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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. SENBRENNER, 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.*

1 (6) *Granting security clearances to certain State*
2 *and local personnel is one way to facilitate the shar-*
3 *ing of information regarding specific terrorist threats*
4 *among Federal, State, and local levels of government.*

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

9 (8) *State and local personnel have capabilities*
10 *and opportunities to gather information on suspicious*
11 *activities and terrorist threats not possessed by Fed-*
12 *eral agencies.*

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

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

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.*

3 *(12) Increased efforts to share homeland security*
 4 *information should avoid duplicating existing infor-*
 5 *mation systems.*

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 INFORMA-*
 15 *TION.—*

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

18 *(A) whether, how, and to what extent home-*
 19 *land security information may be shared with*
 20 *appropriate State and local personnel, and with*
 21 *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 extent
3 to remove classified information, as appropriate,
4 and with which such personnel it may be shared
5 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 require-
13 ments and authorities to protect sources and methods.

14 (b) *PROCEDURES FOR SHARING OF HOMELAND SECU-*
15 *RITY INFORMATION.*—

16 (1) Under procedures prescribed by the Presi-
17 dent, all appropriate agencies, including the intel-
18 ligence community, shall, through information shar-
19 ing systems, share homeland security information
20 with appropriate State and local personnel to the ex-
21 tent such information may be shared, as determined
22 in accordance with subsection (a), together with as-
23 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 proce-*
6 *dures and recipients for each capability may dif-*
7 *fer;*

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 not*
22 *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 er-
6 roneous 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, shared
21 under such paragraph.

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

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

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

8 (7) Under procedures prescribed jointly by the
9 Director of Central Intelligence and the Attorney Gen-
10 eral, each appropriate Federal agency, as determined
11 by the President, shall review and assess the informa-
12 tion shared under paragraph (6) and integrate such
13 information with existing intelligence.

14 (c) *SHARING OF CLASSIFIED INFORMATION AND SEN-*
15 *SITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND*
16 *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 appropriate
20 State and local personnel homeland security informa-
21 tion that remains classified or otherwise protected
22 after the determinations prescribed under the proce-
23 dures 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 sen-*
8 *sitive but unclassified, entering into nondisclo-*
9 *sure agreements with appropriate State and*
10 *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 Investiga-*
15 *tion, the Anti-Terrorism Task Forces of the De-*
16 *partment of Justice, and regional Terrorism*
17 *Early Warning Groups.*

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 *rorist 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.*

1 (D) *Regional, State, and local emergency*
2 *management agency personnel, including State*
3 *adjutant generals.*

4 (E) *Other appropriate emergency response*
5 *agency personnel.*

6 (F) *Employees of private-sector entities that*
7 *affect critical infrastructure, cyber, economic, or*
8 *public health security, as designated by the Fed-*
9 *eral government in procedures developed pursu-*
10 *ant to this section.*

11 (4) *The term “State” includes the District of Co-*
12 *lumbia and any commonwealth, territory, or posses-*
13 *sion of the United States.*

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 inves-*
2 *tigation”;*

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 inter-*
18 *national 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 *foreign 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—*

11 (1) *by striking “section 2517(6)” and inserting*
 12 *“paragraphs (6) and (8) of section 2517 of title 18,*
 13 *United States Code,”; and*

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 Surveil-*
4 *lance Act of 1978 (50 U.S.C. 1825) is amended by inserting*
5 *after “law enforcement officers” the following: “or law en-*
6 *forcement personnel of a State or political subdivision of*
7 *a State (including the chief executive officer of that State*
8 *or political subdivision who has the authority to appoint*
9 *or direct the chief law enforcement officer of that State or*
10 *political subdivision)”.*

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