

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. \_\_\_\_\_**  
**OFFERED BY M. \_\_\_\_\_**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Congressional Records  
3 Protection Act of 2026”.

4 **SEC. 2. PROHIBITION ON OBTAINING RECORDS FOR MEM-**  
5 **BERS OF CONGRESS.**

6 (a) IN GENERAL.—Title 18, United States Code, is  
7 amended by adding at the end the following:

8 **“CHAPTER 239—CONGRESSIONAL**  
9 **RECORDS**

10 **“§ 3773. Prohibition on obtaining records for Mem-**  
11 **bers of Congress or congressional em-**  
12 **ployees**

13 “(a) PROHIBITION ON OBTAINING RECORDS.—

14 “(1) IN GENERAL.—Notwithstanding any other  
15 provision of Federal or State law, a governmental  
16 entity may not—

17 “(A) seek or obtain a search warrant,  
18 grand jury subpoena, court order, statutory au-

1           thorization, certification, or subpoena that could  
2           reasonably be expected to return any covered  
3           material; or

4           “(B) issue an administrative order that  
5           could reasonably be expected to return any cov-  
6           ered material.

7           “(2) EXCEPTION.—This subsection shall not  
8           apply if the subject of the search warrant, grand  
9           jury subpoena, court order, statutory authorization,  
10          certification, subpoena, or administrative order is—

11           “(A) the target of a criminal investigation;

12          or

13           “(B) a third party and the search warrant,  
14           grand jury subpoena, court order, statutory au-  
15           thorization, certification, subpoena, or adminis-  
16           trative order demands records, information, or  
17           the content of communications pertaining to a  
18           Member of Congress or congressional employee  
19           who is the target of a criminal investigation.

20          “(b) NOTIFICATION REQUIREMENT.—

21           “(1) NOTICE.—

22           “(A) IN GENERAL.—A governmental entity  
23           shall notify the Member of Congress or congres-  
24           sional employee—

1           “(i) prior to or concurrently with the  
2           execution of a search warrant, grand jury  
3           subpoena, court order, statutory authoriza-  
4           tion, certification, administrative order, or  
5           subpoena that could reasonably be ex-  
6           pected to return any covered material; or

7           “(ii) as soon as practicable following  
8           the execution of a search warrant, grand  
9           jury subpoena, court order, statutory au-  
10          thorization, certification, administrative  
11          order, or subpoena that unexpectedly re-  
12          turns covered material.

13          “(B) EXCEPTION.—If a subject of the  
14          search warrant, grand jury subpoena, court  
15          order, statutory authorization, certification,  
16          subpoena, or administrative order is the target  
17          of a criminal investigation or if the subject is  
18          a third party and the search warrant, grand  
19          jury subpoena, court order, statutory authoriza-  
20          tion, certification, subpoena, or administrative  
21          order demands records, information, or the con-  
22          tent of communications pertaining to a Member  
23          of Congress or congressional employee who is  
24          the target of a criminal investigation, a court  
25          may, upon application by the governmental en-

1           tity, issue an order delaying the notice required  
2           under subparagraph (A)(i) with respect to an  
3           acquisition, subpoena, search, accessing, or dis-  
4           closure that could reasonably be expected to re-  
5           turn covered material in connection with such  
6           investigation for a period of not more than 10  
7           days if the court determines that there is rea-  
8           son to believe that providing notice would—

9                   “(i) endanger the life or physical safe-  
10                   ty of any person;

11                   “(ii) result in flight from prosecution;

12                   “(iii) result in destruction of or tam-  
13                   pering with evidence;

14                   “(iv) result in intimidation of poten-  
15                   tial witnesses; or

16                   “(v) otherwise seriously jeopardize an  
17                   investigation or unduly delay a trial.

18           “(2) DELAYED REVIEW.—

19                   “(A) IN GENERAL.—The governmental en-  
20                   tity may not review materials that are reason-  
21                   ably expected to contain covered material until  
22                   the date that is 30 days after the date notice  
23                   is made pursuant to paragraph (1)(A)(i).

24                   “(B) UNEXPECTED RETURN OF COVERED  
25                   MATERIALS.—In instances where a search war-

1           rant, grand jury subpoena, court order, statu-  
2           tory authorization, certification, administrative  
3           order, or subpoena unexpectedly returns covered  
4           material, the governmental entity shall halt re-  
5           view of the returned material upon the dis-  
6           covery of the covered material until the date  
7           that is 30 days after the date notice is made  
8           pursuant to paragraph (1)(A)(ii).

