

118TH CONGRESS
1ST SESSION

H. R. 5977

To improve the classification and declassification of national security
information, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 17, 2023

Mr. WENSTRUP (for himself and Ms. SPANBERGER) introduced the following
bill

OCTOBER 25, 2023

Referred to the Committee on Oversight and Accountability, and in addition
to the Committees on Intelligence (Permanent Select), and Energy and
Commerce, for a period to be subsequently determined by the Speaker,
in each case for consideration of such provisions as fall within the juris-
diction of the committee concerned

A BILL

To improve the classification and declassification of national
security 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Sensible Classification Act of 2023”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and sense of Congress.
- Sec. 3. Classification authority.
- Sec. 4. Promoting efficient declassification review.
- Sec. 5. Training to promote sensible classification.
- Sec. 6. Improvements to Public Interest Declassification Board.
- Sec. 7. Implementation of technology for classification and declassification.
- Sec. 8. Studies and recommendations on necessity of security clearances.
- Sec. 9. Definitions.

1 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) According to a report released by the Office
 4 of the Director of Intelligence in 2020 titled “Fiscal
 5 Year 2019 Annual Report on Security Clearance De-
 6 terminations”, more than 4,000,000 individuals have
 7 been granted eligibility for a security clearance.

8 (2) At least 1,300,000 of such individuals have
 9 been granted access to information classified at the
 10 Top Secret level.

11 (b) SENSE OF CONGRESS.—It is the sense of Con-
 12 gress that—

13 (1) the classification system of the Federal Gov-
 14 ernment is in urgent need of reform;

15 (2) the number of people with access to classi-
 16 fied information is exceedingly high and must be jus-
 17 tified or reduced;

18 (3) reforms are necessary to reestablish trust
 19 between the Federal Government and the people of
 20 the United States; and

1 (4) classification should be limited to the min-
2 imum necessary to protect national security while
3 balancing the public's interest in disclosure.

4 **SEC. 3. CLASSIFICATION AUTHORITY.**

5 (a) IN GENERAL.—The authority to classify informa-
6 tion originally may be exercised only by—

7 (1) the President and, in the discharge of exec-
8 utive duties and responsibilities, the Vice President;

9 (2) the head or any other official of any agency
10 authorized by the President pursuant to a designa-
11 tion of such authority in the Federal Register; and

12 (3) an official of the Federal Government to
13 whom authority to classify information originally has
14 been delegated pursuant to subsection (c).

15 (b) SCOPE OF AUTHORITY.—An individual author-
16 ized under this section to classify information originally
17 at a specified level may also classify information originally
18 at a lower level.

19 (c) DELEGATION OF ORIGINAL CLASSIFICATION AU-
20 THORITY.—An official of the Federal Government may be
21 delegated original classification authority subject to the
22 following:

23 (1) Delegation of original classification author-
24 ity shall be limited to the minimum required to ad-
25 minister this section. Agency heads shall be respon-

1 sible for ensuring that designated subordinate offi-
2 cials have a demonstrable and continuing need to ex-
3 ercise such authority.

4 (2) Authority to originally classify information
5 at the level designated as “Top Secret” may be dele-
6 gated only by the President, in the performance of
7 executive duties, the Vice President, or an agency
8 head or official designated pursuant to subsection
9 (a)(2).

10 (3) Authority to originally classify information
11 at the level designated as “Secret” or “Confidential”
12 may be delegated only by the President, in the dis-
13 charge of executive duties and responsibilities, the
14 Vice President, or an agency head or official des-
15 ignated pursuant to subsection (a)(2), or the senior
16 agency official described in section 5.4(d) of Execu-
17 tive Order 13526 (50 U.S.C. 3161 note; relating to
18 classified national security information), or successor
19 order, provided that official has been delegated “Top
20 Secret” original classification authority by the agen-
21 cy head.

22 (4) Each delegation of original classification au-
23 thority shall be in writing and the authority shall
24 not be redelegated except as provided by paragraph

1 (1), (2), or (3). Each delegation shall identify the of-
2 ficial by name or position title.

