

114TH CONGRESS
1ST SESSION

H. R. 2319

To amend title 44, United States Code, to require preservation of certain electronic records by Federal agencies, to require a certification and reports relating to Presidential records, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2015

Mr. CUMMINGS introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To amend title 44, United States Code, to require preservation of certain electronic records by Federal agencies, to require a certification and reports relating to Presidential records, 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 “Electronic Message
5 Preservation Act of 2015”.

1 **SECTION 2. PRESERVATION OF ELECTRONIC MESSAGES**
2 **AND OTHER RECORDS.**

3 (a) REQUIREMENT FOR PRESERVATION OF ELEC-
4 TRONIC MESSAGES.—Chapter 29 of title 44, United
5 States Code is amended by adding at the end the following
6 new section:

7 **“§ 2912. Preservation of electronic messages and**
8 **other records**

9 “(a) REGULATIONS REQUIRED.—Not later than 120
10 days after the date of the enactment of this section, the
11 Archivist shall promulgate regulations governing Federal
12 agency preservation of electronic messages that are deter-
13 mined to be records (as such term is defined under section
14 3301 of this title). Such regulations shall, at a min-
15 imum—

16 “(1) require the electronic capture, manage-
17 ment, and preservation of such electronic records in
18 accordance with the records disposition requirements
19 of chapter 33 of this title;

20 “(2) require that such electronic records are
21 readily accessible for retrieval through electronic
22 searches; and

23 “(3) include timelines for Federal agency com-
24 pliance with the regulations that ensure compliance
25 as expeditiously as practicable but not later than
26 December 31, 2016.

1 “(b) ENSURING COMPLIANCE.—Not later than 2
2 years after the date of the enactment of this section, the
3 Archivist shall promulgate regulations that—

4 “(1) establish mandatory minimum functional
5 requirements for electronic records management sys-
6 tems to ensure compliance with the requirements in
7 paragraphs (1) and (2) of subsection (a); and

8 “(2) establish a process to ensure that Federal
9 agencies’ electronic records management systems
10 meet the functional requirements established under
11 paragraph (1).

12 “(c) COVERAGE OF OTHER ELECTRONIC
13 RECORDS.—To the extent practicable, the regulations pro-
14 mulgated under subsections (a) and (b) shall also include
15 requirements for the capture, management, and preserva-
16 tion of other electronic records.

17 “(d) COMPLIANCE BY FEDERAL AGENCIES.—Each
18 Federal agency shall comply with the regulations promul-
19 gated under subsections (a) and (b).

20 “(e) REVIEW OF REGULATIONS REQUIRED.—The Ar-
21 chivist shall periodically review and, as necessary, amend
22 the regulations promulgated under subsections (a) and
23 (b).

24 “(f) REPORTS ON IMPLEMENTATION OF REGULA-
25 TIONS.—

1 “(1) AGENCY REPORT TO ARCHIVIST.—Not
2 later than December 31, 2017, the head of each
3 Federal agency shall submit to the Archivist a report
4 on the agency’s compliance with the regulations pro-
5 mulgated under this section and shall make the re-
6 port publicly available on the website of the agency.

7 “(2) ARCHIVIST REPORT TO CONGRESS.—Not
8 later than 90 days after receipt of all reports re-
9 quired by paragraph (1), the Archivist shall submit
10 to the Committee on Homeland Security and Gov-
11 ernmental Affairs of the Senate and the Committee
12 on Oversight and Government Reform of the House
13 of Representatives a report on Federal agency com-
14 pliance with the regulations promulgated under sub-
15 section (a) and shall make the report publicly avail-
16 able on the website of the agency.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 at the beginning of chapter 29 of title 44, United States
19 Code, is amended by adding after the item relating to sec-
20 tion 2911 the following new item:

“2912. Preservation of electronic messages and other records.”.

