

are included in databases, more minorities are potential suspects, regardless of their actual guilt. We cannot allow this injustice to blossom in a free country where people are presumed innocent until proven guilty.

Mr. SCOTT of Virginia. Mr. Speaker, I think the chairman has the right to close, and I would yield him time if he has any concluding comments. He apparently doesn't have any further comments.

I yield back the balance of my time.

Mr. REICHERT. Mr. Speaker, I rise today in support of Katie's Law. I rise as a Congressman, but also as a cop and a sheriff with 33 years of experience investigating crimes.

This bill, simply put, assists states with the implementation of DNA arrestee collection programs so that the DNA collected can be entered into the national DNA database. DNA is an invaluable piece of evidence when solving crimes.

As the lead investigator on the Green River Killer Task Force my colleagues and I started collecting evidence in the early 80's . . . hoping only for, in those days, a saliva or a blood-type match that would tie a suspect to the crimes.

We worked that case for nearly two decades, continuing to collect evidence, interrogate suspects, and discover horrific murder scenes. In 2001, the technology finally caught up and through DNA we made a match and were finally able to arrest a single suspect on four counts of murder. That arrest eventually led to 49 murder convictions.

This bill is named for Katie Sepich. Katie was a young woman from Carlsbad, New Mexico who was 22 years old when she was brutally raped and murdered—because of the lack of DNA collection procedures in New Mexico at the time, it was three years before Katie's parents, Jayann and David, had the closure of knowing Katie's attacker.

Katie's Law provides a critical resource to aid our law enforcement officials in investigating crimes and protecting the innocent. It does so without the appropriation of new funds and with privacy protections.

What happened to Katie Sepich is a shocking, horrible tragedy. It is our duty to assist law enforcement in preventing these tragedies from ever re-occurring, and to continue the tireless work of keeping our communities safe.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 6014, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize the Attorney General to award grants for States to implement DNA arrestee collection processes."

A motion to reconsider was laid on the table.

#### THEFT OF TRADE SECRETS CLARIFICATION ACT OF 2012

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3642) to clarify the scope of the Economic Espionage Act of 1996.

The Clerk read the title of the bill.  
The text of the bill is as follows:

S. 3642

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Theft of Trade Secrets Clarification Act of 2012".

#### SEC. 2. AMENDMENT.

Section 1832(a) of title 18, United States Code, is amended in the matter preceding paragraph (1), by striking "or included in a product that is produced for or placed in" and inserting "a product or service used in or intended for use in".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

#### GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials on S. 3642, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 3642, the Theft of Trade Secrets Clarification Act of 2012, clarifies the scope of the Economic Espionage Act, EEA, and protects American jobs and businesses from the theft of their valuable trade secrets. I want to thank Senator LEAHY for his hard work on this piece of legislation.

Since 1996, the EEA has served as the primary tool the Federal Government uses to protect secret, valuable, commercial information from theft. The Second Circuit's Aleynikov decision revealed a dangerous loophole that demands our attention. In response, the Senate unanimously passed S. 3642 in November. We need to act today to send this important measure directly to the President. We must also take action in response to the Second Circuit's call and ensure that we have appropriately adapted the scope of the EEA to the digital age.

I again thank Senator LEAHY for his leadership on this issue. I urge my colleagues to support the bill, and I reserve the balance of my time.

Mr. Speaker, S. 3642, the "Theft of Trade Secrets Clarification Act of 2012," clarifies the scope of the Economic Espionage Act (EEA) and protects American jobs and businesses from the theft of their valuable trade secrets. I thank Senator LEAHY for his hard work on this bill.

Sergey Aleynikov was convicted for stealing and transferring valuable proprietary computer source code that belonged to his former employer, Goldman Sachs. Earlier this year, he was released from a federal penitentiary after serving only one year of an eight-year sentence.

According to the Second Circuit Court of Appeals, he had accepted an offer in 2009, to become a senior executive at a Chicago-based startup that intended to compete against Goldman in the provision of high frequency trading (HFT) services.

