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H. R. 4598

IN THE SENATE OF THE UNITED STATES

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Received; read twice and referred to the Committee on the Judiciary

AN ACT

To provide for the sharing of homeland security information
by Federal intelligence and law enforcement agencies
with State and local entities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Homeland Security
3 Information Sharing Act”.

4 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

5 (a) FINDINGS.—The Congress finds the following:

6 (1) The Federal Government is required by the
7 Constitution to provide for the common defense,
8 which includes terrorist attack.

9 (2) The Federal Government relies on State
10 and local personnel to protect against terrorist at-
11 tack.

12 (3) The Federal Government collects, creates,
13 manages, and protects classified and sensitive but
14 unclassified information to enhance homeland secu-
15 rity.

16 (4) Some homeland security information is
17 needed by the State and local personnel to prevent
18 and prepare for terrorist attack.

19 (5) The needs of State and local personnel to
20 have access to relevant homeland security informa-
21 tion to combat terrorism must be reconciled with the
22 need to preserve the protected status of such infor-
23 mation and to protect the sources and methods used
24 to acquire such information.

25 (6) Granting security clearances to certain
26 State and local personnel is one way to facilitate the

1 sharing of information regarding specific terrorist
2 threats among Federal, State, and local levels of
3 government.

4 (7) Methods exist to declassify, redact, or other-
5 wise adapt classified information so it may be shared
6 with State and local personnel without the need for
7 granting additional security clearances.

8 (8) State and local personnel have capabilities
9 and opportunities to gather information on sus-
10 picious activities and terrorist threats not possessed
11 by Federal agencies.

12 (9) The Federal Government and State and
13 local governments and agencies in other jurisdictions
14 may benefit from such information.

15 (10) Federal, State, and local governments and
16 intelligence, law enforcement, and other emergency
17 preparation and response agencies must act in part-
18 nership to maximize the benefits of information
19 gathering and analysis to prevent and respond to
20 terrorist attacks.

21 (11) Information systems, including the Na-
22 tional Law Enforcement Telecommunications Sys-
23 tem and the Terrorist Threat Warning System, have
24 been established for rapid sharing of classified and

1 sensitive but unclassified information among Fed-
2 eral, State, and local entities.

3 (12) Increased efforts to share homeland secu-
4 rity information should avoid duplicating existing in-
5 formation systems.

6 (b) SENSE OF CONGRESS.—It is the sense of Con-
7 gress that Federal, State, and local entities should share
8 homeland security information to the maximum extent
9 practicable, with special emphasis on hard-to-reach urban
10 and rural communities.

11 **SEC. 3. FACILITATING HOMELAND SECURITY INFORMA-**
12 **TION SHARING PROCEDURES.**

13 (a) PRESIDENTIAL PROCEDURES FOR DETERMINING
14 EXTENT OF SHARING OF HOMELAND SECURITY INFOR-
15 MATION.—

16 (1) The President shall prescribe procedures
17 under which relevant Federal agencies determine—

18 (A) whether, how, and to what extent
19 homeland security information may be shared
20 with appropriate State and local personnel, and
21 with which such personnel it may be shared;

22 (B) how to identify and safeguard home-
23 land security information that is sensitive but
24 unclassified; and

1 (C) to the extent such information is in
2 classified form, whether, how, and to what ex-
3 tent to remove classified information, as appro-
4 priate, and with which such personnel it may be
5 shared after such information is removed.

6 (2) The President shall ensure that such proce-
7 dures apply to all agencies of the Federal Govern-
8 ment.

9 (3) Such procedures shall not change the sub-
10 stantive requirements for the classification and safe-
11 guarding of classified information.

12 (4) Such procedures shall not change the re-
13 quirements and authorities to protect sources and
14 methods.

15 (b) PROCEDURES FOR SHARING OF HOMELAND SE-
16 CURITY INFORMATION.—

17 (1) Under procedures prescribed by the Presi-
18 dent, all appropriate agencies, including the intel-
19 ligence community, shall, through information shar-
20 ing systems, share homeland security information
21 with appropriate State and local personnel to the ex-
22 tent such information may be shared, as determined
23 in accordance with subsection (a), together with as-
24 sessments of the credibility of such information.

1 (2) Each information sharing system through
2 which information is shared under paragraph (1)
3 shall—

4 (A) have the capability to transmit unclas-
5 sified or classified information, though the pro-
6 cedures and recipients for each capability may
7 differ;

8 (B) have the capability to restrict delivery
9 of information to specified subgroups by geo-
10 graphic location, type of organization, position
11 of a recipient within an organization, or a re-
12 cipient's need to know such information;

13 (C) be configured to allow the efficient and
14 effective sharing of information; and

15 (D) be accessible to appropriate State and
16 local personnel.

