

Calendar No. 234

114TH CONGRESS }
1st Session }

SENATE

{ REPORT
114-145

SOCIAL MEDIA WORKING GROUP
ACT OF 2015

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 623

TO AMEND THE HOMELAND SECURITY ACT OF 2002 TO AUTHOR-
IZE THE DEPARTMENT OF HOMELAND SECURITY TO ESTABLISH
A SOCIAL MEDIA WORKING GROUP, AND FOR OTHER PURPOSES



SEPTEMBER 21, 2015.—Ordered to be printed

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SOCIAL MEDIA WORKING GROUP ACT OF 2015

SEPTEMBER 21, 2015.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany H.R. 623]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (H.R. 623) to amend the Homeland Security Act of 2002 to authorize the Department of Homeland Security to establish a social media working group, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

The purpose of H.R. 623, the DHS Social Media Improvement Act of 2015, is to codify and improve an existing Department of Homeland Security (DHS or “the Department”) working group established to enhance the dissemination of information through social media technologies between the Department and stakeholders and provide guidance and best practices on the use of social media before, during, and after a natural disaster, act of terrorism, or other manmade disaster. This act requires the working group to submit an annual report to Congress that details best practices and lessons learned during response efforts and provides recommendations on how to improve the use of social media by the Department.

The working group will terminate five years after the date of enactment unless the chairperson of the working group submits to Congress a certification that the continued existence of the group is necessary.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Recent studies have shown that seventy-four percent of online adults utilize social media.¹ Along with this growth in adoption, Americans have increasingly turned to social media to receive up-to-date information from the emergency management community, as well as to share their personal experiences via posts, tweets, pictures, and videos.²

The public and the government have used social media during a number of recent emergencies, disasters, and acts of terrorism. When Hurricane Sandy made landfall in 2012, both the public and government agencies relied on social media technology before, during, and after the storm made landfall.³ The Federal Emergency Management Agency (FEMA) closely monitored the approximately 20 million Twitter messages it received, sent messages to more than 300,000 Facebook users and 6 million Twitter users, and in a single day, redirected more than 500,000 visitors to the Ready.gov website.⁴

Social media is a multifaceted tool when it comes to terrorism; it can be an efficient way for first responders to disseminate information quickly to the public during an act of terrorism. First responders can use social media to alert the public that a terrorist attack has occurred and provide updates throughout the event, as happened during the 2013 Boston Marathon Bombing when a quarter of Americans received information about the attack via social network sites.⁵ Young Americans in particular relied on social media during the incident, with fifty-six percent stating that they utilized social networks to remain up-to-date during the attack.⁶

Unfortunately, terrorists are also using social media to recruit, radicalize and inspire followers to carry out attacks in the United States and abroad.⁷ As a result, a number of individuals have been inspired to travel to areas that are currently controlled by the Islamic State. At this time, the number of foreign fighters who have

¹Pew Research Center, Social Networking Fact Sheet, <http://www.pewinternet.org/fact-sheets/social-networking-fact-sheet/> (last visited Sept. 8, 2015).

²Bruce Lindsay, Cong. Research Serv., R41987, Social Media and Disasters: Current Uses, Future Options, and Policy Considerations 9 (2011).

³U.S. Dep't of Homeland Sec., Lessons Learned: Social Media And Hurricane Sandy 6 (2013), available at <http://www.firstresponder.gov/TechnologyDocuments/Lessons%20Learned%20Social%20Media%20and%20Hurricane%20Sandy.pdf>; see also Sarah Estes Cohen, *Sandy Marked a Shift for Social Media Use in Disasters*, Emergency Mgmt., Mar. 7, 2013, <http://www.emergencymgmt.com/disaster/Sandy-Social-Media-Use-in-Disasters.html> (describing the shift in social media use with Hurricane Sandy).

⁴Cohen, *supra* note 3.

⁵Pew Research Center, Most Expect "Occasional Acts of Terrorism" In The Future (2013), <http://www.people-press.org/2013/04/23/most-expect-occasional-acts-of-terrorism-in-the-future/>.

⁶*Id.*

⁷See *ISIL in America: Domestic Terror and Radicalization: Hearing Before the Subcomm. on Crime, Terrorism, Homeland Security, and Investigations of the H. Comm. on the Judiciary*, 114th Cong. (2015) (statement of Michael Steinbach, Assistant Director, Federal Bureau of Investigation); see also *Jihad 2.0: Social Media in the Next Evolution of Terrorist Recruitment: Hearing Before the S. Comm. on Homeland Security and Governmental Affairs*, 114th Cong. (2015) [hereinafter *Jihad 2.0*] (statement of Daveed Gartenstein-Ross, Fellow, Foundation for Defense of Democracies).

traveled to Syria and Iraq is greater than during the Afghan-Soviet war.⁸ Much of this increase is due to recruitment via social media.⁹

Recognizing the potential value for social media in emergencies, in 2010, DHS established the Virtual Social Media Working Group (VSMWG) to provide guidance to the emergency preparedness and response community on the effective use of social media.¹⁰ Since 2010, social media use has markedly expanded and evolved. This legislation codifies and improves the existing working group within the Department and ensures proper accountability by expanding the group's current membership, increasing collaboration with the private sector, and improving the group's annual reporting requirements.