The Appeals Court explained:

just before his going-away party, Aleynikov encrypted and uploaded to a server in Germany more than 500,000 lines of source code for Goldman's HFT system . . . On June 2, 2009, Aleynikov flew . . . to Chicago to attend meetings at Teza. He brought with him a flash drive and a laptop containing portions of the Goldman source code. When Aleynikov flew back the following day, he was arrested by the FBI . . .

Aleynikov was convicted of violating the EEA and the National Stolen Property Act. After reviewing the trial record, the Appeals Court issued an order in February 2012, which reversed Aleynikov's convictions on both counts.

The court's decision construed the scope of the two federal criminal statutes. It observed that there is a limitation that products be "produced for" or "placed in" interstate or foreign commerce.

The court concluded, "Goldman's HFT system was neither 'produced for' nor 'placed in' interstate or foreign commerce," despite evidence that it facilitated millions of proprietary trades and transactions each year. It then determined that the theft of source code was not an offense under the EEA.

The court explained that when a statute, particularly a criminal statute, is ambiguous, it is appropriate to construe it narrowly and, "to require that Congress should have spoken in language that is clear and definite" before choosing a stricter interpretation.

In his concurring opinion, Judge Calabresi [Cal-abress-E] directly called upon Congress to clarify the scope of the EEA as he wrote:

[I]t is hard for me to conclude that Congress, in [the EEA], actually meant to exempt the kind of behavior in which Aleynikov engaged . . . [n]evertheless, while concurring [in the opinion], I wish to express the hope that Congress will return to the issue and state, in appropriate language, what I believe it meant to make criminal in the EEA.

The FBI estimated earlier this year that U.S. companies had lost \$13 billion to trade secret theft in just over six months. Over the past six years, losses to individual U.S. companies have ranged from \$20 million to as much as \$1 billion.

Since 1996, the EEA has served as the primary tool the federal government uses to protect secret, valuable, commercial information from theft.

The Second Circuit's Aleynikov [Alay-nakov] decision revealed a dangerous loophole that demands our attention. In response, the Senate unanimously passed S. 3642 in November.

We need to act today to send this important measure directly to the President. We must also take action in response to the Second Circuit's call and to ensure that we have appropriately adapted the scope of the EEA to the digital age.

I again thank Senator LEAHY for his leadership on this issue and I urge my colleagues to support the bill.

The SPEAKER pro tempore. Without objection, the gentleman from Virginia controls the time.

There was no objection.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 3642, the Theft of Trade Secrets Clarification Act, will help ensure that American businesses can effectively protect their trade secrets. This legislation passed the Senate by unanimous consent last month, and we are proud to be passing it today.

S. 3642 responds to a recent Federal court decision that exposed a gap in Federal law. In April of this year, the Second Circuit Court of Appeals held that the Federal statute prohibiting the theft of trade secrets does not apply to computer source code in some circumstances.

In the Aleynikov case, the defendant, a computer programmer who worked for Goldman Sachs, electronically copied and remotely stored thousands of lines of source code from the company's internal, high-frequency trading system and then downloaded that code to his new employer's server after leaving Goldman Sachs.

The transfer of the source code would potentially save up to \$10 million and 2 years of programmers' time for the new employer and would eliminate some of the competitive advantage Goldman Sachs achieved by developing their own trading program.

Federal law prohibits the conversion of any trade secret that is related to or included in a product that is produced or placed in interstate or foreign commerce. Because the code that was stolen is a component of an internal computer system, the court found that it is not covered by the statute because it was not produced for, or placed in, a product in interstate or foreign commerce.

This bill will close the gap exposed in that case by clarifying that the statute applies to both products and services which are used in or intended for use in interstate or foreign commerce.

Congress needs to act quickly to enhance the ability of American businesses to safeguard the proprietary information they develop to gain a competitive advantage. This is particularly important as our country's economy is increasingly knowledge- and service-based.

We must ensure that our statutes designed to prohibit the theft of trade secrets appropriately cover the range of intellectual property generated and used by our businesses.

This bill is an important step to accomplish this goal, and I commend the senior Senator from Vermont, the chair of the Judiciary Committee in the Senate, Mr. LEAHY, for his leadership on the bill; and I urge my colleagues to support this legislation so it can be sent directly to the President's desk to be signed into law.

I yield back the balance of my time.