17 (3) The procedures prescribed under paragraph
18 (1) shall establish conditions on the use of informa-
19 tion shared under paragraph (1)—

20 (A) to limit the dissemination of such in-
21 formation to ensure that such information is
22 not used for an unauthorized purpose;

23 (B) to ensure the security and confiden-
24 tiality of such information;

1 (C) to protect the constitutional and statu-
2 tory rights of any individuals who are subjects
3 of such information; and

4 (D) to provide data integrity through the
5 timely removal and destruction of obsolete or
6 erroneous names and information.

7 (4) The procedures prescribed under paragraph
8 (1) shall ensure, to the greatest extent practicable,
9 that the information sharing system through which
10 information is shared under such paragraph include
11 existing information sharing systems, including, but
12 not limited to, the National Law Enforcement Tele-
13 communications System, the Regional Information
14 Sharing System, and the Terrorist Threat Warning
15 System of the Federal Bureau of Investigation.

16 (5) Each appropriate Federal agency, as deter-
17 mined by the President, shall have access to each in-
18 formation sharing system through which information
19 is shared under paragraph (1), and shall therefore
20 have access to all information, as appropriate,
21 shared under such paragraph.

22 (6) The procedures prescribed under paragraph
23 (1) shall ensure that appropriate State and local
24 personnel are authorized to use such information
25 sharing systems—

1 (A) to access information shared with such
2 personnel; and

3 (B) to share, with others who have access
4 to such information sharing systems, the home-
5 land security information of their own jurisdic-
6 tions, which shall be marked appropriately as
7 pertaining to potential terrorist activity.

8 (7) Under procedures prescribed jointly by the
9 Director of Central Intelligence and the Attorney
10 General, each appropriate Federal agency, as deter-
11 mined by the President, shall review and assess the
12 information shared under paragraph (6) and inte-
13 grate such information with existing intelligence.

14 (c) SHARING OF CLASSIFIED INFORMATION AND
15 SENSITIVE BUT UNCLASSIFIED INFORMATION WITH
16 STATE AND LOCAL PERSONNEL.—

17 (1) The President shall prescribe procedures
18 under which Federal agencies may, to the extent the
19 President considers necessary, share with appro-
20 priate State and local personnel homeland security
21 information that remains classified or otherwise pro-
22 tected after the determinations prescribed under the
23 procedures set forth in subsection (a).

1 (2) It is the sense of Congress that such proce-
2 dures may include one or more of the following
3 means:

4 (A) Carrying out security clearance inves-
5 tigations with respect to appropriate State and
6 local personnel.

7 (B) With respect to information that is
8 sensitive but unclassified, entering into non-
9 disclosure agreements with appropriate State
10 and local personnel.

11 (C) Increased use of information-sharing
12 partnerships that include appropriate State and
13 local personnel, such as the Joint Terrorism
14 Task Forces of the Federal Bureau of Inves-
15 tigation, the Anti-Terrorism Task Forces of the
16 Department of Justice, and regional Terrorism
17 Early Warning Groups.

18 (d) RESPONSIBLE OFFICIALS.—For each affected
19 Federal agency, the head of such agency shall designate
20 an official to administer this Act with respect to such
21 agency.

22 (e) FEDERAL CONTROL OF INFORMATION.—Under
23 procedures prescribed under this section, information ob-
24 tained by a State or local government from a Federal
25 agency under this section shall remain under the control

1 of the Federal agency, and a State or local law authorizing
2 or requiring such a government to disclose information
3 shall not apply to such information.

4 (f) DEFINITIONS.—As used in this section:

5 (1) The term “homeland security information”
6 means any information possessed by a Federal,
7 State, or local agency that—

8 (A) relates to the threat of terrorist activ-
9 ity;

10 (B) relates to the ability to prevent, inter-
11 dict, or disrupt terrorist activity;

12 (C) would improve the identification or in-
13 vestigation of a suspected terrorist or terrorist
14 organization; or

15 (D) would improve the response to a ter-
16 rorist act.

17 (2) The term “intelligence community” has the
18 meaning given such term in section 3(4) of the Na-
19 tional Security Act of 1947 (50 U.S.C. 401a(4)).

20 (3) The term “State and local personnel”
21 means any of the following persons involved in pre-
22 vention, preparation, or response for terrorist attack:

23 (A) State Governors, mayors, and other lo-
24 cally elected officials.

