

117TH CONGRESS
2D SESSION

S. 5250

To modify requirements for certain employment activities by former intelligence officers and employees of the intelligence community, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 2022

Mr. CORNYN (for himself, Mr. KING, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To modify requirements for certain employment activities by former intelligence officers and employees of the intelligence community, 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. MODIFICATION OF REQUIREMENTS FOR CER-**
4 **TAIN EMPLOYMENT ACTIVITIES BY FORMER**
5 **INTELLIGENCE OFFICERS AND EMPLOYEES.**

6 (a) IN GENERAL.—Subsections (a) and (b) of section
7 304 of the National Security Act of 1947 (50 U.S.C.
8 3073a) are amended to read as follows:

9 “(a) POST-EMPLOYMENT RESTRICTIONS.—

1 “(1) COVERED POST-SERVICE POSITION.—

2 “(A) PERMANENT RESTRICTION.—Except
3 as provided by paragraph (2)(A)(i), an em-
4 ployee of an element of the intelligence commu-
5 nity who occupies a covered intelligence position
6 may not occupy a covered post-service position
7 for a designated prohibited foreign country fol-
8 lowing the date on which the employee ceases to
9 occupy a covered intelligence position.

10 “(B) TEMPORARY RESTRICTION.—Except
11 as provided by paragraph (2)(A)(ii), an em-
12 ployee of an element of the intelligence commu-
13 nity who occupies a covered intelligence position
14 may not occupy a covered post-service position
15 during the 30-month period following the date
16 on which the employee ceases to occupy a cov-
17 ered intelligence position.

18 “(2) WAIVER.—

19 “(A) AUTHORITY TO GRANT TEMPORARY
20 WAIVER.—

21 “(i) WAIVERS OF PERMANENT RE-
22 STRICTION.—On a case-by-case basis, the
23 Director of National Intelligence may tem-
24 porarily waive the restriction in paragraph
25 (1)(A) with respect to an employee or

1 former employee who is subject to that re-
2 striction only after—

3 “(I) the employee or former em-
4 ployee submits to the Director a writ-
5 ten application for such waiver in
6 such form and manner as the Director
7 determines appropriate;

8 “(II) the Director determines
9 that not granting such waiver would
10 result in a grave detrimental impact
11 to current or future intelligence oper-
12 ations of the United States; and

13 “(III) the Director provides the
14 congressional intelligence committees
15 with a detailed justification stating
16 why not granting such waiver would
17 result in a grave detrimental impact
18 to current or future intelligence oper-
19 ations of the United States.

20 “(ii) WAIVERS OF TEMPORARY RE-
21 STRICTION.—On a case-by-case basis, the
22 Director may temporarily waive the restric-
23 tion in paragraph (1)(B) with respect to
24 an employee or former employee who is
25 subject to that restriction only after—

1 “(I) the employee or former em-
2 ployee submits to the Director a writ-
3 ten application for such waiver in
4 such form and manner as the Director
5 determines appropriate; and

6 “(II) the Director determines
7 that such waiver is necessary to ad-
8 vance the national security interests
9 of the United States.

10 “(B) PERIOD OF WAIVER.—A waiver
11 issued under subparagraph (A) shall apply for
12 a period not exceeding 5 years. The Director
13 may renew such a waiver.

14 “(C) REVOCATION.—The Director may re-
15 voke a waiver issued under subparagraph (A) to
16 an employee or former employee, effective on
17 the date that is 60 days after the date on which
18 the Director provides the employee or former
19 employee written notice of such revocation.

20 “(D) TOLLING.—The 30-month restriction
21 in paragraph (1)(B) shall be tolled for an em-
22 ployee or former employee during the period be-
23 ginning on the date on which a waiver is issued
24 under subparagraph (A) and ending on the date
25 on which the waiver expires or on the effective

1 date of a revocation under subparagraph (C),
2 as the case may be.

3 “(E) NOTIFICATION.—Not later than 30
4 days after the date on which the Director issues
5 a waiver under subparagraph (A) or a revoca-
6 tion of a waiver under subparagraph (C), the
7 Director shall submit to the congressional intel-
8 ligence committees written notification of the
9 waiver or revocation, as the case may be. Such
10 notification shall include the following:

11 “(i) With respect to a waiver issued to
12 an employee or former employee—

13 “(I) the details of the applica-
14 tion, including the covered intelligence
15 position held or formerly held by the
16 employee or former employee;

17 “(II) the nature of the activities
18 of the employee or former employee
19 after ceasing to occupy a covered in-
20 telligence position;

21 “(III) a description of the na-
22 tional security interests that will be
23 advanced by reason of issuing such
24 waiver; and

1 “(IV) the specific reasons why
2 the Director determines that issuing
3 such waiver will advance such inter-
4 ests.

5 “(ii) With respect to a revocation of a
6 waiver issued to an employee or former
7 employee—

8 “(I) the details of the waiver, in-
9 cluding any renewals of such waiver,
10 and the dates of such waiver and re-
11 newals; and

12 “(II) the specific reasons why the
13 Director determined that such revoca-
14 tion is warranted.

