

.....  
(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.**

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

Mr. KILEY (for himself and Mr. RASKIN) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

---

**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:

1           (1) COVERED JOURNALIST.—The term “covered  
2           journalist” means a person who regularly gathers,  
3           prepares, collects, photographs, records, writes,  
4           edits, reports, investigates, or publishes news or in-  
5           formation that concerns local, national, or inter-  
6           national events or other matters of public interest  
7           for dissemination to the public.

8           (2) COVERED SERVICE PROVIDER.—

9           (A) IN GENERAL.—The term “covered  
10          service provider” means any person that, by an  
11          electronic means, stores, processes, or transmits  
12          information in order to provide a service to cus-  
13          tomers of the person.

14          (B) INCLUSIONS.—The term “covered  
15          service provider” includes—

16                 (i) a telecommunications carrier and a  
17                 provider of an information service (as such  
18                 terms are defined in section 3 of the Com-  
19                 munications Act of 1934 (47 U.S.C. 153));

20                 (ii) a provider of an interactive com-  
21                 puter service and an information content  
22                 provider (as such terms are defined in sec-  
23                 tion 230 of the Communications Act of  
24                 1934 (47 U.S.C. 230));

1 (iii) a provider of remote computing  
2 service (as defined in section 2711 of title  
3 18, United States Code); and

4 (iv) a provider of electronic commu-  
5 nication service (as defined in section 2510  
6 of title 18, United States Code) to the  
7 public.

8 (3) DOCUMENT.—The term “document” means  
9 writings, recordings, and photographs, as those  
10 terms are defined by Federal Rule of Evidence 1001  
11 (28 U.S.C. App.).

12 (4) FEDERAL ENTITY.—The term “Federal en-  
13 tity” means an entity or employee of the judicial or  
14 executive branch or an administrative agency of the  
15 Federal Government with the power to issue a sub-  
16 poena or issue other compulsory process.

17 (5) JOURNALISM.—The term “journalism”  
18 means gathering, preparing, collecting,  
19 photographing, recording, writing, editing, reporting,  
20 investigating, or publishing news or information that  
21 concerns local, national, or international events or  
22 other matters of public interest for dissemination to  
23 the public.

24 (6) PERSONAL ACCOUNT OF A COVERED JOUR-  
25 NALIST.—The term “personal account of a covered

1       journalist” means an account with a covered service  
2       provider used by a covered journalist that is not pro-  
3       vided, administered, or operated by the employer of  
4       the covered journalist.

5               (7) PERSONAL TECHNOLOGY DEVICE OF A COV-  
6       ERED JOURNALIST.—The term “personal technology  
7       device of a covered journalist” means a handheld  
8       communications device, laptop computer, desktop  
9       computer, or other internet-connected device used by  
10      a covered journalist that is not provided or adminis-  
11      tered by the employer of the covered journalist.

12             (8) PROTECTED INFORMATION.—The term  
13      “protected information” means any information  
14      identifying a source who provided information as  
15      part of engaging in journalism, and any records,  
16      contents of a communication, documents, or infor-  
17      mation that a covered journalist obtained or created  
18      as part of engaging in journalism.

19             (9) SPECIFIED OFFENSE AGAINST A MINOR.—  
20      The term “specified offense against a minor” has  
21      the meaning given that term in section 111(7) of the  
22      Adam Walsh Child Protection and Safety Act of  
23      2006 (34 U.S.C. 20911(7)).

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  
11 necessary to prevent, or to identify any perpetrator  
12 of, an act of terrorism against the United States; or

13 (2) disclosure of the protected information is  
14 necessary to prevent a threat of imminent violence,  
15 significant bodily harm, or death, including specified  
16 offenses against a minor.

17 **SEC. 4. LIMITS ON COMPELLED DISCLOSURE FROM COV-**  
18 **ERED SERVICE PROVIDERS.**

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

1 journalist, unless a court in the judicial district in which  
2 the subpoena or other compulsory process is, or will be,  
3 issued determines by a preponderance of the evidence that  
4 there is a reasonable threat of imminent violence unless  
5 the testimony or document is provided, and issues an  
6 order authorizing the Federal entity to compel the disclo-  
7 sure of the testimony or document.

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

12 (c) NOTICE TO COVERED JOURNALIST AND OPPOR-  
13 TUNITY TO BE HEARD.—

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

21 (A) notice of the subpoena or other com-  
22 pulsory request for such testimony or document  
23 from the covered service provider not later than  
24 the time at which such subpoena or request is  
25 issued to the covered service provider; and

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

4 (2) EXCEPTION TO NOTICE REQUIREMENT.—

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

14 (B) EXTENSIONS.—The 45-day period de-  
15 scribed in subparagraph (A) may be extended  
16 by the court for additional periods of not more  
17 than 45 days if the court involved makes a new  
18 and independent determination that there is  
19 clear and convincing evidence that providing no-  
20 tice to the covered journalist would pose a clear  
21 and substantial threat to the integrity of a  
22 criminal investigation, or would present an im-  
23 minent risk of death or serious bodily harm, in-  
24 cluding specified offenses against a minor,  
25 under current circumstances.

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

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

4 (1) not be overbroad, unreasonable, or oppres-  
5 sive, and, as appropriate, be limited to the purpose  
6 of verifying published information or describing any  
7 surrounding circumstances relevant to the accuracy  
8 of such published information; and

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

13 **SEC. 6. RULE OF CONSTRUCTION.**

14 Nothing in this Act shall be construed to—

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

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

22 (A) suspected of committing a crime;

23 (B) a witness to a crime unrelated to en-  
24 gaging in journalism;

25 (C) suspected of being an agent of a for-  
26 eign power, as defined in section 101 of the

1 Foreign Intelligence Surveillance Act of 1978  
2 (50 U.S.C. 1801);

3 (D) an individual or organization des-  
4 ignated under Executive Order 13224 (50  
5 U.S.C. 1701 note; relating to blocking property  
6 and prohibiting transactions with persons who  
7 commit, threaten to commit, or support ter-  
8 rorism);

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

13 (F) a terrorist organization, as that term  
14 is defined in section 212(a)(3)(B)(vi)(II) of the  
15 Immigration and Nationality Act (8 U.S.C.  
16 1182(a)(3)(B)(vi)(II)).