21 (c) DEFINITIONS.—Section 2901 of title 44, United
22 States Code, is amended—

23 (1) by striking “and” at the end of paragraph
24 (14); and

1 (2) by striking paragraph (15) and inserting
2 the following new paragraphs:

3 “(15) the term ‘electronic messages’ means
4 electronic mail and other electronic messaging sys-
5 tems that are used for purposes of communicating
6 between individuals; and

7 “(16) the term ‘electronic records management
8 system’ means software designed to manage elec-
9 tronic records, including by—

10 “(A) categorizing and locating records;

11 “(B) ensuring that records are retained as
12 long as necessary;

13 “(C) identifying records that are due for
14 disposition; and

15 “(D) ensuring the storage, retrieval, and
16 disposition of records.”.

17 **SEC. 3. PRESIDENTIAL RECORDS.**

18 (a) ADDITIONAL REGULATIONS RELATING TO PRESI-
19 DENTIAL RECORDS.—

20 (1) IN GENERAL.—Section 2206 of title 44,
21 United States Code, is amended—

22 (A) by striking “and” at the end of para-
23 graph (3);

24 (B) by striking the period at the end of
25 paragraph (4) and inserting “; and”; and

1 (C) by adding at the end the following:

2 “(5) provisions for establishing standards nec-
3 essary for the economical and efficient management
4 of electronic Presidential records during the Presi-
5 dent’s term of office, including—

6 “(A) records management controls nec-
7 essary for the capture, management, and pres-
8 ervation of electronic messages;

9 “(B) records management controls nec-
10 essary to ensure that electronic messages are
11 readily accessible for retrieval through elec-
12 tronic searches; and

13 “(C) a process to ensure the electronic
14 records management system to be used by the
15 President for the purposes of complying with
16 the requirements in subparagraphs (A) and
17 (B).”.

18 (2) DEFINITIONS.—Section 2201 of title 44,
19 United States Code, is amended by adding at the
20 end the following new paragraphs:

21 “(6) The term ‘electronic messages’ has the
22 meaning given that term under section 2901(15) of
23 this title.

1 “(7) The term ‘electronic records management
2 system’ has the meaning given that term under sec-
3 tion 2901(16) of this title.”.

4 (b) CERTIFICATION OF PRESIDENT’S MANAGEMENT
5 OF PRESIDENTIAL RECORDS.—

6 (1) CERTIFICATION REQUIRED.—Chapter 22 of
7 title 44, United States Code, is amended by adding
8 at the end the following new section:

9 **“§ 2210. Certification of the President’s management
10 of Presidential records**

11 “(a) ANNUAL CERTIFICATION.—The Archivist shall
12 annually certify whether the electronic records manage-
13 ment controls established by the President meet require-
14 ments under sections 2203(a) and 2206(5) of this title.

15 “(b) REPORT TO CONGRESS.—The Archivist shall re-
16 port annually to the Committee on Homeland Security and
17 Governmental Affairs of the Senate and the Committee
18 on Oversight and Government Reform of the House of
19 Representatives on the status of the certification.”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions at the beginning of chapter 22 of title 44,
22 United States Code, is amended by adding at the
23 end the following new item:

“2210. Certification of the President’s management of Presidential
records.”.

1 (c) REPORT TO CONGRESS.—Section 2203(g) of title
2 44, United States Code, is amended by adding at the end
3 the following:

4 “(4) One year following the conclusion of a Presi-
5 dent’s term of office, or if a President serves consecutive
6 terms one year following the conclusion of the last term,
7 the Archivist shall submit to the Committee on Homeland
8 Security and Governmental Affairs of the Senate and the
9 Committee on Oversight and Government Reform of the
10 House of Representatives a report on—

11 “(A) the volume and format of electronic Presi-
12 dential records deposited into that President’s Presi-
13 dential archival depository; and

14 “(B) whether the electronic records manage-
15 ment controls of that President met the require-
16 ments under sections 2203(a) and 2206(5) of this
17 title.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect one year after the date of
20 the enactment of this Act.

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