3 (d) TRAINING REQUIRED.—

4 (1) IN GENERAL.—An individual may not be
5 delegated original classification authority under this
6 section unless the individual has first received train-
7 ing described in paragraph (2).

8 (2) TRAINING DESCRIBED.—Training described
9 in this paragraph is training on original classifica-
10 tion that includes instruction on the proper safe-
11 guarding of classified information and of the crimi-
12 nal, civil, and administrative sanctions that may be
13 brought against an individual who fails to protect
14 classified information from unauthorized disclosure.

15 (e) EXCEPTIONAL CASES.—

16 (1) IN GENERAL.—When an employee, con-
17 tractor, licensee, certificate holder, or grantee of an
18 agency who does not have original classification au-
19 thority originates information believed by that em-
20 ployee, contractor, licensee, certificate holder, or
21 grantee to require classification, the information
22 shall be protected in a manner consistent with Exec-
23 utive Order 13526 (50 U.S.C. 3161 note; relating to
24 classified national security information), or successor
25 order.

1 (2) TRANSMISSION.—An employee, contractor,
2 licensee, certificate holder, or grantee described in
3 paragraph (1), who originates information described
4 in such paragraph, shall promptly transmit such in-
5 formation to—

6 (A) the head of the agency that has appro-
7 priate subject matter interest and classification
8 authority with respect to the information; or

9 (B) if it is not clear which agency has ap-
10 propriate subject matter interest and classifica-
11 tion authority with respect to the information,
12 to the Director of the Information Security
13 Oversight Office of the National Archives and
14 Records Administration.

15 (3) INFORMATION SECURITY OVERSIGHT OF-
16 FICE ACTION.—If the Director of the Information
17 Security Oversight Office receives information under
18 paragraph (2)(B), the Director shall determine
19 which agency has appropriate subject matter interest
20 and classification authority and submit the informa-
21 tion, with appropriate recommendations, to the head
22 of that agency for a classification determination.

23 (4) TIMING OF DETERMINATIONS.—Not later
24 than 30 days after the head of agency receives infor-
25 mation pursuant to paragraph (2)(A) or (3), the

1 head shall make a determination as to whether to
2 classify the information.

3 **SEC. 4. PROMOTING EFFICIENT DECLASSIFICATION RE-**
4 **VIEW.**

5 (a) IN GENERAL.—Whenever the head of an agency
6 is processing a request pursuant to section 552 of title
7 5, United States Code (commonly known as the “Freedom
8 of Information Act”) or the mandatory declassification re-
9 view provisions of Executive Order 13526 (50 U.S.C. 3161
10 note; relating to classified national security information),
11 or successor order, and identifies responsive classified
12 records that are more than 25-years-of-age as of Decem-
13 ber 31 of the year in which the request is received, the
14 head of the agency shall review the record and process
15 the record for declassification and release by the National
16 Declassification Center of the National Archives and
17 Records Administration.

18 (b) APPLICATION.—Subsection (a) shall apply—

19 (1) regardless of whether or not the record de-
20 scribed in such subsection is in the legal custody of
21 the National Archives and Records Administration;
22 and

23 (2) without regard for any other provisions of
24 law or existing agreements or practices between
25 agencies.

1 **SEC. 5. TRAINING TO PROMOTE SENSIBLE CLASSIFICA-**
2 **TION.**

3 (a) TRAINING REQUIRED.—Each head of an agency
4 with classification authority shall conduct training for em-
5 ployees of such agency with classification authority to dis-
6 courage over-classification and to promote sensible classi-
7 fication.

8 (b) DEFINITIONS.—In this section:

9 (1) OVER-CLASSIFICATION.—The term “over-
10 classification” means classification at a level that ex-
11 ceeds the minimum level of classification that is suf-
12 ficient to protect the national security of the United
13 States.

14 (2) SENSIBLE CLASSIFICATION.—The term
15 “sensible classification” means classification at a
16 level that is the minimum level of classification that
17 is sufficient to protect the national security of the
18 United States.