III. LEGISLATIVE HISTORY

On March 14, 2014, Representative Susan Brooks introduced H.R. 4263, the Social Media Working Group Act of 2014. The act passed the House by a vote of 375–19 on July 8, 2014. The measure was received in the Senate and referred to the Committee on Homeland Security and Governmental Affairs, but the Committee did not take up the act during the 113th Congress.

In the 114th Congress, Representative Brooks introduced H.R. 623, the Social Media Working Group Act of 2015, on January 30, 2015. The act passed the House on February 2, 2015, by a vote of 328–51. The measure was received in the Senate and referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered H.R. 623 at a business meeting on May 6, 2015. At the business meeting, Chairman Ron Johnson introduced a substitute amendment that changed the name of the act to the DHS Social Media Improvement Act of 2015, removed an exemption to the requirements of the Federal Advisory Committee Act (FACA), created a five-year sunset and renewal process, made changes to the membership and reporting requirements, and made additional technical corrections. The Committee favorably reported the act, as amended by the Johnson substitute amendment, by voice vote en bloc. Senators present for the vote were: Johnson, McCain, Portman, Lankford, Ernst, Sasse, Carper, McCaskill, Baldwin, Heitkamp, and Peters.

IV. SECTION-BY-SECTION ANALYSIS OF THE ACT, AS REPORTED

Sec. 1. Short title

This section provides the Act's short title, "DHS Social Media Improvement Act of 2015."

Sec. 2. Social Media Working Group

This section amends Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) by adding a new section 318. The new section requires the Secretary of Homeland Security to establish within the Department a social media working group ("the Group").

⁸Jihad 2.0, *supra* note 7 (statement of Daveed Gartenstein-Ross, Fellow, Foundation for Defense of Democracies).

⁹*Id.*
¹⁰Sci. & Tech. Directorate, U.S. Dep't of Homeland Sec., First Responders Group—Virtual Social Media Working Group (VSMWG) (2013), available at <http://www.firstresponder.gov/Lists/TechnologyProfiles/attachments/16/Virtual%20Social%20Media%20Working%20Group%20Fact%20Sheet.pdf>.

This section also provides requirements for the Group's membership, procedure, and termination.

Subsection (b) of the new section defines the purpose of the Group as identifying and providing guidance on best practices on the use of social media technologies before, during and after a natural disaster, act of terrorism, or other man-made disaster to improve first responders' efficient use of those technologies.

Subsection (c) of the new section delineates the required membership of the Group, which reflects a whole of community approach and is composed of a cross section of representatives from various DHS components and offices, other federal agencies, and non-governmental organizations. Further, subsection (c) provides for the creation of a chairperson and co-chairperson of the Group, and the addition of other members. Term limits of the additional members shall be determined by the chairperson.

Subsection (d) of the new section requires the Group to work with other entities in the public and private sector to the extent practicable.

Subsection (e) of the new section establishes requirements for the first meeting of the Group and frequency of meetings thereafter. The subsection also permits the Group to hold its meetings virtually.

Subsection (f) of the new section requires that the Group provide an annual report to the Committee and the House Committee on Homeland Security for each year that it meets. The report shall include, among other things, a review of current and emerging social technologies, best practices, lessons learned, available training for officials on the use of such technology, and coordination efforts with the private sector; and recommendations to improve public awareness of using social media during a natural disaster, act of terrorism, or other man-made disaster.

Subsection (g) of the new section sunsets the Group after five years unless the chairperson certifies to the Committee and the House Committee on Homeland Security that the purpose established in subsection (b) of the new section remains unfulfilled and the Group's continued existence is necessary to achieve that purpose. Such renewals would last for an additional five years at a time, so long as the chairperson continues to certify the need for the Group to Congress. The Committee intends for this to be a flexible but rigorous standard, and that the Group not continue indefinitely unless there is a certified need.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this act and determined that the act will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the act contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MAY 13, 2015.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 623, the DHS Social Media Improvement Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 623—DHS Social Media Improvement Act of 2015

H.R. 623 would direct the Department of Homeland Security (DHS) to establish a working group to provide guidance and best practices on the use of social media technologies, specifically during a terrorist attack or other emergency. The group would prepare guidance for the emergency preparedness and response community. The act would define the membership of the working group, which would include more than 20 experts from federal, state, local, and tribal governments along with nongovernmental organizations. The working group would be authorized to hold virtual meetings to fulfill the requirement to meet twice a year. The working group would be required to submit an annual report on emerging trends and best practices for emergency response through social media.

