

118TH CONGRESS
1ST SESSION

H. R. 5040

To amend the Intelligence Reform and Terrorism Prevention Act of 2004 to limit the consideration or marihuana use when making a security clearance or employment suitability determination, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2023

Mr. RASKIN (for himself, Ms. MACE, and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Oversight and Accountability

A BILL

To amend the Intelligence Reform and Terrorism Prevention Act of 2004 to limit the consideration or marihuana use when making a security clearance or employment suitability determination, 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.**

4 This Act may be cited as the “Cannabis Users’ Res-
5 toration of Eligibility Act” or the “CURE Act”.

1 **SEC. 2. LIMITATION ON ADVERSE SECURITY CLEARANCE**
2 **AND SUITABILITY DETERMINATIONS BASED**
3 **ON MARIHUANA USE.**

4 (a) IN GENERAL.—Subsection (a)(1) of section 3002
5 of the Intelligence Reform and Terrorism Prevention Act
6 of 2004 (50 U.S.C. 3343) is amended by striking the pe-
7 riod at the end and inserting the following: “, but does
8 not include marihuana notwithstanding such section
9 102.”.

10 (b) REVIEW OF SECURITY CLEARANCE DENIAL
11 BASED ON MARIHUANA USE.—Such section 3002 is fur-
12 ther amended by adding at the end the following:

13 “(e) LIMITATION ON ADVERSE SECURITY CLEAR-
14 ANCE AND SUITABILITY DETERMINATIONS BASED ON
15 MARIHUANA USE.—

16 “(1) PROHIBITION.—Notwithstanding any other
17 law, rule, or regulation, current or past use of mari-
18 huana by a covered person may not be used in any
19 determination with respect to whether such person
20 is—

21 “(A) eligible for a security clearance; or

22 “(B) suitable for Federal employment, in-
23 cluding under any suitability determination pur-
24 suant to part 731 of title 5, Code of Federal
25 Regulations (or any successor regulations).

26 “(2) REVIEW AND REASSESSMENT.—

1 “(A) IN GENERAL.—Not later than one
2 year after the date of enactment of this Act,
3 each Federal agency shall establish a process to
4 review each decision, made on or after January
5 1, 2008, to deny an individual—

6 “(i) a security clearance; or

7 “(ii) Federal employment as a result
8 of an adverse suitability determination.

9 “(B) PUBLICLY AVAILABLE.—Any process
10 established pursuant to subparagraph (A) shall
11 be made available on the public website of the
12 agency.

13 “(C) RECONSIDERATION.—Upon receiving
14 a request from any individual who was so de-
15 nied a security clearance or employment (as the
16 case may be), not later than 90 days after the
17 date such request is so received—

18 “(i) the Federal agency that denied
19 such clearance or employment shall review
20 the decision; and

21 “(ii) if such review reveals that the
22 denial was based on past or present mari-
23 huana use, such agency shall reconsider
24 such individual’s security clearance or em-
25 ployment application.

1 “(3) APPEAL.—

2 “(A) IN GENERAL.—If a Federal agency
3 denies an individual a security clearance or em-
4 ployment under a reconsideration pursuant to
5 paragraph (2)(C), such individual may, not
6 later than 30 days after the date of such denial,
7 appeal the Federal agency determination to the
8 Merit Systems Protection Board.

9 “(B) MSPB DETERMINATION.—Not later
10 than 120 days after receiving an appeal under
11 subparagraph (A)—

12 “(i) the Board shall review the Fed-
13 eral agency reconsideration determination;
14 and

15 “(ii) if the Board determines that
16 such determination was primarily based on
17 prior or current marihuana use, the Board
18 shall order the Federal agency to imme-
19 diately redetermine the individual’s request
20 for reconsideration, consistent with the re-
21 quirements of this subsection.

22 “(C) LIMITATION ON JUDICIAL REVIEW.—
23 Any decision by the Board under subparagraph
24 (B) shall be final and not subject to judicial re-
25 view.

1 “(4) MARIHUANA DEFINED.—In this section,
2 the term ‘marihuana’ has the meaning given that
3 term in section 102(16) of the Controlled Sub-
4 stances Act (21 U.S.C. 802(16)).”.

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