19 **SEC. 6. IMPROVEMENTS TO PUBLIC INTEREST DECLAS-**
20 **SIFICATION BOARD.**

21 Section 703 of the Public Interest Declassification
22 Act of 2000 (50 U.S.C. 3355a) is amended—

23 (1) in subsection (c), by adding at the end the
24 following:

1 “(5) A member of the Board whose term has expired
 2 may continue to serve until a successor is appointed and
 3 sworn in.”; and

4 (2) in subsection (f)—

5 (A) by inserting “(1)” before “Any em-
 6 ployee”; and

7 (B) by adding at the end the following:

8 “(2) In addition to any employees detailed to the
 9 Board under paragraph (1), the Board may hire not more
 10 than 12 staff members.”.

11 **SEC. 7. IMPLEMENTATION OF TECHNOLOGY FOR CLASSI-**
 12 **FICATION AND DECLASSIFICATION.**

13 (a) IN GENERAL.—Not later than 1 year after the
 14 date of the enactment of this Act, the Administrator of
 15 the Office of Electronic Government of the Office of Man-
 16 agement and Budget (in this section referred to as the
 17 “Administrator”), in consultation with the Secretary of
 18 Defense, the Director of the Central Intelligence Agency,
 19 the Director of National Intelligence, the Director of the
 20 Information Security Oversight Office, the head of the Na-
 21 tional Declassification Center of the National Archives
 22 and Records Administration, and the Public Interest De-
 23 classification Board, shall—

24 (1) research a technology-based solution—

1 (A) using machine learning and artificial
2 intelligence to support efficient and effective
3 systems for classification and declassification;
4 and

5 (B) to be implemented on an interoperable
6 and federated basis across the Federal Govern-
7 ment; and

8 (2) submit to the President a recommendation
9 regarding a technology-based solution described in
10 paragraph (1) that should be adopted by the Federal
11 Government.

12 (b) STAFF.—The Administrator may hire sufficient
13 staff to carry out subsection (a).

14 (c) REPORT.—

15 (1) SUBMISSION.—Not later than 540 days
16 after the date of the enactment of this Act, the
17 President shall submit to Congress a report on the
18 technology-based solution recommended by the Ad-
19 ministrator under subsection (a)(2) and the deter-
20 mination of the President regarding its adoption.

21 (2) FORM.—The report under paragraph (1)
22 may be submitted in classified form.

1 **SEC. 8. STUDIES AND RECOMMENDATIONS ON NECESSITY**
2 **OF SECURITY CLEARANCES.**

3 (a) STUDIES ON NECESSITY OF SECURITY CLEAR-
4 ANCES.—

5 (1) STUDIES REQUIRED.—The head of each
6 agency that grants security clearances to personnel
7 of such agency shall conduct a study on the neces-
8 sity of such security clearances.

9 (2) REPORTS REQUIRED.—

10 (A) IN GENERAL.—Not later than 1 year
11 after the date of the enactment of this Act,
12 each head of an agency that conducts a study
13 under paragraph (1) shall submit to Congress
14 a report on the findings of the head with re-
15 spect to such study, which the head may clas-
16 sify as appropriate.

17 (B) REQUIRED ELEMENTS.—Each report
18 submitted by the head of an agency under sub-
19 paragraph (A) shall include, for such agency,
20 the following:

21 (i) The number of personnel eligible
22 for access to information up to the Top Se-
23 cret level.

24 (ii) The number of personnel eligible
25 for access to information up to the Secret
26 level.

1 (iii) Information on the any reduction
2 in the number of personnel eligible for ac-
3 cess to classified information based on the
4 study conducted under paragraph (1).

5 (iv) A description of how the head will
6 ensure that the number of security clear-
7 ances granted by such agency will be kept
8 to the minimum required for the conduct
9 of agency functions, commensurate with
10 the size, needs, and mission of the agency.

11 (3) INDUSTRY.—This subsection shall apply to
12 the Secretary of Defense in the capacity of such Sec-
13 retary as the Executive Agent for the National In-
14 dustrial Security Program. The Secretary of Defense
15 shall treat contractors, licensees, and grantees as
16 personnel of the Department of Defense for pur-
17 poses of the studies and reports required by this
18 subsection.