Mr. Speaker, S. 3642, the "Theft of Trade Secrets Clarification Act, will help ensure that American businesses can effectively protect

their trade secrets. This legislation passed the Senate by unanimous consent last month and I am proud to support it today.

S. 3642 responds to a recent federal court decision that exposed a gap in federal law.

In April of this year, the Second Circuit Court of Appeals held that the federal statute prohibiting the theft of trade secrets does not apply to computer source code in some circumstances.

In the Aleynikov case, the defendant, a computer programmer who worked for Goldman Sachs, electronically copied and remotely stored thousands of lines of source code for the company's internal, high-frequency trading system and then downloaded that code to his new employer's server after leaving Goldman Sachs.

The transfer of the source code would potentially save \$10 million and two years of programmers' time for the new employer and would eliminate some of the competitive advantage Goldman achieved by developing their own trading program.

Federal law prohibits the conversion of any trade secret that is related to or included in a product that is produced or placed in interstate or foreign commerce. Because the code that Mr. Aleynikov stole is a component of an internal computer system, the court found that it is not covered by the statute because it is not produced for, or placed in, a product in interstate or foreign commerce.

S. 3642 would close the gap exposed in the Aleynikov case by clarifying that the statute applies to both products and services which are used in or intended for use in interstate or foreign commerce.

Congress needs to act quickly to enhance the ability of American businesses to safeguard the proprietary information they develop to gain competitive advantage. This is particularly important as our country's economy is increasingly knowledge and service-based.

We must ensure that our statutes designed to prohibit the theft of trade secrets appropriately cover the range of intellectual property generated and used by our businesses.

This bill is an important step to accomplish this goal, and I commend the gentleman from Vermont, Senator LEAHY, I urge my colleagues to support this legislation today so that it can be sent to the President's desk to be signed into law.

Mr. SMITH of Texas. Mr. Speaker, I yield back the balance of my time as well.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today in support of S. 3642, the "Theft of Trade Secrets Clarification Act of 2012," a bill that simply clarifies a provision of the Economic Espionage Act for the purpose of protecting American business and jobs.

More specifically, S. 3642 would broaden language in the Economic Espionage Act so that it protects businesses from trade secret theft to the extent that it was originally intended to rather than the narrow scope applied by a recent Second Circuit court opinion.

In *United States v. Aleynikov* (April 2012 decision), the Second Circuit overturned the conviction of a defendant who was found guilty of stealing computer code from his employer. The reason for this reversal was that the court determined that the theft of the trade secret did not meet the interstate commerce threshold delineated in the Economic Espionage Act.

Even though the Defendant copied stolen code from his New York office to a computer

server in Germany, downloaded the code in New Jersey, and then took the code with him to his new job in Illinois, the Second Circuit found that the stolen trade secret was not part of a product that was produced for or placed in interstate commerce and, therefore, was not the subject of this criminal provision of the Economic Espionage Act.

Effective protection of intellectual property rights, including trade secrets, is essential for fostering innovation. Innovation typically requires substantial investment in education, research and development, and labor to bring a new idea to the marketplace.

The fact that the stolen computer code, which was proprietary, was not produced to be placed in interstate commerce should not preclude a guilty verdict from being rendered.

Businesses often spent time and money to develop their own proprietary software to be used internally; if others can steal their idea, it undermines the creator's ability to recoup the cost of his or her innovative investment, and the incentive to innovate is reduced.

These innovations add value to the overall business, even if they are not commercial end-products themselves. The language contained in this bill will fix the problem so that trade secret thieves cannot take advantage of the loophole in the Economic Espionage Act.

For that reason, I urge my colleagues to support S. 3642, the "Theft of Trade Secrets Clarification Act of 2012."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, S. 3642.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. SCOTT of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

#### VIDEO PRIVACY PROTECTION ACT AMENDMENTS ACT OF 2012

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6671) to amend section 2710 of title 18, United States Code, to clarify that a video tape service provider may obtain a consumer's informed, written consent on an ongoing basis and that consent may be obtained through the Internet.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6671

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Video Privacy Protection Act Amendments Act of 2012".

#### SEC. 2. VIDEO PRIVACY PROTECTION ACT AMENDMENT.

Section 2710(b)(2) of title 18, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B) to any person with the informed, written consent (including through an electronic