

114TH CONGRESS
2D SESSION

S. 2715

To amend section 2302 of title 5, United States Code, to include the suspension or revocation of access to classified information as a personnel action, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2016

Mrs. McCASKILL introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend section 2302 of title 5, United States Code, to include the suspension or revocation of access to classified information as a personnel action, 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 “National Security
5 Whistleblower Protection Act of 2016”.

1 **SEC. 2. SUSPENSION OR REVOCATION OF ACCESS TO CLAS-**
 2 **SIFIED INFORMATION.**

3 (a) IN GENERAL.—Section 2302(a)(2)(A) of title 5,
 4 United States Code, is amended—

5 (1) in clause (xi), by striking “and” at the end;

6 (2) by redesignating clause (xii) as clause (xiii);

7 and

8 (3) by inserting after clause (xi) the following:

9 “(xii) the suspension or revocation of ac-
 10 cess to classified information; and”.

11 (b) APPLICATION TO FBI.—Section 2303(a) of title
 12 5, United States Code, is amended in the matter following
 13 paragraph (2), by inserting “or clause (xii)” after “clauses
 14 (i) through (x)”.

15 (c) REPORT BY INSPECTOR GENERAL OF THE DE-
 16 PARTMENT OF DEFENSE.—

17 (1) DEFINITIONS.—In this subsection—

18 (A) the term “employee” includes an em-
 19 ployee of a contractor of the Department of De-
 20 fense;

21 (B) the term “Inspector General” means
 22 the Inspector General of the Department of De-
 23 fense; and

24 (C) the term “whistleblowing” means—

1 (i) making a disclosure described in
2 section 2302(b)(8) of title 5, United States
3 Code; or

4 (ii) taking an action described in sub-
5 paragraph (A)(i), (B), (C), or (D) of sec-
6 tion 2302(b)(9) of title 5, United States
7 Code.

8 (2) REPORT.—

9 (A) INITIAL REPORT.—Not later than 1
10 year after the date of enactment of this Act, the
11 Inspector General shall submit to Congress a
12 report that provides the information described
13 in subparagraph (C) for the 5-year period end-
14 ing on the date of enactment of this Act.

15 (B) INCLUSION IN SEMIANNUAL RE-
16 PORT.—In each semiannual report submitted to
17 Congress by the Inspector General under sec-
18 tion 5(a) of the Inspector General Act of 1978
19 (5 U.S.C. App.) after the date on which the re-
20 port under subparagraph (A) is submitted, the
21 Inspector General shall include the information
22 described in subparagraph (C) for the period
23 covered by the report.

24 (C) INFORMATION.—

1 (i) IN GENERAL.—The information
2 described in this subparagraph is, for each
3 category of employee described in clause
4 (ii)—

5 (I) the number of allegations re-
6 ceived by the Inspector General
7 (which shall include separately the
8 number of contacts to the hotline of
9 the Inspector General) in which an
10 employee asserts that the access to
11 classified information of the employee
12 was suspended or revoked in retalia-
13 tion for whistleblowing;

14 (II) the number of allegations de-
15 scribed in subclause (I) that were
16 closed by the Inspector General before
17 a full investigation was conducted;

18 (III) the number of allegations
19 described in subclause (I) for which a
20 full investigation was conducted by
21 the Inspector General;

22 (IV) the number of allegations
23 described in subclause (I) in which the
24 Inspector General determined that the
25 access to classified information of the

1 employee was suspended or revoked in
2 retaliation for whistleblowing;

3 (V) the number of investigations
4 of allegations described in subclause
5 (I) that were conducted by a compo-
6 nent of the Department of Defense
7 other than the Office of the Inspector
8 General and a description of the over-
9 sight of the investigation by the In-
10 spector General;

11 (VI) the number of investigations
12 of allegations described in subclause
13 (I) that, upon appeal, were returned
14 by the Inspector General of the Intel-
15 ligence Community as defective;

16 (VII) a description of the reme-
17 dial measures taken relating to allega-
18 tions described in subclause (I); and

19 (VIII) a description of the dis-
20 ciplinary actions taken against indi-
21 viduals who suspended or revoked the
22 access to classified information of an
23 employee in retaliation for whistle-
24 blowing.

1 (ii) CATEGORIES OF EMPLOYEES.—

2 The categories of employees described in
3 this clause are the following:

4 (I) Employees of the Department
5 of Defense in the civil service, as de-
6 fined in section 2101(1) of title 5,
7 United States Code.

8 (II) Employees of nonappropri-
9 ated fund instrumentalities of the De-
10 partment.

11 (III) Members of the regular
12 components of the Armed Forces.

13 (IV) Members of the Army Na-
14 tional Guard of the United States and
15 Air National Guard of the United
16 States on active duty.

17 (V) Employees of contractors of
18 the Department.

19 (VI) Any other category of em-
20 ployees not included under clauses (I)
21 through (V), which shall be described
22 by the Inspector General in the appli-
23 cable report.

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