19 (b) DIRECTOR OF NATIONAL INTELLIGENCE REVIEW
20 OF SENSITIVE COMPARTMENTED INFORMATION.—The
21 Director of National Intelligence shall—

22 (1) review the number of personnel eligible for
23 access to sensitive compartmented information; and

1 (2) submit to Congress a report on how the Di-
2 rector will ensure that the number of such personnel
3 is limited to the minimum required.

4 (c) AGENCY REVIEW OF SPECIAL ACCESS PRO-
5 GRAMS.—Each head of an agency who is authorized to es-
6 tablish a special access program by Executive Order
7 13526 (50 U.S.C. 3161 note; relating to classified na-
8 tional security information), or successor order, shall—

9 (1) review the number of personnel of the agen-
10 cy eligible for access to such special access pro-
11 grams; and

12 (2) submit to Congress a report on how the
13 head will ensure that the number of such personnel
14 is limited to the minimum required.

15 (d) SECRETARY OF ENERGY REVIEW OF Q AND L
16 CLEARANCES.—The Secretary of Energy shall—

17 (1) review the number of personnel of the De-
18 partment of Energy granted Q and L access; and

19 (2) submit to Congress a report on how the
20 Secretary will ensure that the number of such per-
21 sonnel is limited to the minimum required.

22 (e) INDEPENDENT REVIEWS.—Not later than 180
23 days after the date on which a study is completed under
24 subsection (a) or a review is completed under subsections
25 (b) through (d), the Director of the Information Security

1 Oversight Office of the National Archives and Records Ad-
2 ministration, the Director of National Intelligence, and the
3 Public Interest Declassification Board shall each review
4 the study or review, as the case may be.

5 **SEC. 9. DEFINITIONS.**

6 In this Act:

7 (1) AGENCY.—The term “agency” has the
8 meaning given the term “Executive agency” in sec-
9 tion 105 of title 5, United States Code.

10 (2) CLASSIFIED INFORMATION.—The term
11 “classified information” means information that has
12 been determined pursuant to Executive order 12958
13 (50 U.S.C. 3161 note; relating to classified national
14 security information), or successor order, to require
15 protection against unauthorized disclosure and is
16 marked to indicate its classified status when in doc-
17 umentary form.

18 (3) CLASSIFICATION.—The term “classifica-
19 tion” means the act or process by which information
20 is determined to be classified information.

21 (4) DECLASSIFICATION.—The term “declas-
22 sification” means the authorized change in the sta-
23 tus of information from classified information to un-
24 classified information.

1 (5) DOCUMENT.—The term “document” means
2 any recorded information, regardless of the nature of
3 the medium or the method or circumstances of re-
4 cording.

5 (6) DOWNGRADE.—The term “downgrade”
6 means a determination by a declassification author-
7 ity that information classified and safeguarded at a
8 specified level shall be classified and safeguarded at
9 a lower level.

10 (7) INFORMATION.—The term “information”
11 means any knowledge that can be communicated or
12 documentary material, regardless of its physical
13 form or characteristics, that is owned by, is pro-
14 duced by or for, or is under the control of the
15 United States Government.

16 (8) ORIGINATE, ORIGINATING, AND ORIGI-
17 NATED.—The term “originate”, “originating”, and
18 “originated”, with respect to classified information
19 and an authority, means the authority that classified
20 the information in the first instance.

21 (9) RECORDS.—The term “records” means the
22 records of an agency and Presidential papers or
23 Presidential records, as those terms are defined in
24 title 44, United States Code, including those created
25 or maintained by a government contractor, licensee,

1 certificate holder, or grantee that are subject to the
2 sponsoring agency's control under the terms of the
3 contract, license, certificate, or grant.

4 (10) SECURITY CLEARANCE.—The term “secu-
5 rity clearance” means an authorization to access
6 classified information.

7 (11) UNAUTHORIZED DISCLOSURE.—The term
8 “unauthorized disclosure” means a communication
9 or physical transfer of classified information to an
10 unauthorized recipient.

11 (12) UNCLASSIFIED INFORMATION.—The term
12 “unclassified information” means information that is
13 not classified information.

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