 workforce, alternative methodologies merit analysis to
10 allow greater flexibility for individuals moving in and out
11 of positions that require access to classified information,
12 while still preserving security.

13 (b) REPORT REQUIRED.—Not later than 90 days
14 after the date of the enactment of this Act, the Security
15 Executive Agent shall submit to the appropriate congres-
16 sional committees and make available to appropriate in-
17 dustry partners a report that describes the requirements,
18 feasibility, and advisability of implementing a clearance in
19 person concept described in subsection (c).

20 (c) CLEARANCE IN PERSON CONCEPT.—The clear-
21 ance in person concept—

22 (1) permits an individual who once held a secu-
23 rity clearance to maintain his or her eligibility for
24 access to classified information, networks, and facili-
25 ties for up to 3 years after the individual's eligibility

1 for access to classified information would otherwise
2 lapse; and

3 (2) recognizes, unless otherwise directed by the
4 Security Executive Agent, an individual's security
5 clearance and background investigation as current,
6 regardless of employment status, contingent on en-
7 rollment in a continuous vetting program.

8 (d) CONTENTS.—The report required under sub-
9 section (b) shall address—

10 (1) requirements for an individual to voluntarily
11 remain in a continuous evaluation program validated
12 by the Security Executive Agent even if the indi-
13 vidual is not in a position requiring access to classi-
14 fied information;

15 (2) appropriate safeguards for privacy;

16 (3) advantages to Government and industry;

17 (4) the costs and savings associated with imple-
18 mentation;

19 (5) the risks of such implementation, including
20 security and counterintelligence risks;

21 (6) an appropriate funding model; and

22 (7) fairness to small companies and inde-
23 pendent contractors.

1 **SEC. 9. BUDGET REQUEST DOCUMENTATION ON FUNDING**
2 **FOR BACKGROUND INVESTIGATIONS.**

3 (a) IN GENERAL.—As part of the fiscal year 2020
4 budget request submitted to Congress pursuant to section
5 1105(a) of title 31, United States Code, the President
6 shall include exhibits that identify the resources expended
7 by each agency during the prior fiscal year for processing
8 background investigations and continuous evaluation pro-
9 grams, disaggregated by tier and whether the individual
10 was a Government employee or contractor.

11 (b) CONTENTS.—Each exhibit submitted under sub-
12 section (a) shall include details on—

13 (1) the costs of background investigations or re-
14 investigations;

15 (2) the costs associated with background inves-
16 tigations for Government or contract personnel;

17 (3) costs associated with continuous evaluation
18 initiatives monitoring for each person for whom a
19 background investigation or reinvestigation was con-
20 ducted, other than costs associated with adjudica-
21 tion;

22 (4) the average per person cost for each type of
23 background investigation; and

24 (5) a summary of transfers and reprogram-
25 mings that were executed in the previous year to
26 support the processing of security clearances.

1 **SEC. 10. REPORTS ON RECIPROCITY FOR SECURITY CLEAR-**
2 **ANCES INSIDE OF DEPARTMENTS AND AGEN-**
3 **CIES.**

4 (a) **RECIPROCALLY RECOGNIZED DEFINED.**—In this
5 section, the term “reciprocally recognized” means recip-
6 rocal recognition by Federal departments and agencies of
7 eligibility for access to classified information.

8 (b) **REPORTS TO SECURITY EXECUTIVE AGENT.**—
9 The head of each Federal department or agency shall sub-
10 mit an annual report to the Security Executive Agent
11 that—

12 (1) identifies the number of individuals whose
13 security clearances take more than 2 weeks to be re-
14 ciprocally recognized after such individuals move to
15 another part of such department or agency; and

16 (2) breaks out the information described in
17 paragraph (1) by type of clearance and the reasons
18 for any delays.

19 (c) **ANNUAL REPORT.**—Not less frequently than once
20 each year, the Security Executive Agent shall submit to
21 the appropriate congressional committees and make avail-
22 able to industry partners an annual report that summa-
23 rizes the information received pursuant to subsection (b)
24 during the period covered by such report.

1 **SEC. 11. INTELLIGENCE COMMUNITY REPORTS ON SECUR-**
2 **RITY CLEARANCES.**

3 Section 506H of the National Security Act of 1947
4 (50 U.S.C. 3104) is amended—

5 (1) in subsection (a)(1)—

6 (A) in subparagraph (A)(ii), by adding
7 “and” at the end;

8 (B) in subparagraph (B)(ii), by striking “;
9 and” and inserting a period; and

10 (C) by striking subparagraph (C);

11 (2) by redesignating subsection (b) as sub-
12 section (c);

13 (3) by inserting after subsection (a) the fol-
14 lowing:

15 “(b) INTELLIGENCE COMMUNITY REPORTS.—(1)(A)

16 Not later than March 1 of each year, the Director of Na-
17 tional Intelligence shall submit a report to the congres-
18 sional intelligence committees, the Committee on Home-
19 land Security and Governmental Affairs of the Senate, the
20 Committee on Homeland Security of the House of Rep-
21 resentatives, and the Committee on Oversight and Reform
22 of the House of Representatives regarding the security
23 clearances processed by each element of the intelligence
24 community during the preceding fiscal year.

