

Union Calendar No. 242

118TH CONGRESS
1ST SESSION

H. R. 4250

[Report No. 118-299]

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

JUNE 21, 2023

Mr. KILEY (for himself, Mr. RASKIN, Mr. ISSA, Mr. LIEU, Mr. MOORE of Alabama, and Ms. NORTON) introduced the following bill; which was referred to the Committee on the Judiciary

DECEMBER 5, 2023

Additional sponsors: Mr. FRY, Ms. LEE of California, Mr. ARMSTRONG, Ms. TLAIB, Ms. HAGEMAN, Mr. KILDEE, Mr. CLINE, Ms. JACKSON LEE, Mrs. HINSON, Ms. LOFGREN, Mr. VALADAO, Mr. JOHNSON of Georgia, Mr. OBERNOLTE, and Mrs. NAPOLITANO

DECEMBER 5, 2023

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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,
11 edits, reports, investigates, or publishes news or in-
12 formation that concerns local, national, or inter-
13 national events or other matters of public interest
14 for dissemination to the public.

15 (2) COVERED SERVICE PROVIDER.—

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

21 (B) INCLUSIONS.—The term “covered
22 service 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
7 1934 (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
14 public.

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

19 (4) FEDERAL ENTITY.—The term “Federal en-
20 tity” means an entity or employee of the judicial or
21 executive 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
15 communications device, laptop computer, desktop
16 computer, or other internet-connected device used by
17 a covered journalist that is not provided or adminis-
18 tered by the employer of the covered journalist.

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

1 (9) SPECIFIED OFFENSE AGAINST A MINOR.—
2 The term “specified offense against a minor” has
3 the meaning given that term in section 111(7) of the
4 Adam Walsh Child Protection and Safety Act of
5 2006 (34 U.S.C. 20911(7)).

6 **SEC. 3. LIMITS ON COMPELLED DISCLOSURE FROM COV-**
7 **ERED JOURNALISTS.**

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

15 (1) disclosure of the protected information is
16 necessary to prevent, or to identify any perpetrator
17 of, an act of terrorism against the United States; or

18 (2) disclosure of the protected information is
19 necessary to prevent a threat of imminent violence,
20 significant bodily harm, or death, including specified
21 offenses against a minor.

22 **SEC. 4. LIMITS ON COMPELLED DISCLOSURE FROM COV-**
23 **ERED SERVICE PROVIDERS.**

24 (a) CONDITIONS FOR COMPELLED DISCLOSURE.—In
25 any matter arising under Federal law, a Federal entity

1 may not compel a covered service provider to provide testi-
2 mony or any document consisting of any record, informa-
3 tion, or other communications stored by a covered provider
4 on behalf of a covered journalist, including testimony or
5 any document relating to a personal account of a covered
6 journalist or a personal technology device of a covered
7 journalist, unless a court in the judicial district in which
8 the subpoena or other compulsory process is, or will be,
9 issued determines by a preponderance of the evidence that
10 there is a reasonable threat of imminent violence unless
11 the testimony or document is provided, and issues an
12 order authorizing the Federal entity to compel the disclo-
13 sure of the testimony or document.

14 (b) NOTICE TO COURT.—A Federal entity seeking to
15 compel the provision of testimony or any document de-
16 scribed in subsection (a) shall inform the court that the
17 testimony or document relates to a covered journalist.

18 (c) NOTICE TO COVERED JOURNALIST AND OPPOR-
19 TUNITY TO BE HEARD.—

20 (1) IN GENERAL.—A court may authorize a
21 Federal entity to compel the provision of testimony
22 or a document under this section only after the Fed-
23 eral entity seeking the testimony or document pro-
24 vides the covered journalist on behalf of whom the

1 testimony or document is stored pursuant to sub-
2 section (a)—

3 (A) notice of the subpoena or other com-
4 pulsory request for such testimony or document
5 from the covered service provider not later than
6 the time at which such subpoena or request is
7 issued to the covered service provider; and

8 (B) an opportunity to be heard before the
9 court before the time at which the provision of
10 the testimony or document is compelled.

11 (2) EXCEPTION TO NOTICE REQUIREMENT.—

12 (A) IN GENERAL.—Notice and an oppor-
13 tunity to be heard under paragraph (1) may be
14 delayed for not more than 45 days if the court
15 involved determines there is clear and con-
16 vincing evidence that such notice would pose a
17 clear and substantial threat to the integrity of
18 a criminal investigation, or would present an
19 imminent risk of death or serious bodily harm,
20 including specified offenses against a minor.

21 (B) EXTENSIONS.—The 45-day period de-
22 scribed in subparagraph (A) may be extended
23 by the court for additional periods of not more
24 than 45 days if the court involved makes a new
25 and independent determination that there is

1 clear and convincing evidence that providing no-
2 tice to the covered journalist would pose a clear
3 and substantial threat to the integrity of a
4 criminal investigation, or would present an im-
5 minent risk of death or serious bodily harm, in-
6 cluding specified offenses against a minor,
7 under current circumstances.

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

9 The content of any testimony, document, or protected
10 information that is compelled under sections 3 or 4 shall—

11 (1) not be overbroad, unreasonable, or oppres-
12 sive, and, as appropriate, be limited to the purpose
13 of verifying published information or describing any
14 surrounding circumstances relevant to the accuracy
15 of such published information; and

16 (2) be narrowly tailored in subject matter and
17 period of time covered so as to avoid compelling the
18 production of peripheral, nonessential, or speculative
19 information.

20 **SEC. 6. RULE OF CONSTRUCTION.**

21 Nothing in this Act shall be construed to—

22 (1) apply to civil defamation, slander, or libel
23 claims or defenses under State law, regardless of
24 whether or not such claims or defenses, respectively,
25 are raised in a State or Federal court; or

1 (2) prevent the Federal Government from pur-
2 suing an investigation of a covered journalist or or-
3 ganization that is—

4 (A) suspected of committing a crime;

5 (B) a witness to a crime unrelated to en-
6 gaging in journalism;

7 (C) suspected of being an agent of a for-
8 eign power, as defined in section 101 of the
9 Foreign Intelligence Surveillance Act of 1978
10 (50 U.S.C. 1801);

11 (D) an individual or organization des-
12 ignated under Executive Order 13224 (50
13 U.S.C. 1701 note; relating to blocking property
14 and prohibiting transactions with persons who
15 commit, threaten to commit, or support ter-
16 rorism);

17 (E) a specially designated terrorist, as that
18 term is defined in section 595.311 of title 31,
19 Code of Federal Regulations (or any successor
20 thereto); or

21 (F) a terrorist organization, as that term
22 is defined in section 212(a)(3)(B)(vi)(II) of the
23 Immigration and Nationality Act (8 U.S.C.
24 1182(a)(3)(B)(vi)(II)).

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