

107TH CONGRESS
2D SESSION

H. R. 4598

[Report No. 107-534, Part I]

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2002

Mr. CHAMBLISS (for himself, Ms. HARMAN, Mr. GOSS, Ms. PELOSI, Mr. SEN-SEN BRENNER, Mr. SMITH of Texas, Mr. BISHOP, Mr. CONDIT, Mr. HOEKSTRA, Mr. ROEMER, Mr. BURR of North Carolina, Mr. REYES, Mr. BEREUTER, Mr. BOSWELL, Mr. PETERSON of Minnesota, Mr. CRAMER, Mr. HASTINGS of Florida, Mr. ROGERS of Michigan, Mr. FRANK, Mr. BARR of Georgia, Mr. FROST, Mr. SULLIVAN, Mr. BALDACCI, Mr. SESSIONS, Mr. DEUTSCH, Mr. TIERNEY, and Ms. HART) introduced the following bill; which was referred to the Committee on Intelligence (Permanent Select), and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JUNE 25, 2002

Reported from the Committee on the Judiciary with an amendment

[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 April 25, 2002]

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Homeland Security In-*
5 *formation Sharing Act”.*

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

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

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

11 *(2) The Federal Government relies on State and*
12 *local personnel to protect against terrorist attack.*

13 *(3) The Federal Government collects, creates,*
14 *manages, and protects classified and sensitive but un-*
15 *classified information to enhance homeland security.*

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

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

22 (11) *Information systems, including the National*
23 *Law Enforcement Telecommunications System and*
24 *the Terrorist Threat Warning System, have been es-*
25 *tablished for rapid sharing of classified and sensitive*

1 but unclassified information among Federal, State,
2 and local entities.

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

11 SEC. 3. FACILITATING HOMELAND SECURITY INFORMATION

12 ***SHARING PROCEDURES.***

13 (a) *PRESIDENTIAL PROCEDURES FOR DETERMINING*
14 *EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION*
15 *TION.*—

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

14 (b) PROCEDURES FOR SHARING OF HOMELAND SECU-

15 RITY INFORMATION.—

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

7 (4) The procedures prescribed under paragraph

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

18 (d) RESPONSIBLE OFFICIALS.—For each affected Fed-
19 eral agency, the head of such agency shall designate an offi-
20 cial to administer this Act with respect to such agency.

21 (e) *FEDERAL CONTROL OF INFORMATION.*—Under pro-
22 cedures prescribed under this section, information obtained
23 by a State or local government from a Federal agency under
24 this section shall remain under the control of the Federal
25 agency, and a State or local law authorizing or requiring

1 such a government to disclose information shall not apply
2 to such information.

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

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

7 (A) *relates to the threat of terrorist activity;*
8 (B) *relates to the ability to prevent, inter-*
9 *dict, or disrupt terrorist activity;*

10 (C) *would improve the identification or in-*
11 *vestigation of a suspected terrorist or terrorist*
12 *organization; or*

13 (D) *would improve the response to a ter-*
14 *rrorist act.*

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

18 (3) *The term “State and local personnel” means*
19 *any of the following persons involved in prevention,*
20 *preparation, or response for terrorist attack:*

21 (A) *State Governors, mayors, and other lo-*
22 *cally elected officials.*

23 (B) *State and local law enforcement per-*
24 *sonnel and firefighters.*

25 (C) *Public health and medical professionals.*

14 SEC. 4. REPORT.

15 (a) *REPORT REQUIRED.*—Not later than 12 months
16 after the date of the enactment of this Act, the President
17 shall submit to the congressional committees specified in
18 subsection (b) a report on the implementation of section 3.
19 The report shall include any recommendations for addi-
20 tional measures or appropriation requests, beyond the re-
21 quirements of section 3, to increase the effectiveness of shar-
22 ing of information among Federal, State, and local entities.

23 (b) *SPECIFIED CONGRESSIONAL COMMITTEES.*—The
24 congressional committees referred to in subsection (a) are
25 the following committees:

1 (1) *The Permanent Select Committee on Intel-*
2 *ligence and the Committee on the Judiciary of the*
3 *House of Representatives.*

4 (2) *The Select Committee on Intelligence and the*
5 *Committee on the Judiciary of the Senate.*

6 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

7 *There are authorized to be appropriated such sums as*
8 *may be necessary to carry out section 3.*

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

10 *Rule 6(e) of the Federal Rules of Criminal Procedure*
11 *is amended—*

12 (1) *in paragraph (2), by inserting “, or of guide-*
13 *lines jointly issued by the Attorney General and Di-*
14 *rector of Central Intelligence pursuant to Rule 6,”*
15 *after “Rule 6”; and*

16 (2) *in paragraph (3)—*

17 (A) *in subparagraph (A)(ii), by inserting*
18 *“or of a foreign government” after “(including*
19 *personnel of a state or subdivision of a state”;*

20 (B) *in subparagraph (C)(i)—*

21 (i) *in subclause (I), by inserting before*
22 *the semicolon the following: “or, upon a re-*
23 *quest by an attorney for the government,*
24 *when sought by a foreign court or pros-*

1 *ecutor for use in an official criminal investi-*
2 *gation”;*

3 *(ii) in subclause (IV)—*

4 *(I) by inserting “or foreign” after*
5 *“may disclose a violation of State”;*

6 *(II) by inserting “or of a foreign*
7 *government” after “to an appropriate*
8 *official of a State or subdivision of a*
9 *State”; and*

10 *(III) by striking “or” at the end;*

11 *(iii) by striking the period at the end*
12 *of subclause (V) and inserting “; or”; and*

