

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5482

To enhance the Office of Personnel Management background check system for the granting, denial, or revocation of security clearances or access to classified information of employees and contractors of the Federal Government.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 2014

Mr. KELLY of Pennsylvania introduced the following bill; which was referred to the Select Committee on Intelligence (Permanent Select), and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To enhance the Office of Personnel Management background check system for the granting, denial, or revocation of security clearances or access to classified information of employees and contractors of the Federal Government.

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 “Enhanced Security  
5 Clearance Act of 2014”.

1 **SEC. 2. ENHANCING GOVERNMENT PERSONNEL SECURITY**  
2 **PROGRAMS.**

3 (a) DEFINITIONS.—In this section—

4 (1) the term “covered individual” means an in-  
5 dividual who has been determined eligible for access  
6 to classified information or eligible to hold a sen-  
7 sitive position; and

8 (2) the term “periodic reinvestigations” means  
9 investigations conducted for the purpose of updating  
10 a previously completed background investigation—

11 (A) every 5 years in the case of—

12 (i) eligibility for access to top secret  
13 information or access to a highly sensitive  
14 program; or

15 (ii) eligibility to hold a special sen-  
16 sitive or critical sensitive position;

17 (B) every 10 years in the case of—

18 (i) eligibility for access to secret infor-  
19 mation; or

20 (ii) eligibility to hold a noncritical sen-  
21 sitive position; or

22 (C) every 15 years in the case of eligibility  
23 for access to confidential information.

24 (b) RESOLUTION OF BACKLOG OF OVERDUE PERI-  
25 ODIC REINVESTIGATIONS.—

1           (1) IN GENERAL.—The Director of National In-  
2           telligence shall develop and implement a plan to  
3           eliminate the backlog of overdue periodic reinvestiga-  
4           tions of covered individuals.

5           (2) REQUIREMENTS.—The plan developed  
6           under paragraph (1) shall—

7                   (A) use a risk-based approach to—

8                           (i) identify high-risk populations; and

9                           (ii) prioritize reinvestigations that are  
10                   due or overdue to be conducted; and

11                   (B) use random automated record checks  
12                   (consistent with the requirements of paragraph  
13                   (3)) of covered individuals that shall include all  
14                   covered individuals in the pool of individuals  
15                   subject to a one-time check.

16           (3) AUTOMATED RECORD CHECKS.—An auto-  
17           mated record check with respect to a covered indi-  
18           vidual shall use and examine comprehensive sources  
19           of information, including—

20                   (A) publicly available online electronic in-  
21                   formation regarding such individual, including  
22                   blogs, microblogs, forums, news Web sites, and  
23                   picture and video sharing Web sites;

1 (B) publicly available social media data re-  
2 garding such individual, including pictures, vid-  
3 eos, posts, or comments;

4 (C) information relating to criminal or civil  
5 legal proceedings applicable to such individual;

6 (D) public news article, press reports, or  
7 media clippings which detail relevant security or  
8 counterintelligence information; and

9 (E) financial information relating to the  
10 covered individual, including the credit worthi-  
11 ness of the covered individual.

12 (c) ENHANCED SECURITY CLEARANCE PROGRAMS.—  
13 Part III of title 5, United States Code, is amended by  
14 adding at the end the following:

15 **“Subpart J—Enhanced Personnel Security Programs**

16 **“CHAPTER 110—ENHANCED PERSONNEL**  
17 **SECURITY PROGRAMS**

“Sec.

“11001. Enhanced personnel security programs.

18 **“§ 11001. Enhanced personnel security programs**

19 “(a) DEFINITIONS.—In this section—

20 “(1) the term ‘agency’ has the meaning given  
21 that term in section 3001 of the Intelligence Reform  
22 and Terrorism Prevention Act of 2004 (50 U.S.C.  
23 3341);

1           “(2) the term ‘consumer reporting agency’ has  
2 the meaning given that term in section 603 of the  
3 Fair Credit Reporting Act (15 U.S.C. 1681a);

4           “(3) the term ‘covered individual’ means an in-  
5 dividual who has been determined eligible for access  
6 to classified information or eligible to hold a sen-  
7 sitive position;

8           “(4) the term ‘enhanced personnel security pro-  
9 gram’ means a program implemented by an agency  
10 at the direction of the Director of National Intel-  
11 ligence under subsection (b); and

12           “(5) the term ‘periodic reinvestigations’ means  
13 investigations conducted for the purpose of updating  
14 a previously completed background investigation—

15           “(A) every 5 years in the case of—

16                   “(i) eligibility for access to top secret  
17 information or access to a highly sensitive  
18 program; or

19                   “(ii) eligibility to hold a special sen-  
20 sitive or critical sensitive position;

21           “(B) every 10 years in the case of—

22                   “(i) eligibility for access to secret in-  
23 formation; or

24                   “(ii) eligibility to hold a noncritical  
25 sensitive position; or

1                   “(C) every 15 years in the case of eligi-  
2                   bility for access to confidential information.

3           “(b) ENHANCED PERSONNEL SECURITY PRO-  
4 GRAM.—The Director of National Intelligence shall direct  
5 each agency to implement a program to provide enhanced  
6 security review of covered individuals—

7                   “(1) in accordance with this section; and

8                   “(2) not later than the earlier of—

9                   “(A) the date that is 5 years after the date  
10                  of enactment of the Enhanced Security Clear-  
11                  ance Act of 2014; or

12                  “(B) the date on which the backlog of  
13                  overdue periodic reinvestigations of covered in-  
14                  dividuals is eliminated, as determined by the  
15                  Director of National Intelligence.

