

113TH CONGRESS
1ST SESSION

S. _____

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.

IN THE SENATE OF THE UNITED STATES

Ms. COLLINS (for herself, Mrs. McCASKILL, Ms. AYOTTE, and Ms. HEITKAMP) introduced the following bill; which was read twice and referred to the Committee on _____

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 2013”.

1 **SEC. 2. OFFICE OF PERSONNEL MANAGEMENT ENHANCED**
2 **SECURITY CLEARANCE SYSTEM.**

3 (a) IN GENERAL.—Part III of title 5, United States
4 Code, is amended by adding at the end the following:

5 **“Subpart J—Office of Personnel Management**
6 **Enhanced Security Clearance System**
7 **“CHAPTER 110—OFFICE OF PERSONNEL**
8 **MANAGEMENT ENHANCED SECURITY**
9 **CLEARANCE SYSTEM**

“Sec.

“11001. Office of Personnel Management enhanced security clearance system.

10 **“§ 11001. Office of Personnel Management enhanced**
11 **security clearance system.**

12 “(a) DEFINITIONS.—In this section—

13 “(1) the term ‘agency’ has the meaning given
14 that term in section 3001 of the Intelligence Reform
15 and Terrorism Prevention Act of 2004 (50 U.S.C.
16 3341);

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

20 “(3) the term ‘covered individual’ means an in-
21 dividual who is being considered for, or has been,
22 appointed to a position as an employee or contractor
23 of an agency that requires its occupant to have ac-
24 cess to classified information;

1 “(4) the term ‘enhanced security clearance sys-
2 tem’ means the database established by the Director
3 of the Office of Personnel Management under sec-
4 tion 3001(e) of the Intelligence Reform and Ter-
5 rorism Prevention Act of 2004 (50 U.S.C. 3341(e)),
6 including the enhancements thereto required under
7 this section; and

8 “(5) the term ‘major consumer reporting agen-
9 cy’ means a major consumer reporting agency as de-
10 termined by the Director of the Office of Personnel
11 Management.

12 “(b) ENHANCED SECURITY CLEARANCE SYSTEM.—
13 Not later than 1 year after the date of enactment of the
14 Enhanced Security Clearance Act of 2013, the Director
15 of the Office of Personnel Management shall implement
16 the enhanced security clearance system.

17 “(c) COMPREHENSIVENESS.—

18 “(1) SOURCES OF INFORMATION.—The en-
19 hanced security clearance system shall integrate in-
20 formation obtained from various sources, including
21 government, publically available, and commercial
22 data sources, the major consumer reporting agen-
23 cies, and social media.

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

4 “(A) information relating to any criminal
5 or civil legal proceeding to which the covered in-
6 dividual is or becomes a party or witness;

7 “(B) financial information relating to the
8 covered individual, including information relat-
9 ing to—

10 “(i) any bankruptcy proceeding of the
11 covered individual;

12 “(ii) any lien against property of the
13 covered individual;

14 “(iii) credit reports from the major
15 consumer reporting agencies relating to the
16 covered individual;

17 “(iv) mortgage fraud engaged in by
18 the covered individual;

19 “(v) high-value assets, including fi-
20 nancial assets, obtained by the covered in-
21 dividual from an unknown source; and

22 “(vi) bank accounts and the bank ac-
23 count balances of the covered individual;

24 “(C) associations, past or present, of the
25 covered individual with any individual or group

1 that may suggest ill intent, vulnerability to
2 blackmail, compulsive behavior, allegiance to
3 another country, or change in ideology of the
4 covered individual;

5 “(D) public information, including news
6 articles or reports, that includes derogatory in-
7 formation about the covered individual;

8 “(E) information posted on any social
9 media website or forum that may suggest ill in-
10 tent, vulnerability to blackmail, compulsive be-
11 havior, allegiance to another country, or change
12 in ideology of the covered individual; and

13 “(F) data maintained on any terrorist or
14 criminal watch list maintained by any agency,
15 State or local government, or international or-
16 ganization, including any such list maintained
17 by—

18 “(i) the Office of Foreign Assets Con-
19 trol of the Department of the Treasury;

20 “(ii) the Federal Bureau of Investiga-
21 tion; and

22 “(iii) the International Criminal Po-
23 lice Organization.

24 “(3) WEALTH INDICATOR.—The enhanced secu-
25 rity clearance system shall have the ability to pro-

1 vide a wealth indicator for a covered individual
2 about whom the major credit reporting agencies
3 have little or no information.

4 “(4) PAST CONTACTS.—The enhanced security
5 clearance system shall have the ability to provide the
6 contact information of family members and present
7 and former associates, co-habitants, and neighbors
8 of the covered individual that has not been provided
9 by the covered individual.

10 “(d) REVIEWS OF SECURITY CLEARANCES AND AC-
11 CESS.—

12 “(1) REVIEWS.—

13 “(A) IN GENERAL.—Not less than 2 times
14 every 5 years, the Director of the Office of Per-
15 sonnel Management, using the enhanced secu-
16 rity clearance system, shall review the accuracy
17 and comprehensiveness of information relating
18 to the security clearance or access to classified
19 information of each covered individual who is
20 appointed to a position that requires its occu-
21 pant to have a such security clearance or ac-
22 cess.

23 “(B) INDIVIDUAL REVIEWS.—A review of
24 the information relating to the security clear-
25 ance or access to classified information of a

1 covered individual under subparagraph (A) may
2 not be conducted until after the end of the 120-
3 day period beginning on the date such covered
4 individual receives the required notification
5 under paragraph (4).