Based on the cost of similar activities carried out under the DHS Acquisition and Accountability Efficiency Act and the Critical Infrastructure Research and Development Advancement Act of 2013, CBO estimates that the new DHS responsibilities and the annual report required by H.R. 623 would cost less than \$500,000 annually, assuming the availability of appropriated funds. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 623 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE ACT, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by H.R. 623 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) * * *

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

*	*	*	*	*	*	*
TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY						
Sec. 301. Under Secretary for Science and Technology						
*	*	*	*	*	*	*
Sec. 318. <i>Social media working group.</i>						
*	*	*	*	*	*	*

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

* * * * *

SEC. 318. SOCIAL MEDIA WORKING GROUP.

(a) *ESTABLISHMENT.*—The Secretary shall establish within the Department a social media working group (in this section referred to as the “Group”).

(b) *PURPOSE.*—In order to enhance the dissemination of information through social media technologies between the Department and appropriate stakeholders and to improve use of social media technologies in support of preparedness, response, and recovery, the Group shall identify, and provide guidance and best practices to the emergency preparedness and response community on, the use of social media technologies before, during, and after a natural disaster or an act of terrorism or other man-made disaster.

(c) *MEMBERSHIP.*—

(1) *IN GENERAL.*—Membership of the Group shall be composed of a cross section of subject matter experts from Federal, State, local, tribal, territorial, and nongovernmental organization practitioners, including representatives from the following entities:

(A) The Office of Public Affairs of the Department.

(B) The Office of the Chief Information Officer of the Department.

(C) The Privacy Office of the Department.

(D) The Federal Emergency Management Agency.

(E) The Office of Disability Integration and Coordination of the Federal Emergency Management Agency.

(F) The American Red Cross.

(G) The Forest Service.

(H) The Centers for Disease Control and Prevention.

(I) The United States Geological Survey.

(J) The National Oceanic and Atmospheric Administration.

(2) *CHAIRPERSON; CO-CHAIRPERSON.*—

(A) *CHAIRPERSON.*—The Secretary, or a designee of the Secretary, shall serve as the chairperson of the Group.

(B) *CO-CHAIRPERSON.*—The chairperson shall designate, on a rotating basis, a representative from a State or local government who is a member of the Group to serve as the co-chairperson of the Group.

(3) *ADDITIONAL MEMBERS.*—The chairperson shall appoint, on a rotating basis, qualified individuals to the Group. The total number of such additional members shall—

(A) be equal to or greater than the total number of regular members under paragraph (1); and

(B) include—

(i) not fewer than 3 representatives from the private sector; and

(ii) representatives from—

(I) State, local, tribal, and territorial entities, including from—

(aa) law enforcement;

(bb) fire services;

(cc) emergency management; and

(dd) public health entities;

(II) universities and academia; and

(III) nonprofit disaster relief organizations.

(4) *TERM LIMITS.*—The chairperson shall establish term limits for individuals appointed to the Group under paragraph (3).

(d) *CONSULTATION WITH NON-MEMBERS.*—To the extent practicable, the Group shall work with entities in the public and private sectors to carry out subsection (b).

(e) *MEETINGS.*—

(1) *INITIAL MEETING.*—Not later than 90 days after the date of enactment of this section, the Group shall hold its initial meeting.

(2) *SUBSEQUENT MEETINGS.*—After the initial meeting under paragraph (1), the Group shall meet—

(A) at the call of the chairperson; and

(B) not less frequently than twice each year.

(3) *VIRTUAL MEETINGS.*—Each meeting of the Group may be held virtually.

(f) *REPORTS.*—During each year in which the Group meets, the Group shall submit to the appropriate congressional committees a report that includes the following:

(1) A review and analysis of current and emerging social media technologies being used to support preparedness and response activities related to natural disasters and acts of terrorism and other man-made disasters.

(2) A review of best practices and lessons learned on the use of social media technologies during the response to natural disasters and acts of terrorism and other man-made disasters that occurred during the period covered by the report at issue.

(3) Recommendations to improve the Department's use of social media technologies for emergency management purposes.

(4) Recommendations to improve public awareness of the type of information disseminated through social media technologies, and how to access such information, during a natural disaster or an act of terrorism or other man-made disaster.

(5) A review of available training for Federal, State, local, tribal, and territorial officials on the use of social media technologies in response to a natural disaster or an act of terrorism or other man-made disaster.

(6) *A review of coordination efforts with the private sector to discuss and resolve legal, operational, technical, privacy, and security concerns.*

(g) *DURATION OF GROUP.—*

(1) *IN GENERAL.—The Group shall terminate on the date that is 5 years after the date of enactment of this section unless the chairperson renews the Group for a successive 5-year period, prior to the date on which the Group would otherwise terminate, by submitting to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a certification that the continued existence of the Group is necessary to fulfill the purpose described in subsection (b).*

(2) *CONTINUED RENEWAL.—The chairperson may continue to renew the Group for successive 5-year periods by submitting a certification in accordance with paragraph (1) prior to the date on which the Group would otherwise terminate.*

* * * * *