25 “(B) The Director shall submit to the Committee on
26 Armed Services of the Senate and the Committee on

1 Armed Services of the House of Representatives such por-
2 tions of the report submitted under subparagraph (A) as
3 the Director determines address elements of the intel-
4 ligence community that are within the Department of De-
5 fense.

6 “(C) Each report submitted under this paragraph
7 shall separately identify security clearances processed for
8 Federal employees and contractor employees sponsored by
9 each such element.

10 “(2) Each report submitted under paragraph (1)(A)
11 shall include, for each element of the intelligence commu-
12 nity for the fiscal year covered by the report, the following:

13 “(A) The total number of initial security clear-
14 ance background investigations sponsored for new
15 applicants.

16 “(B) The total number of security clearance
17 periodic reinvestigations sponsored for existing em-
18 ployees.

19 “(C) The total number of initial security clear-
20 ance background investigations for new applicants
21 that were adjudicated with notice of a determination
22 provided to the prospective applicant, including—

23 “(i) the total number of such adjudications
24 that were adjudicated favorably and granted ac-
25 cess to classified information; and

1 “(ii) the total number of such adjudica-
2 tions that were adjudicated unfavorably and re-
3 sulted in a denial or revocation of a security
4 clearance.

5 “(D) The total number of security clearance
6 periodic background investigations that were adju-
7 dicated with notice of a determination provided to
8 the existing employee, including—

9 “(i) the total number of such adjudications
10 that were adjudicated favorably; and

11 “(ii) the total number of such adjudica-
12 tions that were adjudicated unfavorably and re-
13 sulted in a denial or revocation of a security
14 clearance.

15 “(E) The total number of pending security
16 clearance background investigations, including initial
17 applicant investigations and periodic reinvestiga-
18 tions, that were not adjudicated as of the last day
19 of such year and that remained pending, categorized
20 as follows:

21 “(i) For 180 days or shorter.

22 “(ii) For longer than 180 days, but shorter
23 than 12 months.

24 “(iii) For 12 months or longer, but shorter
25 than 18 months.

1 “(iv) For 18 months or longer, but shorter
2 than 24 months.

3 “(v) For 24 months or longer.

4 “(F) For any security clearance determinations
5 completed or pending during the year preceding the
6 year for which the report is submitted that have
7 taken longer than 12 months to complete—

8 “(i) an explanation of the causes for the
9 delays incurred during the period covered by
10 the report; and

11 “(ii) the number of such delays involving a
12 polygraph requirement.

13 “(G) The percentage of security clearance in-
14 vestigations, including initial and periodic reinves-
15 tigation, that resulted in a denial or revocation of
16 a security clearance.

17 “(H) The percentage of security clearance in-
18 vestigations that resulted in incomplete information.

19 “(I) The percentage of security clearance inves-
20 tigation that did not result in enough information
21 to make a decision on potentially adverse informa-
22 tion.

23 “(3) The report required under this subsection shall
24 be submitted in unclassified form, but may include a clas-
25 sified annex.”; and

1 (4) in subsection (c), as redesignated, by strik-
2 ing “subsection (a)(1)” and inserting “subsections
3 (a)(1) and (b)”.

4 **SEC. 12. PERIODIC REPORT ON POSITIONS IN THE INTEL-**
5 **LIGENCE COMMUNITY THAT CAN BE CON-**
6 **DUCTED WITHOUT ACCESS TO CLASSIFIED**
7 **INFORMATION, NETWORKS, OR FACILITIES.**

8 Not later than 180 days after the date of the enact-
9 ment of this Act and not less frequently than once every
10 5 years thereafter, the Director of National Intelligence
11 shall submit to the congressional intelligence committees
12 a report that reviews the intelligence community for which
13 positions can be conducted without access to classified in-
14 formation, networks, or facilities, or may only require a
15 security clearance at the secret level.

16 **SEC. 13. INFORMATION SHARING PROGRAM FOR POSI-**
17 **TIONS OF TRUST AND SECURITY CLEAR-**
18 **ANCES.**

19 (a) PROGRAM REQUIRED.—

20 (1) IN GENERAL.—Not later than 90 days after
21 the date of the enactment of this Act, the Security
22 Executive Agent and the Suitability and Credential-
23 ing Executive Agent shall establish and implement a
24 program to share between and among agencies of
25 the Federal Government and industry partners of

1 the Federal Government relevant background infor-
2 mation regarding individuals applying for and cur-
3 rently occupying national security positions and posi-
4 tions of trust, in order to ensure the Federal Gov-
5 ernment maintains a trusted workforce.

