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SUMMARY OF "SECURITY CLASSIFICATION ACT OF 1975"

This draft bill would replace E. O. 11652 as the authority for the classification of government information. The bill provides that no agency is authorized to exercise classification authority except as provided in the proposed new section 552b of Title 5, United States Code. Section 2 (pages 1-5) reflects congressional findings regarding the use of classification by the executive branch. Although generally not flattering, we will not be taking issue with them. Section 3 comprises 90 percent of the bill and presents the classification scheme, embodied in proposed 5 U.S.C. 552b. Section 4 of the bill asks the President to keep the Congress informed regarding the activities of the agencies covered under the Act. Section 5 alters the language of the section (b)(1) exemption to the FOIA.

Proposed 5 U. S. C. 552b

(a) DEFINITIONS (pages 5-6)

(1) agency

(2) classification authority

(3) official information

(4) classification marking

(b) CLASSIFICATION MARKINGS (page 7)

No agency may classify information except pursuant to this section.

(c) AUTHORITY TO CLASSIFY (pages 7-12)

(1) Official information may be classified Top Secret only by the ten agencies and departments listed, including CIA.

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(2) Official information may be classified Secret by the ten listed in (1), and by four other listed offices.

(3) Official information may be classified Confidential by the agencies and departments listed in (1) and (2), and by others (as yet undetermined).

(4) Within agencies, information may only be classified by the director and others he designates in writing, but these must be employees whose day-to-day responsibilities require this authority. Director shall review each designated employee's assignment semiannually to remove authority to classify if feasible.

(A) Individuals designated may not delegate this authority.

(B) Except as otherwise provided by statute, agency head shall compile semiannually a list of all those with delegation authority, and shall make it available to the Classification Review Commission (CRC), the Comptroller General, and committees of the Congress.

(C) Each designated employee shall put his name, other identifying data, and the automatic declassification date or event (if possible) on each document he classifies.

(D) Each designated employee shall be held accountable under agency regulations for mistakes in classifying.

(E) Employees shall not classify information for specified purposes (e.g., to conceal errors).

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(F) Employees without authority to classify can place classification markings on classified information.

(G) Violation of this subsection shall lead to administrative reprimands.

(d) CRITERIA FOR CLASSIFICATION MARKINGS (pages 12-17)

(1) Official information may be marked Top Secret only when it contains:

(A) details of non-deployed advanced weapons systems

(B) details of operational or contingency military plan

(C) details of U. S. or foreign cryptographic system

(D) details of foreign intelligence gathering operations of U. S., with several examples

(E) details of negotiating positions

(F) contains information required by other statutes to be protected, including "Restricted Data"

(2) Official information may be marked Secret only when it contains:

(A) details of deployed, advanced, non-compromised weapon system

(B) details of tactical operational military plan

(C) details resulting from investigative activities of an agency concerning the specified types of operations of the U. S. or other specified countries.

(D) details relating to foreign policy objectives, including information on foreign leaders

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(3) Official information may be marked Confidential only if it contains:

(A) details of R&D of an advanced weapon system

(B) details of the results of a U. S. tactical military operation, if this would be of military value to another country

(C) details relating to U. S. policy, strategy, or diplomacy, if this would damage diplomatic relations

(4) Official information furnished by a foreign government or international organization may be classified depending on its classification determined by the foreign government or organization. Information obtained by intelligence gathering may be classified depending on its sensitivity based on criteria authorized by this subsection.

(e) DOWNGRADING AND DECLASSIFICATION OF OFFICIAL INFORMATION (pages 17-25)

(1) Except for information covered by subsection (e)(8), a designated agency official shall downgrade or declassify information according to subsections (2), (3), (4), and (5).

(2) Top Secret information shall be automatically downgraded to Secret in not more than 12 months, to Confidential in not more than 24 months after originally classified, and declassified in not more than 36 months after originally classified.

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(3) Secret information shall be automatically downgraded to Confidential in not more than 12 months, and declassified in not more than 24 months after originally classified.

(4) Confidential information shall be automatically declassified not more than 12 months after the date of classification.

(5) Time periods for downgrading and declassifying shall be reduced wherever possible.

(6) Except for Top Secret information covered by section (e)(8), official information originally classified 15 years or longer before the effective date of this section, shall be declassified within 12 months after the section becomes effective.

(7) Except for Top Secret information covered by section (e)(8), official information classified during the 15-year period preceding the date of enactment shall be downgraded according to paragraphs (2), (3), (4), and (5) of this section.

(8) Top Secret information shall be downgraded in accordance with subsections (5) and (9) only if an employee authorized to classify and declassify documents makes one of the following determinations:

(A) it contains specific details of a national defense plan, weapons system or related defense

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matter which would imperil the defense of the U. S. and the lives of the people if disclosed;

(B) it contains information which would compromise a cryptographic or communications intelligence system;

(C) it contains information which would compromise a current intelligence gathering operation, jeopardize the life of an agent or source in a foreign country;

(D) it contains information specifically exempt from disclosure by another statute.

(9) Whenever a determination is made that information meets the criteria of (e)(8), the head of the agency shall

(A) immediately report the results of such determination to the Chairman of the CRC

(B) upon request, make available to the CRC the determination required by (e)(8)

(C) send an agency employee to a CRC hearing if majority of CRC votes to hold one . If the CRC, by a two-thirds vote rules that the agency justification does not support the determination, it may deny the exemption from routine downgrading, effective 5 working days after the CRC action, unless appealed by the agency under (h)(5).

(10) Downgrading and declassification shall be accomplished by the issuance by an agency of a notice to all known holders of copies.

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(11) Holders of copies shall, on receipt of notice, note on their copy the new classification level and other pertinent data, and remove security precautions in the case of declassified information

(12) In cases where classified information

(A) is held by an agency without current classification authority; or

(B) has been transferred to a successor agency or another agency originally sharing a classification interest in the information; or

(C) has been transferred to GSA for placement in the Archives or a presidential library,

the current holder shall promulgate regulations, with CRC approval, to designate an employee with authority to downgrade or declassify the information.

(f) ACCESS, STORAGE, HANDLING, AND USE OF OFFICIAL INFORMATION

Each agency with classification authority shall issue regulations, under CRC standards, to assure proper access, handling, and use of classified information.

(g) CLASSIFICATION REVIEW COMMISSION (pages 26-38)

(1) CRC established

(2) membership

(3) leadership and vacancies

(4) salary and staff

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(5) CRC shall prescribe standards to assist agencies in developing regulations regarding handling of classified information

(6) powers of Commission

(h) ADJUDICATORY AND APPEAL PROCEDURES (pages 38-)

(1) CRC shall hold hearings on (e)(9) cases, at which concerned agency can present its case

(2) CRC shall decide results of cases within 5 working days after hearings end

(3) CRC will enter an order in all (e)(9) cases

(4) CRC shall take measures to insure the security of the information concerned

(5) United States Court of Appeals for the District of Columbia has exclusive original jurisdiction to review final decisions of CRC under (h)(3) upon complaint filed by a party. Appellate jurisdiction is in the United States Supreme Court.

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