

115TH CONGRESS
2D SESSION

H. R. 5057

To amend the Intelligence Reform and Terrorism Prevention Act of 2004 to limit access to classified information, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2018

Mrs. MURPHY of Florida (for herself, Mr. MOULTON, and Mr. PANETTA) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To amend the Intelligence Reform and Terrorism Prevention Act of 2004 to limit access to classified information, 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 “Protect America’s Se-
5 crets Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Pursuant to Executive Order 12968 of
9 1995, “[t]he national interest requires that certain

1 information be maintained in confidence through a
2 system of classification in order to protect our citi-
3 zens, our democratic institutions, and our participa-
4 tion within the community of nations.”.

5 (2) Executive Order 12968 states that “no em-
6 ployee shall be granted access to classified informa-
7 tion unless that employee has been determined to be
8 eligible in accordance with this order and to possess
9 a need-to-know.”.

10 (3) Executive Order 12968 further provides
11 that employees shall not be granted access to classi-
12 fied information unless they—

13 (A) have been determined to be eligible for
14 access by agency heads or designated officials
15 based upon a favorable adjudication of an ap-
16 propriate investigation of the employee’s back-
17 ground;

18 (B) have a demonstrated need-to-know;
19 and

20 (C) have signed an approved nondisclosure
21 agreement.

22 (4) Intelligence Community Directive 704 of
23 2008 states that “Heads of IC Elements or des-
24 ignees may determine that it is in the national inter-
25 est to authorize temporary access to SCI [Sensitive

1 Compartmented Information] and other controlled
2 access program information, subject to the following
3 requirements—temporary access approvals shall be
4 granted only during national emergencies, hostilities
5 involving United States personnel, or in exceptional
6 circumstances when official functions must be per-
7 formed In any case, temporary access shall
8 not exceed one year.”.

9 (5) Public reports indicate that members of the
10 President’s staff have been granted access to highly
11 sensitive information without favorably adjudicated
12 security clearances, and that interim access has been
13 granted such clearances have been extended for
14 more than a year while the investigations continue.

15 **SEC. 3. SENSE OF CONGRESS.**

16 It is the sense of Congress that—

17 (1) no employee of the Federal Government, in-
18 cluding those in the Executive Office of the Presi-
19 dent, should be granted access to highly sensitive in-
20 formation without a favorably adjudicated clearance;
21 and

22 (2) the fact that members of the President’s
23 staff had access to the President’s Daily Brief and
24 the most highly sensitive information in the United
25 States Government, without a fully adjudicated

1 clearance, creates a double standard in the Federal
2 branch; undermines the integrity of the clearance
3 system; and potentially threatens United States na-
4 tional security.

5 **SEC. 4. REQUIREMENT.**

6 Section 3001 of the Intelligence Reform and Ter-
7 rorism Prevention Act of 2004 (Public Law 108–458) is
8 amended—

9 (1) in subsection (a)(1)(A), by inserting before
10 the semi-colon at the end the following: “, including
11 the Executive Office of the President”; and

12 (2) by adding at the end the following:

13 “(k) RESTRICTIONS ON ACCESS TO HIGHLY SEN-
14 SITIVE PROGRAMS.—

15 “(1) REQUIREMENT.—No employee shall be
16 granted access to information on any highly sensitive
17 program, including information contained in any
18 briefing (including the President’s Daily Brief) pro-
19 vided by any element of the intelligence community
20 to the President, unless the employee has—

21 “(A) been determined to be eligible for ac-
22 cess by the head of an agency or designated of-
23 ficial based upon a full personnel security inves-
24 tigation and a favorable adjudication;

25 “(B) a demonstrated need-to-know; and

1 “(C) signed an approved nondisclosure
2 agreement.

3 “(2) APPLICATION.—Paragraph (1) shall be ap-
4 plied so as to prohibit any employee with an interim
5 security clearance and for whom the applicable adju-
6 dicating agency has not made a final determination
7 from gaining access to information on any highly
8 sensitive program.

9 “(3) TEMPORARY ACCESS NOT EFFECTED.—
10 Notwithstanding the requirements of this subsection,
11 temporary access to higher classification levels may
12 be granted as outlined in section 2.3 of Executive
13 Order 12986 (or any successor Executive order).

14 “(4) DEFINITION OF EMPLOYEE.—For pur-
15 poses of this subsection, the term ‘employee’ means
16 an individual, other than the President and Vice
17 President—

18 “(A) employed by, detailed or assigned to,
19 an agency, including members of the Armed
20 Forces;

21 “(B) an expert or consultant to an agency;

22 “(C) an industrial or commercial con-
23 tractor, licensee, certificate holder, or grantee of
24 an agency, including all subcontractors;

25 “(D) a personal services contractor; or

1 “(E) any other category of person who acts
2 for or on behalf of an agency as determined by
3 the appropriate agency head.”.

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