

116TH CONGRESS  
2D SESSION

# S. 3561

To require Federal agencies to permit employees to telework full-time during the public health emergency relating to COVID–19, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 22, 2020

Mr. VAN HOLLEN (for himself, Mr. LANKFORD, and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To require Federal agencies to permit employees to telework full-time during the public health emergency relating to COVID–19, 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 “Emergency Telework  
5 Act of 2020”.

6 **SEC. 2. TELEWORK.**

7 (a) DEFINITIONS.—In this section—

1           (1) the term “agency” means each authority of  
2 the executive, legislative, or judicial branch of the  
3 Government of the United States;

4           (2) the term “covered period” means the period  
5 in which the public health emergency declared by the  
6 Secretary of Health and Human Services on Janu-  
7 ary 31, 2020, under section 319 of the Public  
8 Health Service Act (42 U.S.C. 247d) is initially in  
9 effect;

10          (3) the term “Director” means the Director of  
11 the Office of Personnel Management;

12          (4) the term “eligible employee” means an em-  
13 ployee who—

14               (A) the head of the agency employing the  
15 employee has determined is eligible to telework;  
16 and

17               (B) has not been officially disciplined for—

18                   (i) being absent without permission  
19 for more than 5 days in any calendar year;  
20 or

21                   (ii) viewing, downloading, or exchang-  
22 ing pornography, including child pornog-  
23 raphy, on a Federal Government computer  
24 or while performing official Federal Gov-  
25 ernment duties;

1           (5) the term “employee” means an employee of  
2           an agency;

3           (6) the term “Secretary” means the Secretary  
4           of Health and Human Services; and

5           (7) the term “telework” has the meaning given  
6           the term in section 6501 of title 5, United States  
7           Code.

8           (b) REQUIREMENTS.—

9           (1) DURING COVERED PERIOD.—Notwith-  
10          standing any provision of chapter 65 of title 5,  
11          United States Code, the head of each agency shall—

12                 (A) permit eligible employees with respect  
13                 to the agency to telework on a full-time basis  
14                 during the covered period; and

15                 (B) evaluate whether the agency head  
16                 should, with respect to employees of the agency  
17                 for whom the agency head has not made a de-  
18                 termination described in subsection (a)(4)(A),  
19                 make such a determination.

20          (2) DURING RENEWAL.—

21                 (A) IN GENERAL.—If the covered period is  
22                 renewed, the requirements under paragraph (1)  
23                 shall remain in effect during that renewal if the  
24                 Secretary, in coordination with the Director, de-  
25                 termines that those requirements would reduce

1 the risk of community spread with respect to  
2 COVID-19.

3 (B) REQUIREMENTS NOT CONTINUED.—If,  
4 under subparagraph (A), the Secretary, in co-  
5 ordination with the Director, determines that  
6 the requirements under paragraph (1) shall not  
7 remain in effect during a renewal of the covered  
8 period, the head of each agency shall—

9 (i) permit eligible employees with re-  
10 spect to the agency who are at high-risk  
11 with respect to the public health emergency  
12 described in subsection (a)(2) (as deter-  
13 mined according to guidance issued by the  
14 Centers for Disease Control and Preven-  
15 tion) to telework on a full-time basis dur-  
16 ing that renewal;

17 (ii) during that renewal, permit full-  
18 time telework for eligible employees with  
19 respect to the agency, the work sites of  
20 whom are in areas in which the maximum  
21 use of telework would reduce the risk of  
22 community spread with respect to COVID-  
23 19, as determined by the Secretary, in co-  
24 ordination with the Director; and

1 (iii) evaluate whether employees of the  
2 agency with respect to whom the agency  
3 head has not made a determination de-  
4 scribed in subsection (a)(4)(A), but who  
5 otherwise are described in clauses (i) and  
6 (ii), may become eligible employees during  
7 that renewal.

8 (3) WAIVER.—The head of an agency may  
9 waive the requirements of any provision of para-  
10 graph (1) or (2) that applies with respect to an em-  
11 ployee of the agency if the agency head determines  
12 that there is a compelling reason for the waiver that  
13 relates to the effective operation of the Federal Gov-  
14 ernment.

15 (4) PLAN FOR FUTURE OUTBREAKS.—Not later  
16 than 1 year after the date of enactment of this Act,  
17 the Director, in coordination with the Secretary,  
18 shall establish a policy—

19 (A) to maximize the use of telework by the  
20 Federal workforce during a period in which  
21 there is in effect a public health emergency that  
22 the Secretary of Human Services declares under  
23 section 319 of the Public Health Service Act  
24 (42 U.S.C. 247d) on a date that is after the

1 date of enactment of this Act with respect to an  
2 outbreak of an infectious disease; and

3 (B) that shall be designed to be imple-  
4 mented before implementing any continuity of  
5 operations plan with respect to any outbreak  
6 described in subparagraph (A).

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