

## 115TH CONGRESS 1ST SESSION

## S. 595

To provide U.S. Customs and Border Protection with additional flexibility to expedite the hiring process for applicants for law enforcement positions, and for other purposes.

## IN THE SENATE OF THE UNITED STATES

March 9, 2017

Mr. Flake (for himself, Mr. McCain, and Mr. Johnson) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

## A BILL

- To provide U.S. Customs and Border Protection with additional flexibility to expedite the hiring process for applicants for law enforcement positions, 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 "Boots on the Border
  - 5 Act of 2017".

1	SEC. 2. EXPANDED AUTHORITY TO WAIVE POLYGRAPH EX-
2	AMINATIONS FOR CERTAIN APPLICANTS FOR
3	LAW ENFORCEMENT POSITIONS WITH U.S.
4	CUSTOMS AND BORDER PROTECTION.
5	Section 3 of the Anti-Border Corruption Act of 2010
6	(6 U.S.C. 221) is amended by striking subsection (b) and
7	inserting the following:
8	"(b) Waiver.—The Commissioner of U.S. Customs
9	and Border Protection may waive the polygraph examina-
10	tion requirement under subsection $(a)(1)$ for any of the
11	following applicants:
12	"(1) An applicant who, at the time the appli-
13	cant applies for a law enforcement position with
14	U.S. Customs and Border Protection, is a State or
15	local law enforcement officer, if the officer—
16	"(A) has served as a State or local law en-
17	forcement officer for not less than 3 years with
18	no break in service;
19	"(B) is authorized by law to engage in or
20	supervise the prevention, detection, or investiga-
21	tion of any violation of law, or the apprehen-
22	sion, arrest, prosecution, or incarceration of any
23	individual for any violation of law;
24	"(C) is not under investigation, has not
25	been found to have engaged in criminal activity
26	or serious misconduct, has not resigned from a

1	position as a law enforcement officer under in-
2	vestigation or in lieu of termination, and has
3	not been dismissed from a position as a law en-
4	forcement officer; and
5	"(D) has successfully completed a poly-
6	graph examination as a condition of employ-
7	ment with the applicant's law enforcement
8	agency.
9	"(2) An applicant who, at the time the appli-
10	cant applies for a law enforcement position with
11	U.S. Customs and Border Protection, is a Federal
12	law enforcement officer, if the officer—
13	"(A) has served as a Federal law enforce-
14	ment officer for not less than 3 years with no
15	break in service;
16	"(B) has authority to make arrests, con-
17	duct investigations, conduct searches, make sei-
18	zures, bear firearms, and serve orders, war-
19	rants, and other processes;
20	"(C) is not under investigation, has not
21	been found to have engaged in criminal activity
22	or serious misconduct, has not resigned from a
23	position as a law enforcement officer under in-
24	vestigation or in lieu of termination, and has

1	not been dismissed from a position as a law en-
2	forcement officer; and
3	"(D) has undergone an in-scope Tier 4
4	background investigation or a Tier 5 single
5	scope background investigation as a condition
6	of employment with the applicant's law enforce-
7	ment agency.
8	"(3) An applicant who, at the time the appli-
9	cant applies for a law enforcement position with
10	U.S. Customs and Border Protection, is a
11	transitioning member of the Armed Forces, a vet-
12	eran, or a member of the National Guard, if such
13	individual—
14	"(A) has served in the Armed Forces for
15	not less than 4 years;
16	"(B) holds, or has held during the 5 years
17	preceding applying for the position, a Secret,
18	Top Secret, or Top Secret/Sensitive Compart-
19	mented Information clearance and was not
20	granted any waiver to obtain such clearance;
21	"(C) has undergone, during the 5 years
22	preceding applying for the position, an in-scope
23	Tier 4 background investigation or a Tier 5 sin-
24	gle scope background investigation; and

- 1 "(D) was discharged or released, or is eli2 gible to be discharged or released, from the
  3 Armed Forces under honorable conditions and
  4 has not engaged in criminal activity or serious
  5 misconduct under the Uniform Code of Military
  6 Justice under chapter 47 of title 10, United
  7 States Code.
- 8 "(c) RULE OF CONSTRUCTION.—Nothing in this sec-9 tion shall be construed to authorize the Commissioner to 10 hire an individual for a law enforcement position under 11 subsection (a) who is not suitable for employment and eli-12 gible for a position designated as relating to national secu-13 rity.
- "(d) Background Investigations.—An individual
  who receives a waiver under subsection (b) who holds a
  Tier 4 background investigation shall be subject to a Tier
  single scope background investigation.
- "(e) Authority To Administer Polygraph Ex19 aminations After Waiver.—The Commissioner may
  20 administer a polygraph examination to an individual who
  21 applied for a law enforcement position with U.S. Customs
  22 and Border Protection and received a waiver under sub23 section (b) if the Commissioner determines, based on in24 formation discovered before the completion of a back25 ground investigation of the individual, that a polygraph

- 1 examination is necessary for the Commissioner to make
- 2 a final determination with respect to the suitability of the
- 3 individual for the position.

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- 4 "(f) Definitions.—In this section:
- 5 "(1) Federal Law enforcement officer.—
- 6 The term 'Federal law enforcement officer' means a

'law enforcement officer', as defined in section

- 8 8331(20) or 8401(17) of title 5, United States Code.
- 9 "(2) Transitioning member of the armed
- 10 FORCES.—The term 'transitioning member of the
- 11 Armed Forces' means a member of the Armed
- Forces serving on active duty on the date on which
- the member applies for a law enforcement position
- with U.S. Customs and Border Protection who ex-
- pects to be discharged or released from the Armed
- 16 Forces and plans to take a position in the competi-
- tive service (as defined section 2102 of title 5,
- 18 United States Code).
- 19 "(3) VETERAN.—The term 'veteran' has the
- meaning given that term in section 101(2) of title
- 21 38, United States Code.".

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