13 *(iv) by adding at the end the following:*

14 *“(VI) when matters involve a threat of*
15 *actual or potential attack or other grave*
16 *hostile acts of a foreign power or an agent*
17 *of a foreign power, domestic or interna-*
18 *tional sabotage, domestic or international*
19 *terrorism, or clandestine intelligence gath-*
20 *ering activities by an intelligence service or*
21 *network of a foreign power or by an agent*
22 *of a foreign power, within the United States*
23 *or elsewhere, to any appropriate federal,*
24 *state, local, or foreign government official*

1 *for the purpose of preventing or responding*
2 *to such a threat.”; and*
3 (C) in subparagraph (C)(iii)—
4 (i) by striking “Federal”;
5 (ii) by inserting “or clause (i)(VI)”
6 after “clause (i)(V)”; and
7 (iii) by adding at the end the fol-
8 lowing: “Any state, local, or foreign official
9 who receives information pursuant to clause
10 (i)(VI) shall use that information only con-
11 sistent with such guidelines as the Attorney
12 General and Director of Central Intelligence
13 shall jointly issue.”.

14 **SEC. 7. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND**
15 **ORAL INTERCEPTION INFORMATION.**

16 Section 2517 of title 18, United States Code, is amend-
17 ed by adding at the end the following:

18 “(7) Any investigative or law enforcement officer, or
19 attorney for the government, who by any means authorized
20 by this chapter, has obtained knowledge of the contents of
21 any wire, oral, or electronic communication, or evidence de-
22 rived therefrom, may disclose such contents or derivative
23 evidence to a foreign investigative or law enforcement officer
24 to the extent that such disclosure is appropriate to the prop-
25 er performance of the official duties of the officer making

1 or receiving the disclosure, and foreign investigative or law
2 enforcement officers may use or disclose such contents or
3 derivative evidence to the extent such use or disclosure is
4 appropriate to the proper performance of their official du-
5 ties.

6 “(8) Any investigative or law enforcement officer, or
7 attorney for the government, who by any means authorized
8 by this chapter, has obtained knowledge of the contents of
9 any wire, oral, or electronic communication, or evidence de-
10 rived therefrom, may disclose such contents or derivative
11 evidence to any appropriate Federal, State, local, or foreign
12 government official to the extent that such contents or deriv-
13 ative evidence reveals a threat of actual or potential attack
14 or other grave hostile acts of a foreign power or an agent
15 of a foreign power, domestic or international sabotage, do-
16 mestic or international terrorism, or clandestine intel-
17 ligence gathering activities by an intelligence service or net-
18 work of a foreign power or by an agent of a foreign power,
19 within the United States or elsewhere, for the purpose of
20 preventing or responding to such a threat. Any official who
21 receives information pursuant to this provision may use
22 that information only as necessary in the conduct of that
23 person’s official duties subject to any limitations on the un-
24 authorized disclosure of such information, and any State,
25 local, or foreign official who receives information pursuant

1 *to this provision may use that information only consistent*
2 *with such guidelines as the Attorney General and Director*
3 *of Central Intelligence shall jointly issue.”.*

4 **SEC. 8. FOREIGN INTELLIGENCE INFORMATION.**

5 (a) *DISSEMINATION AUTHORIZED.—Section 203(d)(1)*
6 *of the Uniting and Strengthening America by Providing*
7 *Appropriate Tools Required to Intercept and Obstruct Ter-*
8 *rorism Act (USA PATRIOT ACT) of 2001 (Public Law*
9 *107-56; 50 U.S.C. 403-5d) is amended—*

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

12 (2) *by adding at the end the following: “It shall*
13 *be lawful for information revealing a threat of actual*
14 *or potential attack or other grave hostile acts of a for-*
15 *ign power or an agent of a foreign power, domestic*
16 *or international sabotage, domestic or international*
17 *terrorism, or clandestine intelligence gathering activi-*
18 *ties by an intelligence service or network of a foreign*
19 *power or by an agent of a foreign power, within the*
20 *United States or elsewhere, obtained as part of a*
21 *criminal investigation to be disclosed to any appro-*
22 *priate Federal, State, local, or foreign government of-*
23 *ficial for the purpose of preventing or responding to*
24 *such a threat. Any official who receives information*
25 *pursuant to this provision may use that information*

1 only as necessary in the conduct of that person's offi-
2 cial duties subject to any limitations on the unau-
3 thorized disclosure of such information, and any
4 State, local, or foreign official who receives informa-
5 tion pursuant to this provision may use that infor-
6 mation only consistent with such guidelines as the At-
7 torney General and Director of Central Intelligence
8 shall jointly issue.”.

9 (b) CONFORMING AMENDMENTS.—Section 203(c) of

10 *that Act is amended—*

14 (2) by inserting “and (VI)” after “Rule
15 6(e)(3)(C)(i)(V)”.

16 SEC. 9. INFORMATION ACQUIRED FROM AN ELECTRONIC
17 SURVEILLANCE.

18 *Section 106(k)(1) of the Foreign Intelligence Surveil-*
19 *lance Act of 1978 (50 U.S.C. 1806) is amended by inserting*
20 *after “law enforcement officers” the following: “or law en-*
21 *forcement personnel of a State or political subdivision of*
22 *a State (including the chief executive officer of that State*
23 *or political subdivision who has the authority to appoint*
24 *or direct the chief law enforcement officer of that State or*
25 *political subdivision)”).*

1 **SEC. 10. INFORMATION ACQUIRED FROM A PHYSICAL**2 ***SEARCH.***

3 *Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting*

4 *after “law enforcement officers” the following: “or law enforcement personnel of a State or political subdivision of*

5 *a State (including the chief executive officer of that State*

6 *or political subdivision who has the authority to appoint*

7 *or direct the chief law enforcement officer of that State or*

8 *political subdivision)”.
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