6 (2) DESIGNATION.—The program established
7 under paragraph (1) shall be known as the “Trusted
8 Information Provider Program” (in this section re-
9 ferred to as the “Program”).

10 (b) PRIVACY SAFEGUARDS.—The Security Executive
11 Agent and the Suitability and Credentialing Executive
12 Agent shall ensure that the Program includes such safe-
13 guards for privacy as the Security Executive Agent and
14 the Suitability and Credentialing Executive Agent consider
15 appropriate.

16 (c) PROVISION OF INFORMATION TO THE FEDERAL
17 GOVERNMENT.—The Program shall include requirements
18 that enable investigative service providers and agencies of
19 the Federal Government to leverage certain pre-employ-
20 ment information gathered during the employment or mili-
21 tary recruiting process, and other relevant security or
22 human resources information obtained during employment
23 with or for the Federal Government, that satisfy Federal
24 investigative standards, while safeguarding personnel pri-
25 vacy.

1 (d) INFORMATION AND RECORDS.—The information
2 and records considered under the Program shall include
3 the following:

- 4 (1) Date and place of birth.
- 5 (2) Citizenship or immigration and naturaliza-
6 tion information.
- 7 (3) Education records.
- 8 (4) Employment records.
- 9 (5) Employment or social references.
- 10 (6) Military service records.
- 11 (7) State and local law enforcement checks.
- 12 (8) Criminal history checks.
- 13 (9) Financial records or information.
- 14 (10) Foreign travel, relatives, or associations.
- 15 (11) Social media checks.
- 16 (12) Such other information or records as may
17 be relevant to obtaining or maintaining national se-
18 curity, suitability, fitness, or credentialing eligibility.

19 (e) IMPLEMENTATION PLAN.—

- 20 (1) IN GENERAL.—Not later than 90 days after
21 the date of the enactment of this Act, the Security
22 Executive Agent and the Suitability and Credential-
23 ing Executive Agent shall jointly submit to the ap-
24 propriate congressional committees and make avail-

1 able to appropriate industry partners a plan for the
2 implementation of the Program.

3 (2) ELEMENTS.—The plan required by para-
4 graph (1) shall include the following:

5 (A) Mechanisms that address privacy, na-
6 tional security, suitability or fitness, credential-
7 ing, and human resources or military recruit-
8 ment processes.

9 (B) Such recommendations for legislative
10 or administrative action as the Security Execu-
11 tive Agent and the Suitability and Credentialing
12 Executive Agent consider appropriate to carry
13 out or improve the Program.

14 (f) PLAN FOR PILOT PROGRAM ON TWO-WAY INFOR-
15 MATION SHARING.—

16 (1) IN GENERAL.—Not later than 180 days
17 after the date of the enactment of this Act, the Se-
18 curity Executive Agent and the Suitability and Cre-
19 dentialing Executive Agent shall jointly submit to
20 the appropriate congressional committees and make
21 available to appropriate industry partners a plan for
22 the implementation of a pilot program to assess the
23 feasibility and advisability of expanding the Program
24 to include the sharing of information held by the
25 Federal Government related to contract personnel

1 with the security office of the employer of those con-
2 tractor personnel.

3 (2) ELEMENTS.—The plan required by para-
4 graph (1) shall include the following:

5 (A) Mechanisms that address privacy, na-
6 tional security, suitability or fitness, credential-
7 ing, and human resources or military recruit-
8 ment processes.

9 (B) Such recommendations for legislative
10 or administrative action as the Security Execu-
11 tive Agent and the Suitability and Credentialing
12 Executive Agent consider appropriate to carry
13 out or improve the pilot program.

14 (g) REVIEW.—Not later than 1 year after the date
15 of the enactment of this Act, the Security Executive Agent
16 and the Suitability and Credentialing Executive Agent
17 shall jointly submit to the appropriate congressional com-
18 mittees and make available to appropriate industry part-
19 ners a review of the plans submitted under subsections
20 (e)(1) and (f)(1) and utility and effectiveness of the pro-
21 grams described in such plans.

1 **SEC. 14. REPORT ON PROTECTIONS FOR CONFIDENTIALITY**
2 **OF WHISTLEBLOWER-RELATED COMMUNICA-**
3 **TIONS.**

4 Not later than 180 days after the date of the enact-
5 ment of this Act, the Security Executive Agent shall, in
6 coordination with the Inspector General of the Intelligence
7 Community, submit to the appropriate congressional com-
8 mittees a report detailing the controls employed by the in-
9 telligence community to ensure that continuous vetting
10 programs, including those involving user activity moni-
11 toring, protect the confidentiality of whistleblower-related
12 communications.

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