15 “(b) COVERED POST-SERVICE EMPLOYMENT RE-
16 PORTING.—

17 “(1) REQUIREMENT.—During the period de-
18 scribed in paragraph (2), an employee who ceases to
19 occupy a covered intelligence position shall—

20 “(A) report covered post-service employ-
21 ment to the head of the element of the intel-
22 ligence community that employed such employee
23 in such covered intelligence position upon ac-
24 cepting such covered post-service employment;
25 and

1 “(B) annually (or more frequently if the
2 head of such element considers it appropriate)
3 report covered post-service employment to the
4 head of such element.

5 “(2) PERIOD DESCRIBED.—The period de-
6 scribed in this paragraph is the period beginning on
7 the date on which an employee ceases to occupy a
8 covered intelligence position.

9 “(3) REGULATIONS.—The head of each element
10 of the intelligence community shall issue regulations
11 requiring, as a condition of employment, each em-
12 ployee of such element occupying a covered intel-
13 ligence position to sign a written agreement requir-
14 ing the regular reporting of covered post-service em-
15 ployment to the head of such element pursuant to
16 paragraph (1).”.

17 (b) DEFINITION OF DESIGNATED PROHIBITED FOR-
18 EIGN COUNTRY.—Subsection (g) of such section is amend-
19 ed—

20 (1) by redesignating paragraphs (4) through
21 (6) as paragraphs (5) through (7), respectively; and

22 (2) by inserting after paragraph (3) the fol-
23 lowing:

“(4) DESIGNATED PROHIBITED FOREIGN COUNTRY.—The term ‘designated prohibited foreign country’ means the following:

“(A) The People’s Republic of China.

“(B) The Russian Federation.

“(C) The Democratic People’s Republic of Korea.

“(D) The Islamic Republic of Iran.

“(E) The Republic of Cuba.

“(F) The Syrian Arab Republic.”.

(c) ADDITIONAL WRITTEN NOTICE.—

(1) IN GENERAL.—Subsection (d) of such section is amended by adding at the end the following:

“(3) WRITTEN NOTICE ABOUT RESTRICTIONS.—The head of each element of the intelligence community shall provide written notice of the restrictions under subsection (a) to any person who may be subject to such restrictions on or after the date of enactment of the Intelligence Authorization Act for Fiscal Year 2023—

“(A) when the head of the element determines that such person may become subject to such covered intelligence position restrictions; and

1 “(B) before the person ceases to occupy a
2 covered intelligence position.”.

3 (2) CONFORMING AMENDMENT.—Paragraph (2)
4 of such subsection is amended in the paragraph
5 heading by adding “ABOUT REPORTING REQUIRE-
6 MENTS” after “WRITTEN NOTICE”.

7 (d) REVISED REGULATIONS.—

8 (1) DEFINITION OF COVERED INTELLIGENCE
9 POSITION.—In this subsection,

10 (A) CONGRESSIONAL INTELLIGENCE COM-
11 MITTEES AND INTELLIGENCE COMMUNITY.—

12 The terms “congressional intelligence commit-
13 tees” and “intelligence community” have the
14 meanings given such terms in section 3 of the
15 National Security Act of 1947 (50 U.S.C.
16 3003).

17 (B) COVERED INTELLIGENCE POSITION.—

18 The term “covered intelligence position” has
19 the meaning given such term by such section
20 304.

21 (2) SUBMISSION.—Not later than 30 days after
22 the date of the enactment of this Act, the head of
23 each element of the intelligence community shall
24 submit to the congressional intelligence committees
25 new or updated regulations issued to carry out such

1 section 304, as amended by subsections (a), (b), and
2 (c) of this section.

3 (3) REQUIREMENTS.—The regulations issued
4 under paragraph (1) shall—

5 (A) include provisions that advise per-
6 sonnel of the intelligence community of the ap-
7 propriate manner in which such personnel may
8 opt out of positions that—

9 (i) have been designated as covered
10 intelligence positions before the effective
11 date established in subsection (e) of this
12 section; or

13 (ii) may be designated as covered in-
14 telligence provisions before such designa-
15 tion becomes final; and

16 (B) establish a period of not fewer than 30
17 days and not more than 60 days after receipt
18 of the written notice required under paragraph
19 (3) of subsection (d) of such section 304, as
20 added by subsection (c)(1) of this section, with-
21 in which such personnel may opt out of a cov-
22 ered intelligence position and the accompanying
23 obligations imposed by subsection (a)(1)(A) of
24 such section 304, as amended by subsection (a)
25 of this section.

1 (4) CERTIFICATION.—Not later than 180 days
2 after the date of the enactment of this Act, the Di-
3 rector of National Intelligence shall submit to the
4 congressional intelligence committees—

5 (A) a written certification for each head of
6 an element of the intelligence community who
7 has issued new or updated regulations pursuant
8 to paragraph (2); and

9 (B) for each head of an element of the in-
10 telligence community who has not issued such
11 new or updated regulations, an explanation for
12 the failure to issue such new or updated regula-
13 tions.

14 (e) EFFECTIVE DATE OF PERMANENT RESTRIC-
15 TIONS.—Subsection (a)(1)(A) of such section 304, as
16 amended by subsection (a) of this section, shall apply only
17 to persons who occupy a covered intelligence position on
18 or after the date that is 45 days after the date on which
19 new or updated regulations are issued under subsection
20 (d)(2) of this section.

21 (f) REPEAL.—Section 402 of the Intelligence Author-
22 ization Act for Fiscal Year 1997 (Public Law 104–293)
23 is hereby repealed.

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