

117TH CONGRESS
2^D SESSION

H. R. 4330

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2022

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

AN ACT

To maintain the free flow of information to the public by establishing appropriate limits on the federally compelled disclosure of information obtained as part of engaging in journalism, and for other purposes.

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 “Protect Reporters from
3 Exploitative State Spying Act” or the “PRESS Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **COVERED JOURNALIST.**—The term “covered
7 journalist” means a person who regularly gathers,
8 prepares, collects, photographs, records, writes,
9 edits, reports, investigates, or publishes news or in-
10 formation that concerns local, national, or inter-
11 national events or other matters of public interest
12 for dissemination to the public.

13 (2) **COVERED SERVICE PROVIDER.**—

14 (A) **IN GENERAL.**—The term “covered
15 service provider” means any person that, by an
16 electronic means, stores, processes, or transmits
17 information in order to provide a service to cus-
18 tomers of the person.

19 (B) **INCLUSIONS.**—The term “covered
20 service provider” includes—

21 (i) a telecommunications carrier and a
22 provider of an information service (as such
23 terms are defined in section 3 of the Com-
24 munications Act of 1934 (47 U.S.C. 153));

25 (ii) a provider of an interactive com-
26 puter service and an information content

1 provider (as such terms are defined in sec-
2 tion 230 of the Communications Act of
3 1934 (47 U.S.C. 230));

4 (iii) a provider of remote computing
5 service (as defined in section 2711 of title
6 18, United States Code); and

7 (iv) a provider of electronic commu-
8 nication service (as defined in section 2510
9 of title 18, United States Code) to the
10 public.

11 (3) DOCUMENT.—The term “document” means
12 writings, recordings, and photographs, as those
13 terms are defined by Federal Rule of Evidence 1001
14 (28 U.S.C. App.).

15 (4) FEDERAL ENTITY.—The term “Federal en-
16 tity” means an entity or employee of the judicial or
17 executive branch or an administrative agency of the
18 Federal Government with the power to issue a sub-
19 poena or issue other compulsory process.

20 (5) JOURNALISM.—The term “journalism”
21 means gathering, preparing, collecting,
22 photographing, recording, writing, editing, reporting,
23 investigating, or publishing news or information that
24 concerns local, national, or international events or

1 other matters of public interest for dissemination to
2 the public.

3 (6) PERSONAL ACCOUNT OF A COVERED JOUR-
4 NALIST.—The term “personal account of a covered
5 journalist” means an account with a covered service
6 provider used by a covered journalist that is not pro-
7 vided, administered, or operated by the employer of
8 the covered journalist.

9 (7) PERSONAL TECHNOLOGY DEVICE OF A COV-
10 ERED JOURNALIST.—The term “personal technology
11 device of a covered journalist” means a handheld
12 communications device, laptop computer, desktop
13 computer, or other internet-connected device used by
14 a covered journalist that is not provided or adminis-
15 tered by the employer of the covered journalist.

16 (8) PROTECTED INFORMATION.—The term
17 “protected information” means any information
18 identifying a source who provided information as
19 part of engaging in journalism, and any records,
20 contents of a communication, documents, or infor-
21 mation that a covered journalist obtained or created
22 as part of engaging in journalism.

1 **SEC. 3. LIMITS ON COMPELLED DISCLOSURE FROM COV-**
2 **ERED JOURNALISTS.**

3 In any matter arising under Federal law, a Federal
4 entity may not compel a covered journalist to disclose pro-
5 tected information, unless a court in the judicial district
6 in which the subpoena or other compulsory process is, or
7 will be, issued determines by a preponderance of the evi-
8 dence, after providing notice and an opportunity to be
9 heard to the covered journalist that—

10 (1) disclosure of the protected information is
11 necessary to prevent, or to identify any perpetrator
12 of, an act of terrorism against the United States; or

13 (2) disclosure of the protected information is
14 necessary to prevent a threat of imminent violence,
15 significant bodily harm, or death, including specified
16 offenses against a minor (as defined by section
17 111(7) of the Adam Walsh Child Protection and
18 Safety Act of 2006 (34 U.S.C. 20911(7))).