1 (B) State and local law enforcement per-
2 sonnel and firefighters.

3 (C) Public health and medical profes-
4 sionals.

5 (D) Regional, State, and local emergency
6 management agency personnel, including State
7 adjutant generals.

8 (E) Other appropriate emergency response
9 agency personnel.

10 (F) Employees of private-sector entities
11 that affect critical infrastructure, cyber, eco-
12 nomic, or public health security, as designated
13 by the Federal government in procedures devel-
14 oped pursuant to this section.

15 (4) The term “State” includes the District of
16 Columbia and any commonwealth, territory, or pos-
17 session of the United States.

18 **SEC. 4. REPORT.**

19 (a) REPORT REQUIRED.—Not later than 12 months
20 after the date of the enactment of this Act, the President
21 shall submit to the congressional committees specified in
22 subsection (b) a report on the implementation of section
23 3. The report shall include any recommendations for addi-
24 tional measures or appropriation requests, beyond the re-
25 quirements of section 3, to increase the effectiveness of

1 sharing of information among Federal, State, and local
2 entities.

3 (b) SPECIFIED CONGRESSIONAL COMMITTEES.—The
4 congressional committees referred to in subsection (a) are
5 the following committees:

6 (1) The Permanent Select Committee on Intel-
7 ligence and the Committee on the Judiciary of the
8 House of Representatives.

9 (2) The Select Committee on Intelligence and
10 the Committee on the Judiciary of the Senate.

11 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated such sums
13 as may be necessary to carry out section 3.

14 **SEC. 6. AUTHORITY TO SHARE GRAND JURY INFORMATION.**

15 Rule 6(e) of the Federal Rules of Criminal Procedure
16 is amended—

17 (1) in paragraph (2), by inserting “, or of
18 guidelines jointly issued by the Attorney General and
19 Director of Central Intelligence pursuant to Rule 6,”
20 after “Rule 6”; and

21 (2) in paragraph (3)—

22 (A) in subparagraph (A)(ii), by inserting
23 “or of a foreign government” after “(including
24 personnel of a state or subdivision of a state”;

25 (B) in subparagraph (C)(i)—

1 (i) in subclause (I), by inserting be-
2 fore the semicolon the following: “or, upon
3 a request by an attorney for the govern-
4 ment, when sought by a foreign court or
5 prosecutor for use in an official criminal
6 investigation”;

7 (ii) in subclause (IV)—

8 (I) by inserting “or foreign”
9 after “may disclose a violation of
10 State”;

11 (II) by inserting “or of a foreign
12 government” after “to an appropriate
13 official of a State or subdivision of a
14 State”; and

15 (III) by striking “or” at the end;

16 (iii) by striking the period at the end
17 of subclause (V) and inserting “; or”; and

18 (iv) by adding at the end the fol-
19 lowing:

20 “(VI) when matters involve a threat
21 of actual or potential attack or other grave
22 hostile acts of a foreign power or an agent
23 of a foreign power, domestic or inter-
24 national sabotage, domestic or inter-
25 national terrorism, or clandestine intel-

1 ligence gathering activities by an intel-
 2 ligence service or network of a foreign
 3 power or by an agent of a foreign power,
 4 within the United States or elsewhere, to
 5 any appropriate federal, state, local, or for-
 6 eign government official for the purpose of
 7 preventing or responding to such a
 8 threat.”; and

9 (C) in subparagraph (C)(iii)—

10 (i) by striking “Federal”;

11 (ii) by inserting “or clause (i)(VI)”
 12 after “clause (i)(V)”; and

13 (iii) by adding at the end the fol-
 14 lowing: “Any state, local, or foreign official
 15 who receives information pursuant to
 16 clause (i)(VI) shall use that information
 17 only consistent with such guidelines as the
 18 Attorney General and Director of Central
 19 Intelligence shall jointly issue.”.

20 **SEC. 7. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND**
 21 **ORAL INTERCEPTION INFORMATION.**

22 Section 2517 of title 18, United States Code, is
 23 amended by adding at the end the following:

24 “(7) Any investigative or law enforcement officer, or
 25 attorney for the government, who by any means author-

1 ized by this chapter, has obtained knowledge of the con-
2 tents of any wire, oral, or electronic communication, or
3 evidence derived therefrom, may disclose such contents or
4 derivative evidence to a foreign investigative or law en-
5 forcement officer to the extent that such disclosure is ap-
6 propriate to the proper performance of the official duties
7 of the officer making or receiving the disclosure, and for-
8 eign investigative or law enforcement officers may use or
9 disclose such contents or derivative evidence to the extent
10 such use or disclosure is appropriate to the proper per-
11 formance of their official duties.

