

Union Calendar No. 268

117TH CONGRESS
2^D SESSION

H. R. 4330

[Report No. 117-354]

To maintain the free flow of information to the public by establishing appropriate limits on the federally compelled disclosure of information obtained as part of engaging in journalism, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 2021

Mr. RASKIN (for himself, Mr. LIEU, and Mr. YARMUTH) introduced the following bill; which was referred to the Committee on the Judiciary

JUNE 7, 2022

Additional sponsors: Ms. NORTON, Mr. BLUMENAUER, Ms. ESHOO, Mrs. DEMINGS, and Ms. SCANLON

JUNE 7, 2022

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on July 1, 2021]

A BILL

To maintain the free flow of information to the public by establishing appropriate limits on the federally compelled disclosure of information obtained as part of engaging in journalism, 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 “Protect Reporters from*
5 *Exploitative State Spying Act” or the “PRESS Act”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

8 (1) *COVERED JOURNALIST.*—*The term “covered*
9 *journalist” means a person who regularly gathers,*
10 *prepares, collects, photographs, records, writes, edits,*
11 *reports, investigates, or publishes news or information*
12 *that concerns local, national, or international events*
13 *or other matters of public interest for dissemination*
14 *to the public.*

15 (2) *COVERED SERVICE PROVIDER.*—

16 (A) *IN GENERAL.*—*The term “covered serv-*
17 *ice provider” means any person that, by an elec-*
18 *tronic means, stores, processes, or transmits in-*
19 *formation in order to provide a service to cus-*
20 *tomers of the person.*

21 (B) *INCLUSIONS.*—*The term “covered serv-*
22 *ice provider” includes—*

23 (i) *a telecommunications carrier and a*
24 *provider of an information service (as such*

1 *terms are defined in section 3 of the Com-*
2 *munications Act of 1934 (47 U.S.C. 153));*

3 *(ii) a provider of an interactive com-*
4 *puter service and an information content*
5 *provider (as such terms are defined in sec-*
6 *tion 230 of the Communications Act of 1934*
7 *(47 U.S.C. 230));*

8 *(iii) a provider of remote computing*
9 *service (as defined in section 2711 of title*
10 *18, United States Code); and*

11 *(iv) a provider of electronic commu-*
12 *nication service (as defined in section 2510*
13 *of title 18, United States Code) to the pub-*
14 *lic.*

15 (3) *DOCUMENT.*—*The term “document” means*
16 *writings, recordings, and photographs, as those terms*
17 *are defined by Federal Rule of Evidence 1001 (28*
18 *U.S.C. App.).*

19 (4) *FEDERAL ENTITY.*—*The term “Federal enti-*
20 *ty” means an entity or employee of the judicial or ex-*
21 *ecutive branch or an administrative agency of the*
22 *Federal Government with the power to issue a sub-*
23 *poena or issue other compulsory process.*

24 (5) *JOURNALISM.*—*The term “journalism”*
25 *means gathering, preparing, collecting,*

1 *photographing, recording, writing, editing, reporting,*
2 *investigating, or publishing news or information that*
3 *concerns local, national, or international events or*
4 *other matters of public interest for dissemination to*
5 *the public.*

6 (6) *PERSONAL ACCOUNT OF A COVERED JOUR-*
7 *NALIST.—The term “personal account of a covered*
8 *journalist” means an account with a covered service*
9 *provider used by a covered journalist that is not pro-*
10 *vided, administered, or operated by the employer of*
11 *the covered journalist.*

12 (7) *PERSONAL TECHNOLOGY DEVICE OF A COV-*
13 *ERED JOURNALIST.—The term “personal technology*
14 *device of a covered journalist” means a handheld com-*
15 *munications device, laptop computer, desktop com-*
16 *puter, or other internet-connected device used by a*
17 *covered journalist that is not provided or adminis-*
18 *tered by the employer of the covered journalist.*

19 (8) *PROTECTED INFORMATION.—The term “pro-*
20 *TECTED INFORMATION” means any information identi-*
21 *fying a source who provided information as part of*
22 *engaging in journalism, and any records, contents of*
23 *a communication, documents, or information that a*
24 *covered journalist obtained or created as part of en-*
25 *gaging in journalism.*

1 **SEC. 3. LIMITS ON COMPELLED DISCLOSURE FROM COV-**
 2 **ERED JOURNALISTS.**

3 *In any matter arising under Federal law, a Federal*
 4 *entity may not compel a covered journalist to disclose pro-*
 5 *TECTED information, unless a court in the judicial district*
 6 *in which the subpoena or other compulsory process is, or*
 7 *will be, issued determines by a preponderance of the evi-*
 8 *dence, after providing notice and an opportunity to be*
 9 *heard to the covered journalist that—*

10 (1) *disclosure of the protected information is nec-*
 11 *essary to prevent, or to identify any perpetrator of,*
 12 *an act of terrorism against the United States; or*

13 (2) *disclosure of the protected information is nec-*
 14 *essary to prevent a threat of imminent violence, sig-*
 15 *nificant bodily harm, or death, including specified of-*
 16 *fenses against a minor (as defined by section 111(7)*
 17 *of the Adam Walsh Child Protection and Safety Act*
 18 *of 2006 (34 U.S.C. 20911(7))).*

