

114TH CONGRESS
1ST SESSION

S. 278

To amend title 5, United States Code, to establish certain procedures for conducting in-person or telephonic interactions by executive branch employees with individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2015

Mr. BLUNT (for himself, Mr. CORNYN, Mrs. FISCHER and Mr. ROBERTS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend title 5, United States Code, to establish certain procedures for conducting in-person or telephonic interactions by executive branch employees with individuals, 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 “Citizen Empowerment
5 Act”.

1 **SEC. 2. AMENDMENTS.**

2 (a) IN GENERAL.—Part III of title 5, United States
3 Code, is amended by inserting after chapter 79 the fol-
4 lowing:

5 **“CHAPTER 79A—SERVICES TO MEMBERS**
6 **OF THE PUBLIC**

“Sec.

“7921. Procedures for in-person and telephonic interactions conducted by execu-
tive branch employees.

7 **“§ 7921. Procedures for in-person and telephonic**
8 **interactions conducted by executive**
9 **branch employees**

10 “(a) DEFINITIONS.—For purposes of this section—

11 “(1) the term ‘covered interaction’ means an in-
12 person or telephonic interview, audit, investigation,
13 inspection, or other official interaction between an
14 employee of an Executive agency and another indi-
15 vidual relating to a possible or alleged violation of
16 any Federal statute or regulation that could result
17 in the imposition of a fine, forfeiture of property,
18 civil monetary penalty, or criminal penalty against,
19 or the collection of an unpaid tax, fine, or penalty
20 from, the individual or a business owned or operated
21 by the individual;

22 “(2) the term ‘State’ means each of the several
23 States, the District of Columbia, and any common-

1 wealth, territory, or possession of the United States;
2 and

3 “(3) the term ‘telephonic’ means by telephone
4 or other similar electronic device.

5 “(b) RECORDING OF ENFORCEMENT ACTIONS.—

6 “(1) RECORDING BY INDIVIDUALS.—Any em-
7 ployee of an Executive agency who is conducting a
8 covered interaction with an individual shall allow the
9 individual to make an audio recording of the covered
10 interaction at the individual’s own expense and with
11 the individual’s own equipment.

12 “(2) RECORDING BY FEDERAL EMPLOYEES.—
13 Any employee of an Executive agency that is con-
14 ducting a covered interaction may record that inter-
15 action if the employee—

16 “(A) informs the individual of the record-
17 ing prior to or at the initiation of the inter-
18 action; and

19 “(B) upon request of the individual, pro-
20 vides the individual with a transcript or copy of
21 the recording, but only if the individual pro-
22 vides reimbursement for the cost of the tran-
23 scription and reproduction of the transcript or
24 copy.

25 “(c) EXPLANATIONS OF RIGHTS.—

1 “(1) IN GENERAL.—Any employee of an Execu-
 2 tive agency shall, before or at an initial covered
 3 interaction, provide to the individual a verbal or
 4 written notice of the individual’s rights under this
 5 section.

6 “(2) SEPARATE NOTIFICATIONS FOR SEPARATE
 7 VIOLATIONS.—Paragraph (1) shall not, for purposes
 8 of any covered interaction, be considered satisfied
 9 based on a notification previously given if that pre-
 10 vious notification was given in the case of a possible
 11 or alleged violation separate from the possible or al-
 12 leged violation at hand.

13 “(d) APPLICATION TO OFFICIAL REPRESENTATIVE
 14 OR THOSE HOLDING POWER OF ATTORNEY.—Any person
 15 who is permitted to represent, before an Executive agency
 16 described in subsection (b)(1), an individual permitted to
 17 make an audio recording under that subsection of a cov-
 18 ered interaction conducted by an employee of that Execu-
 19 tive agency—

20 “(1) shall be permitted—

21 “(A) to make an audio recording under
 22 subsection (b)(1) as if the person were the indi-
 23 vidual; and

1 “(B) to receive a transcript or copy of an
2 audio recording under subsection (b)(2) as if
3 the person were the individual;

4 “(2) shall receive the same notice as that which
5 is required to be provided to the individual under
6 subsection (c); and

7 “(3) with respect to an audio recording (as re-
8 ferred to in paragraph (1)(A)) and a transcript or
9 copy of a recording (as referred to in paragraph
10 (1)(B)), shall have the same rights as described in
11 subsection (e).

12 “(e) PROPERTY OF AUDIO RECORDING.—Any audio
13 recording or transcript of an audio recording made by an
14 individual under subsection (b)(1) or provided to an indi-
15 vidual under subsection (b)(2)(B) shall be the property of
16 the individual.

17 “(f) NO CAUSE OF ACTION.—This section does not
18 create any express or implied private right of action.

19 “(g) EXCEPTIONS.—

20 “(1) CLASSIFIED INFORMATION, PUBLIC SAFE-
21 TY, CRIMINAL INVESTIGATION.—This section shall
22 not apply to any covered interaction that is likely to
23 include the discussion of—

24 “(A) classified material;

1 “(B) information that, if released publicly,
2 would endanger public safety; or

3 “(C) information that, if released publicly,
4 would endanger an ongoing criminal investiga-
5 tion conducted by a Federal law enforcement
6 officer (as defined in section 2 of the Law En-
7 forcement Congressional Badge of Bravery Act
8 of 2008 (42 U.S.C. 15231)) who is employed by
9 a Federal law enforcement agency.

10 “(2) DETERMINATION BY EMPLOYEES.—An
11 employee of an Executive agency who determines
12 that an exception under paragraph (1) applies to a
13 covered interaction or series of covered interactions
14 shall provide written notification of the determina-
15 tion to any person who would otherwise be permitted
16 to make an audio recording of the interaction or
17 interactions under subsection (b)(1) or (d).

18 “(h) PRIOR LAW.—For the purposes set forth in
19 paragraphs (1) and (2) of subsection (b), this section su-
20 persedes section 2511(2)(d) of title 18 and any provision
21 of Federal or State law insofar as such section or provision
22 relates to the recording of an interaction that is a covered
23 interaction.

24 “(i) DISCIPLINARY ACTION.—An employee of an Ex-
25 ecutive agency who violates this section shall be subject

1 to appropriate disciplinary action in accordance with oth-
 2 erwise applicable provisions of law.”.

3 (b) CLERICAL AMENDMENT.—The analysis for part
 4 III of title 5, United States Code, is amended by inserting
 5 after the item relating to chapter 79 the following:

“79A. Services to members of the public 7921”.