12 “(8) Any investigative or law enforcement officer, or
13 attorney for the government, who by any means author-
14 ized by this chapter, has obtained knowledge of the con-
15 tents of any wire, oral, or electronic communication, or
16 evidence derived therefrom, may disclose such contents or
17 derivative evidence to any appropriate Federal, State,
18 local, or foreign government official to the extent that such
19 contents or derivative evidence reveals a threat of actual
20 or potential attack or other grave hostile acts of a foreign
21 power or an agent of a foreign power, domestic or inter-
22 national sabotage, domestic or international terrorism, or
23 clandestine intelligence gathering activities by an intel-
24 ligence service or network of a foreign power or by an
25 agent of a foreign power, within the United States or else-

1 where, for the purpose of preventing or responding to such
 2 a threat. Any official who receives information pursuant
 3 to this provision may use that information only as nec-
 4 essary in the conduct of that person’s official duties sub-
 5 ject to any limitations on the unauthorized disclosure of
 6 such information, and any State, local, or foreign official
 7 who receives information pursuant to this provision may
 8 use that information only consistent with such guidelines
 9 as the Attorney General and Director of Central Intel-
 10 ligence shall jointly issue.”.

11 **SEC. 8. FOREIGN INTELLIGENCE INFORMATION.**

12 (a) DISSEMINATION AUTHORIZED.—Section
 13 203(d)(1) of the Uniting and Strengthening America by
 14 Providing Appropriate Tools Required to Intercept and
 15 Obstruct Terrorism Act (USA PATRIOT ACT) of 2001
 16 (Public Law 107–56; 50 U.S.C. 403–5d) is amended—

17 (1) by striking “Notwithstanding any other pro-
 18 vision of law, it” and inserting “It”; and

19 (2) by adding at the end the following: “It shall
 20 be lawful for information revealing a threat of actual
 21 or potential attack or other grave hostile acts of a
 22 foreign power or an agent of a foreign power, do-
 23 mestic or international sabotage, domestic or inter-
 24 national terrorism, or clandestine intelligence gath-
 25 ering activities by an intelligence service or network

1 of a foreign power or by an agent of a foreign
2 power, within the United States or elsewhere, ob-
3 tained as part of a criminal investigation to be dis-
4 closed to any appropriate Federal, State, local, or
5 foreign government official for the purpose of pre-
6 venting or responding to such a threat. Any official
7 who receives information pursuant to this provision
8 may use that information only as necessary in the
9 conduct of that person’s official duties subject to any
10 limitations on the unauthorized disclosure of such
11 information, and any State, local, or foreign official
12 who receives information pursuant to this provision
13 may use that information only consistent with such
14 guidelines as the Attorney General and Director of
15 Central Intelligence shall jointly issue.”.

16 (b) CONFORMING AMENDMENTS.—Section 203(c) of
17 that Act is amended—

18 (1) by striking “section 2517(6)” and inserting
19 “paragraphs (6) and (8) of section 2517 of title 18,
20 United States Code,”; and

21 (2) by inserting “and (VI)” after “Rule
22 6(e)(3)(C)(i)(V)”.

1 **SEC. 9. INFORMATION ACQUIRED FROM AN ELECTRONIC**
2 **SURVEILLANCE.**

3 Section 106(k)(1) of the Foreign Intelligence Surveil-
4 lance Act of 1978 (50 U.S.C. 1806) is amended by insert-
5 ing after “law enforcement officers” the following: “or law
6 enforcement personnel of a State or political subdivision
7 of a State (including the chief executive officer of that
8 State or political subdivision who has the authority to ap-
9 point or direct the chief law enforcement officer of that
10 State or political subdivision)”.

11 **SEC. 10. INFORMATION ACQUIRED FROM A PHYSICAL**
12 **SEARCH.**

13 Section 305(k)(1) of the Foreign Intelligence Surveil-
14 lance Act of 1978 (50 U.S.C. 1825) is amended by insert-
15 ing after “law enforcement officers” the following: “or law
16 enforcement personnel of a State or political subdivision
17 of a State (including the chief executive officer of that
18 State or political subdivision who has the authority to ap-
19 point or direct the chief law enforcement officer of that
20 State or political subdivision)”.

Passed the House of Representatives June 26, 2002.

Attest:

JEFF TRANDAHL,

Clerk.