19 **SEC. 4. LIMITS ON COMPELLED DISCLOSURE FROM COV-**
 20 **ERED SERVICE PROVIDERS.**

21 (a) *CONDITIONS FOR COMPELLED DISCLOSURE.—In*
 22 *any matter arising under Federal law, a Federal entity*
 23 *may not compel a covered service provider to provide testi-*
 24 *mony or any document consisting of any record, informa-*
 25 *tion, or other communications stored by a covered provider*
 26 *on behalf of a covered journalist, including testimony or*

1 *any document relating to a personal account of a covered*
2 *journalist or a personal technology device of a covered jour-*
3 *nalist, unless a court in the judicial district in which the*
4 *subpoena or other compulsory process is, or will be, issued*
5 *determines by a preponderance of the evidence that there*
6 *is a reasonable threat of imminent violence unless the testi-*
7 *mony or document is provided, and issues an order author-*
8 *izing the Federal entity to compel the disclosure of the testi-*
9 *mony or document.*

10 (b) *NOTICE TO COURT.*—*A Federal entity seeking to*
11 *compel the provision of testimony or any document de-*
12 *scribed in subsection (a) shall inform the court that the tes-*
13 *timony or document relates to a covered journalist.*

14 (c) *NOTICE TO COVERED JOURNALIST AND OPPOR-*
15 *TUNITY TO BE HEARD.*—

16 (1) *IN GENERAL.*—*A court may authorize a Fed-*
17 *eral entity to compel the provision of testimony or a*
18 *document under this section only after the Federal en-*
19 *tity seeking the testimony or document provides the*
20 *covered journalist on behalf of whom the testimony or*
21 *document is stored pursuant to subsection (a)—*

22 (A) *notice of the subpoena or other compul-*
23 *sory request for such testimony or document*
24 *from the covered service provider not later than*

1 *the time at which such subpoena or request is*
2 *issued to the covered service provider; and*

3 *(B) an opportunity to be heard before the*
4 *court before the time at which the provision of*
5 *the testimony or document is compelled.*

6 (2) *EXCEPTION TO NOTICE REQUIREMENT.—*

7 *(A) IN GENERAL.—Notice and an oppor-*
8 *tunity to be heard under paragraph (1) may be*
9 *delayed for not more than 45 days if the court*
10 *involved determines there is clear and convincing*
11 *evidence that such notice would pose a clear and*
12 *substantial threat to the integrity of a criminal*
13 *investigation, or would present an imminent risk*
14 *of death or serious bodily harm, including speci-*
15 *fied offenses against a minor (as defined by sec-*
16 *tion 111(7) of the Adam Walsh Child Protection*
17 *and Safety Act of 2006 (34 U.S.C. 20911(7))).*

18 *(B) EXTENSIONS.—The 45-day period de-*
19 *scribed in subparagraph (A) may be extended by*
20 *the court for additional periods of not more than*
21 *45 days if the court involved makes a new and*
22 *independent determination that there is clear*
23 *and convincing evidence that providing notice to*
24 *the covered journalist would pose a clear and*
25 *substantial threat to the integrity of a criminal*

1 *investigation, or would present an imminent risk*
2 *of death or serious bodily harm under current*
3 *circumstances.*

4 **SEC. 5. LIMITATION ON CONTENT OF INFORMATION.**

5 *The content of any testimony, document, or protected*
6 *information that is compelled under sections 3 or 4 shall—*

7 (1) *not be overbroad, unreasonable, or oppressive,*
8 *and as appropriate, be limited to the purpose of*
9 *verifying published information or describing any*
10 *surrounding circumstances relevant to the accuracy of*
11 *such published information; and*

12 (2) *be narrowly tailored in subject matter and*
13 *period of time covered so as to avoid compelling the*
14 *production of peripheral, nonessential, or speculative*
15 *information.*

16 **SEC. 6. RULE OF CONSTRUCTION.**

17 *Nothing in this Act shall be construed to—*

18 (1) *apply to civil defamation, slander, or libel*
19 *claims or defenses under State law, regardless of*
20 *whether or not such claims or defenses, respectively,*
21 *are raised in a State or Federal court; or*

22 (2) *prevent the Federal Government from pur-*
23 *suing an investigation of a covered journalist or orga-*
24 *nization that is—*

25 (A) *suspected of committing a crime;*

1 (B) a witness to a crime unrelated to engag-
2 ing in journalism;

3 (C) suspected of being an agent of a foreign
4 power, as defined in section 101 of the Foreign
5 Intelligence Surveillance Act of 1978 (50 U.S.C.
6 1801);

7 (D) an individual or organization des-
8 ignated under Executive Order 13224 (50 U.S.C.
9 1701 note; relating to blocking property and pro-
10 hibiting transactions with persons who commit,
11 threaten to commit, or support terrorism);

12 (E) a specially designated terrorist, as that
13 term is defined in section 595.311 of title 31,
14 Code of Federal Regulations (or any successor
15 thereto); or

16 (F) a terrorist organization, as that term is
17 defined in section 212(a)(3)(B)(vi)(II) of the Im-
18 migration and Nationality Act (8 U.S.C.
19 1182(a)(3)(B)(vi)(II)).

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