19 **SEC. 4. LIMITS ON COMPELLED DISCLOSURE FROM COV-**
20 **ERED SERVICE PROVIDERS.**

21 (a) **CONDITIONS FOR COMPELLED DISCLOSURE.**—In
22 any matter arising under Federal law, a Federal entity
23 may not compel a covered service provider to provide testi-
24 mony or any document consisting of any record, informa-
25 tion, or other communications stored by a covered provider
26 on behalf of a covered journalist, including testimony or

1 any document relating to a personal account of a covered
2 journalist or a personal technology device of a covered
3 journalist, unless a court in the judicial district in which
4 the subpoena or other compulsory process is, or will be,
5 issued determines by a preponderance of the evidence that
6 there is a reasonable threat of imminent violence unless
7 the testimony or document is provided, and issues an
8 order authorizing the Federal entity to compel the disclo-
9 sure of the testimony or document.

10 (b) NOTICE TO COURT.—A Federal entity seeking to
11 compel the provision of testimony or any document de-
12 scribed in subsection (a) shall inform the court that the
13 testimony or document relates to a covered journalist.

14 (c) NOTICE TO COVERED JOURNALIST AND OPPOR-
15 TUNITY TO BE HEARD.—

16 (1) IN GENERAL.—A court may authorize a
17 Federal entity to compel the provision of testimony
18 or a document under this section only after the Fed-
19 eral entity seeking the testimony or document pro-
20 vides the covered journalist on behalf of whom the
21 testimony or document is stored pursuant to sub-
22 section (a)—

23 (A) notice of the subpoena or other com-
24 pulsory request for such testimony or document
25 from the covered service provider not later than

1 the time at which such subpoena or request is
2 issued to the covered service provider; and

3 (B) an opportunity to be heard before the
4 court before the time at which the provision of
5 the testimony or document is compelled.

6 (2) EXCEPTION TO NOTICE REQUIREMENT.—

7 (A) IN GENERAL.—Notice and an oppor-
8 tunity to be heard under paragraph (1) may be
9 delayed for not more than 45 days if the court
10 involved determines there is clear and con-
11 vincing evidence that such notice would pose a
12 clear and substantial threat to the integrity of
13 a criminal investigation, or would present an
14 imminent risk of death or serious bodily harm,
15 including specified offenses against a minor (as
16 defined by section 111(7) of the Adam Walsh
17 Child Protection and Safety Act of 2006 (34
18 U.S.C. 20911(7))).

19 (B) EXTENSIONS.—The 45-day period de-
20 scribed in subparagraph (A) may be extended
21 by the court for additional periods of not more
22 than 45 days if the court involved makes a new
23 and independent determination that there is
24 clear and convincing evidence that providing no-
25 tice to the covered journalist would pose a clear

1 and substantial threat to the integrity of a
2 criminal investigation, or would present an im-
3 minent risk of death or serious bodily harm
4 under current circumstances.

5 **SEC. 5. LIMITATION ON CONTENT OF INFORMATION.**

6 The content of any testimony, document, or protected
7 information that is compelled under sections 3 or 4 shall—

8 (1) not be overbroad, unreasonable, or oppres-
9 sive, and as appropriate, be limited to the purpose
10 of verifying published information or describing any
11 surrounding circumstances relevant to the accuracy
12 of such published information; and

13 (2) be narrowly tailored in subject matter and
14 period of time covered so as to avoid compelling the
15 production of peripheral, nonessential, or speculative
16 information.

17 **SEC. 6. RULE OF CONSTRUCTION.**

18 Nothing in this Act shall be construed to—

19 (1) apply to civil defamation, slander, or libel
20 claims or defenses under State law, regardless of
21 whether or not such claims or defenses, respectively,
22 are raised in a State or Federal court; or

23 (2) prevent the Federal Government from pur-
24 suing an investigation of a covered journalist or or-
25 ganization that is—

1 (A) suspected of committing a crime;

2 (B) a witness to a crime unrelated to en-
3 gaging in journalism;

4 (C) suspected of being an agent of a for-
5 eign power, as defined in section 101 of the
6 Foreign Intelligence Surveillance Act of 1978
7 (50 U.S.C. 1801);

8 (D) an individual or organization des-
9 ignated under Executive Order 13224 (50
10 U.S.C. 1701 note; relating to blocking property
11 and prohibiting transactions with persons who
12 commit, threaten to commit, or support ter-
13 rorism);

14 (E) a specially designated terrorist, as that
15 term is defined in section 595.311 of title 31,
16 Code of Federal Regulations (or any successor
17 thereto); or

18 (F) a terrorist organization, as that term
19 is defined in section 212(a)(3)(B)(vi)(II) of the

1 Immigration and Nationality Act (8 U.S.C.
2 1182(a)(3)(B)(vi)(II)).

Passed the House of Representatives September 19,
2022.

Attest: CHERYL L. JOHNSON,
Clerk.