

1 **SEC. ____.** **TREATMENT UNDER FREEDOM OF INFORMATION ACT OF CERTAIN**
2 **DEPARTMENT OF DEFENSE NATIONAL SECURITY INFORMATION**
3 **PROPERLY DESIGNATED AS CONTROLLED UNCLASSIFIED**
4 **INFORMATION.**

5 Chapter 3 of title 10, United States Code, is amended—

6 (1) by redesignating section 130f as section 130h; and

7 (2) by inserting after section 130e the following new section 130f:

8 **“§ 130f. Treatment under Freedom of Information Act of certain national security**
9 **information designated as controlled unclassified information**

10 **“(a) EXEMPTION.**—The Secretary of Defense may exempt Department of Defense
11 information from disclosure under section 552 of title 5 (commonly referred to as the ‘Freedom
12 of Information Act’), upon a written determination that—

13 **“(1) the information is—**

14 **“(A) controlled unclassified information; and**

15 **“(B) Department of Defense national security information; and**

16 **“(2) the public interest consideration in the disclosure of such information does**
17 **not outweigh the harm to the Department of Defense of the disclosure of such**
18 **information.**

19 **“(b) DESIGNATION OF INFORMATION.**—In addition to any other authority or requirement
20 regarding protection from disclosure, the Secretary may designate information as being
21 Department of Defense national security information and controlled unclassified information,
22 including designation during the course of the creation of such information, to ensure that such
23 information is not disseminated without authorization. Information so designated is subject to the

determination process under subsection (a) to determine whether to exempt such information from disclosure described in such subsection.

“(c) INFORMATION PROVIDED TO STATE AND LOCAL GOVERNMENTS.—

“(1) Information covered by a written determination under subsection (a) or designated under subsection (b) that is provided to a State or local government shall not be disclosed by that State or local government, notwithstanding a State or local law authorizing or requiring such disclosure.

“(2) If a person requests pursuant to a State or local law that a State or local government disclose information that is designated as Department of Defense national security information and controlled unclassified information under subsection (b), the State or local government shall notify the Secretary of Defense of such a request and provide the Secretary an opportunity to determine whether to exempt such information from disclosure under subsection (a) .

“(d) TRANSPARENCY.—Each determination under subsection (a) shall be made in writing and accompanied by a statement of the basis for the determination. All such determinations and statements of basis shall be available to the public, upon request.

“(e) DEFINITIONS.—In this section:

“(1) CONTROLLED UNCLASSIFIED INFORMATION.—The term ‘controlled unclassified information’ means information that is properly designated as controlled unclassified information in accordance with Executive Order 13556, or its successor order.

“(2) DEPARTMENT OF DEFENSE NATIONAL SECURITY INFORMATION.—The term ‘Department of Defense national security information’ means national defense information—

47 “(A) that has been determined to require protection against unauthorized
48 disclosure; and
49 “(B) that, if disclosed, would reveal vulnerabilities in Department of
50 Defense national defense operations or programs that, if exploited, would likely
51 result in the significant disruption of, or damage of or to, Department of Defense
52 operations or protected programs.”.

[Note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]

Section-by-Section Analysis

This proposal would add a new section 130f to title 10, United States Code. The new section would exempt national security information generated by the Department of Defense that meets the criteria outlined in subsection (a) of the new section 130f from disclosure, including disclosure in response to requests under the Freedom of Information Act (5 U.S.C. 552). This proposal would protect Department of Defense national security information from public disclosure where the information would reveal vulnerabilities in Department of Defense national defense operations or programs to potential adversaries. While some controlled unclassified information (CUI) categories have non-disclosure requirements or authorities in law, a more uniform protection for national security information that has been designated as CUI will greatly reduce complexity and result in more consistent withholding decisions.

This provision would permit the Department of Defense to withhold from disclosure certain CUI that relates to national security information while balancing the public’s right to request information, with the goal of keeping citizens informed and holding the government accountable. If enacted, it would mitigate the risks of CUI national security information divulging vulnerabilities in U.S. national defense.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2027 President’s Budget.

Changes to Existing Law: This proposal would add a new section to title 10, United States Code, which is shown in full in the legislative text above.