6 “(2) REPORTING RESULTS.—The Director of
7 the Office of Personnel Management shall—

8 “(A) notify the agency that employs or
9 contracts a covered individual if a review under
10 paragraph (1) finds information pertinent to
11 the revocation of the security clearance or ac-
12 cess to classified information of the covered in-
13 dividual; and

14 “(B) provide such information to the agen-
15 cy.

16 “(3) ACTIVE SECURITY CLEARANCES AND AC-
17 CESS.—Each agency that employs or contracts a
18 covered individual who has an active security clear-
19 ance or access to classified information shall provide
20 the names of such individuals to the Director of the
21 Office of Personnel Management at intervals deter-
22 mined appropriate by the Director of the Office of
23 Personnel Management.

24 “(4) INFORMATION FOR COVERED INDIVID-
25 UALS.—The Director of the Office of Personnel

1 Management, in consultation with the head of each
2 agency that employs or contracts with covered indi-
3 viduals who have an active security clearance or ac-
4 cess to classified information, shall ensure that each
5 such individual is adequately advised of what types
6 of information the individual is required to report to
7 the head of the agency that may be pertinent to the
8 continuation of the security clearance or access to
9 classified information of the individual.

10 “(5) LIMITATION.—Nothing in this subsection
11 shall be construed as requiring increased consider-
12 ation of information relating to minor financial or
13 mental health issues of a covered individual in evalu-
14 ating the security clearance or access to classified in-
15 formation of such individual.

16 “(e) CUSTOMIZATION.—An agency may provide to
17 the Director of the Office of Personnel Management spe-
18 cific parameters, including specifications relating to the
19 types of information to be monitored by the enhanced se-
20 curity clearance system, to create a method for evaluating
21 the potential risk posed by a covered individual based on
22 the position to which the covered individual is being con-
23 sidered for appointment or has been appointed.

24 “(f) INDIVIDUALS UNDER INVESTIGATION.—

1 “(1) REQUIREMENTS FOR INSPECTOR GEN-
2 ERAL.—The Inspector General of each agency
3 shall—

4 “(A) maintain a list of each individual em-
5 ployed by or contracted with the agency who—

6 “(i) has an active security clearance
7 or access to classified information; and

8 “(ii) is the subject of a completed in-
9 vestigation by the Director of the Office of
10 Personnel Management or such Inspector
11 General; and

12 “(B) provide the list required under sub-
13 paragraph (A) to the Director of the Office of
14 Personnel Management upon request.

15 “(2) REQUIREMENTS FOR DIRECTOR OF THE
16 OFFICE OF PERSONNEL MANAGEMENT.—The Direc-
17 tor of the Office of Personnel Management shall—

18 “(A) request the list required under para-
19 graph (1)(A) before any notification under sub-
20 section (d)(2)(A); and

21 “(B) include in any notification regarding
22 a covered individual under subsection (d)(2)(A)
23 information indicating that the covered indi-
24 vidual is included on a list maintained under
25 paragraph (1)(A).

1 “(g) AUDIT.—Beginning 2 years after the date of im-
2 plementation of the enhanced security clearance system
3 under subsection (b), the Inspector General of the Office
4 of Personnel Management shall conduct an audit of the
5 enhanced security clearance system to assess the effective-
6 ness of the enhanced security clearance system, and its
7 fairness to covered individuals.”.

8 (b) FUNDING FROM THE REVOLVING FUND OF THE
9 OFFICE OF PERSONNEL MANAGEMENT.—Section
10 1304(e)(1) of title 5, United States Code, is amended by
11 inserting “implementation of the enhanced security clear-
12 ance system under section 11001 and” after “including”.

13 (c) AMENDMENT TO THE FAIR CREDIT REPORTING
14 ACT.—Section 603(d) of the Fair Credit Reporting Act (15
15 U.S.C. 1681a(d)) is amended—

16 (1) in paragraph (2)—

17 (A) in the matter preceding subparagraph
18 (A), by striking “paragraph (3)” and inserting
19 “paragraphs (3) and (4)”;

20 (B) in subparagraph (C), by striking “or”
21 at the end;

22 (C) in subparagraph (D), by striking the
23 period and inserting “; or”; and

24 (D) by adding at the end the following:

1 “(E) any communication made in connec-
2 tion with the granting, denial, review, or revoca-
3 tion of a Federal security clearance or access to
4 classified information of a covered individual
5 (as that term is defined in section 11001 of
6 title 5, United States Code), if that communica-
7 tion is made to—

8 “(i) an agency (as that term is de-
9 fined in section 3001 of the Intelligence
10 Reform and Terrorism Prevention Act of
11 2004 (50 U.S.C. 3341)); or

12 “(ii) an authorized contractor or sub-
13 contractor of the Federal Government.”;
14 and

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

16 “(4) COMMUNICATIONS RELATING TO FEDERAL
17 SECURITY CLEARANCES AND ACCESS TO CLASSIFIED
18 INFORMATION.—The exclusion under paragraph
19 (2)(E) shall not apply with respect to information
20 originating from a major consumer reporting agency
21 (as that term is defined in section 11001 of title 5,
22 United States Code) relating to a credit account or
23 the credit history of a covered individual (as that
24 term is defined in section 11001 of title 5, United
25 States Code).”.

1 (d) TECHNICAL AND CONFORMING AMENDMENT.—

2 The table of chapters for part III of title 5, United States

3 Code, is amended by adding at the end following:

“Subpart J—Office of Personnel Management Enhanced Security Clearance
System

**“110. Office of Personnel Management enhanced secu-
rity clearance system11001”.**