16           “(c) COMPREHENSIVENESS.—

17                  “(1) SOURCES OF INFORMATION.—The en-  
18                  hanced personnel security program of an agency  
19                  shall integrate relevant information from various  
20                  sources, including government, publicly available,  
21                  and commercial data sources, consumer reporting  
22                  agencies, social media, and such other sources as de-  
23                  termined by the Director of National Intelligence.

1           “(2) TYPES OF INFORMATION.—Information  
2           obtained and integrated from sources described in  
3           paragraph (1) may include—

4                   “(A) information relating to any criminal  
5                   or civil legal proceeding;

6                   “(B) financial information relating to the  
7                   covered individual, including the credit worthi-  
8                   ness of the covered individual;

9                   “(C) public information, including news ar-  
10                  ticles or reports, that includes relevant security  
11                  or counterintelligence information about the  
12                  covered individual;

13                  “(D) publicly available electronic informa-  
14                  tion, to include relevant security or counter-  
15                  intelligence information on any social media  
16                  Web site or forum, blog, microblog, picture or  
17                  video sharing Web site and other public online  
18                  content that may suggest ill intent, vulner-  
19                  ability to blackmail, compulsive behavior, alle-  
20                  giance to another country, illegal drug use,  
21                  criminal activity, material falsification, change  
22                  in ideology, or any other information that may  
23                  suggest the covered individual lacks good judg-  
24                  ment, reliability or trustworthiness; and

1           “(E) data maintained on any terrorist or  
2 criminal watch list maintained by any agency,  
3 State or local government, or international or-  
4 ganization.

5           “(d) REVIEWS OF COVERED INDIVIDUALS.—

6           “(1) REVIEWS.—

7           “(A) IN GENERAL.—The enhanced per-  
8 sonnel security program of an agency shall re-  
9 quire that, not less than 2 times every 5 years,  
10 the head of the agency shall conduct or request  
11 the conduct of automated record checks and  
12 checks of information from sources under sub-  
13 section (c) to ensure the continued eligibility of  
14 each covered individual employed or contracted  
15 with by the agency, unless more frequent re-  
16 views of automated record checks and checks of  
17 information from sources under subsection (c)  
18 are conducted on the covered individual.

19           “(B) SCOPE OF REVIEWS.—Except for a  
20 covered individual who is subject to more fre-  
21 quent reviews to ensure the continued eligibility  
22 of the covered individual, the reviews under  
23 subparagraph (A) shall consist of random or  
24 aperiodic checks of covered individuals, such  
25 that each covered individual is subject to at



1           least 2 reviews during the 5-year period begin-  
2           ning on the date on which the agency imple-  
3           ments the enhanced personnel security program  
4           of an agency, and during each 5-year period  
5           thereafter.

6           “(C) INDIVIDUAL REVIEWS.—A review of  
7           the information relating to the continued eligi-  
8           bility of a covered individual under subpara-  
9           graph (A) may not be conducted until after the  
10          end of the 120-day period beginning on the  
11          date the covered individual receives the notifica-  
12          tion required under paragraph (3).

13          “(2) RESULTS.—The head of an agency shall  
14          take appropriate action if a review under paragraph  
15          (1) finds relevant information that may affect the  
16          continued eligibility of a covered individual.

17          “(3) INFORMATION FOR COVERED INDIVID-  
18          UALS.—The head of an agency shall ensure that  
19          each covered individual employed by the agency or a  
20          contractor of the agency is adequately advised of the  
21          types of relevant security or counterintelligence in-  
22          formation the covered individual is required to re-  
23          port to the head of the agency.

24          “(4) LIMITATION.—Nothing in this subsection  
25          shall be construed to affect the authority of an agen-

1 cy to determine the appropriate weight to be given  
2 to information relating to a covered individual in  
3 evaluating the continued eligibility of the covered in-  
4 dividual.

5 “(5) GUIDANCE FOR MINOR FINANCIAL OR  
6 MENTAL HEALTH ISSUES.—The Director of National  
7 Intelligence shall issue guidance defining minor fi-  
8 nancial or mental health issues, in accordance with  
9 this section and any direction from the President.

10 “(6) AUTHORITY OF THE PRESIDENT.—Noth-  
11 ing in this subsection shall be construed as limiting  
12 the authority of the President to direct or perpet-  
13 uate periodic reinvestigations of a more comprehen-  
14 sive nature or to delegate the authority to direct or  
15 perpetuate such reinvestigations.

16 “(e) AUDIT.—

17 “(1) IN GENERAL.—Beginning 2 years after the  
18 date of implementation of the enhanced personnel  
19 security program of an agency under subsection (b),  
20 the Inspector General of the agency shall conduct at  
21 least 1 audit to assess the effectiveness and fairness,  
22 which shall be determined in accordance with per-  
23 formance measures and standards established by the  
24 Director of National Intelligence, to covered individ-

1 uals of the enhanced personnel security program of  
2 the agency.

3 “(2) SUBMISSIONS TO THE DNI.—The results of  
4 each audit conducted under paragraph (1) shall be  
5 submitted to the Director of National Intelligence to  
6 assess the effectiveness and fairness of the enhanced  
7 personnel security programs across the Federal Gov-  
8 ernment.”.

9 (d) TECHNICAL AND CONFORMING AMENDMENT.—  
10 The table of chapters for part III of title 5, United States  
11 Code, is amended by adding at the end following:

“Subpart J—Enhanced Personnel Security Programs  
“110. Enhanced personnel security programs ..... 11001”.

