

ALERT

Changes to the Security Clearance Process Coming in the 116th Congress?

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Earlier this month, Senator Mark Warner (D-Va.), Vice Chairman of the Senate Select Committee on Intelligence, reintroduced legislation to modernize the security clearance process. This legislation, the Modernizing the Trusted Workforce for the 21st Century Act, was first introduced toward the close of the 115th Congress in December 2018.

The proposed legislation attempts to modernize the security clearance process, and as Warner describes, would “reduce the background investigation backlog, and ensure the government has the trusted workforce necessary to perform its national security and public safety missions.” The bill, widely supported by the government contract sector, was unanimously reported out of the Senate Select Committee on Intelligence but was not enacted during the 115th Congress.

One of the primary goals of Warner’s bill is to get out from under the current massive security clearance backlog. In April 2018, the backlog of security clearance applications pending completed background checks reached 725,000. The number declined to around 600,000 in late 2018, but still marks a significant and burdensome backlog. Warner argues that the current system, which created the backlog, is inefficient, out-dated, and “in dire need of reform.” Related industries agree – the Professional Services Council, a D.C.-based group representing government contractors, has noted, “[t]he current backlog and wait times add risk to government missions, contract performance, and the ability of both the government and contractors to recruit and hire the talent we need.”

Practice Areas

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The Modernizing the Trusted Workforce for the 21st Century Act would, among other things, introduce the following measures and reforms to the current security clearance system:

- ***Hold the Executive Branch Accountable for Reforms***
 - The bill holds the Executive branch, through the OMB-led Performance Accountability Council, accountable for addressing the immediate backlog crisis and for providing a plan for consolidating the National Background Investigation Bureau at the Department of Defense.
- ***Implement Practical Reforms***
 - Requires the Director of National Intelligence (DNI) to re-examine the questionnaires and adjudicative standards for clearances.
 - Requires policies on interim clearances and consistent treatment between government and contract employees.
 - The Bill outlines specific timelines for clearances:
 - 90 percent of secret clearances should be processed within 30 days
 - 90 percent of top-secret clearances should be processed within 90 days
 - 90 percent of determinations regarding reciprocity should be made within two weeks
 - 90 percent of clearance holders do not need reinvestigations on preset schedules
- ***Strengthen Oversight***
 - The bill codifies the DNI's responsibilities as the Security Executive Agent.
- ***Promote Innovation***
 - The bill directs DNI to provide a report on the concept of a clearance resting with the person, not the agency, enabling personnel mobility.

Warner has made security clearance reform one of his priorities. When reintroducing the bill, he wrote to the White House stressing the importance of modernizing the security clearance process – “the current vetting process for security clearances and positions of trust is too complicated, takes too long, costs too much, and fails to capitalize on modern technology and processes...we are taking too many security risks and losing talented people who are not willing to endure a years-long process. Our current system is broken and needs a revolution.” Given Warner’s commitment to security clearance reform and the reintroduction of this legislation, changes to the security clearance process are possibly on the horizon in the 116th Congress.

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