9           “(C)           EXCEPTION.—Subparagraphs  
10           (b)(2)(A) and (b)(2)(B) shall not apply when a  
11           30-day delay in reviewing materials could cause  
12           an imminent risk to life or serious bodily injury.

13           “(c) RULE OF CONSTRUCTION.—This section may  
14           not be construed to limit the scope of any protection appli-  
15           cable under article I, section 6, clause 1 of the Constitu-  
16           tion of the United States.

17           “(d) DEFINITIONS.—In this section:

18           “(1) CONGRESSIONAL EMPLOYEE.—The term  
19           ‘congressional employee’ has the meaning given that  
20           term in subparagraphs (1), (2), (3), and (5) of sec-  
21           tion 2107 of title 5 and includes current and former  
22           congressional employees.

23           “(2) COVERED MATERIAL.—The term ‘covered  
24           material’ means—

1           “(A) records, including all written mate-  
2           rials, wire communications, and electronic com-  
3           munications, that were prepared by, shared  
4           with, or otherwise obtained by a Member of  
5           Congress or congressional employee in the  
6           course of their official duties, including elec-  
7           tronic devices containing such records; and

8           “(B) records from an electronic or wire  
9           communication service related to any accounts  
10          of Members and from the time period of their  
11          service in Congress or official congressional ac-  
12          counts of congressional employees, or related to  
13          any communications between a Member of Con-  
14          gress or congressional employee and other  
15          Members of Congress, other congressional em-  
16          ployees, or executive branch employees while at  
17          least one party to the communication was serv-  
18          ing or working in Congress and another party  
19          to the communication was serving or working in  
20          Congress or the Executive Branch.

21          “(3) WIRE COMMUNICATION; ELECTRONIC COM-  
22          MUNICATION.—The terms ‘wire communication,’  
23          ‘electronic communication,’ and ‘electronic commu-  
24          nication service’ have the meanings given those  
25          terms in section 2510.

1           “(4) GOVERNMENTAL ENTITY.—The term ‘gov-  
2           ernmental entity’ means a department or agency of  
3           the United States or any State or political subdivi-  
4           sion thereof.

5           “(5) MEMBER OF CONGRESS.—The term ‘Mem-  
6           ber of Congress’ means a current or former Senator  
7           or Representative in, or Delegate or Resident Com-  
8           missioner to, the United States Congress.

9           “(6) EXECUTIVE BRANCH EMPLOYEE.—The  
10          term ‘executive branch employee’ has the meaning  
11          given that term in subparagraph (2)(A) of section  
12          78u-1(h) of title 15 and includes current and former  
13          executive branch employees.

14          “(7) SUBJECT OF THE SEARCH WARRANT,  
15          GRAND JURY SUBPOENA, COURT ORDER, STATUTORY  
16          AUTHORIZATION, CERTIFICATION, SUBPOENA, OR  
17          ADMINISTRATIVE ORDER.—The term ‘subject of the  
18          search warrant, grand jury subpoena, court order,  
19          statutory authorization, certification, subpoena, or  
20          administrative order’ means the person whose  
21          records are sought by the governmental entity, or, if  
22          records are sought from an electronic or wire com-  
23          munication service, the person to whom the sought  
24          records pertain.

1           “(8) TARGET OF A CRIMINAL INVESTIGA-  
2           TION.—The term ‘target of a criminal investigation’  
3           means a person whom a governmental entity has  
4           probable cause to believe has committed a crime. If  
5           the person is a Member of Congress or a congress-  
6           sional employee, then the governmental entity shall  
7           submit an application certifying to a magistrate  
8           judge with authority in the district—or if there is  
9           none reasonably available, a judge of a court of  
10          record in the district—that there is probable cause  
11          to believe the person has committed a crime. The  
12          judge must certify that the application establishes  
13          that probable cause exists prior to or concurrently  
14          with the governmental entity seeking, obtaining, or  
15          issuing a search warrant, grand jury subpoena,  
16          court order, statutory authorization, certification,  
17          subpoena, or administrative order for covered mate-  
18          rial.

19           “(9) THIRD PARTY.—The term ‘third party’  
20          means any person who is not a Member of Congress  
21          or congressional employee.”.

22          (b) CLERICAL AMENDMENT.—The table of chapters  
23          at the beginning of part I of title 18, United States Code,

1 is amended by inserting after the item relating to chapter

2 238 the following new item:

“239. Congressional Records 3773”.

