

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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.

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IN THE SENATE OF THE UNITED STATES

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Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protect Reporters from  
5 Excessive State Suppression Act” or the “PRESS Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) COVERED JOURNALIST.—The term “covered  
2           journalist” means a person who gathers, prepares,  
3           collects, photographs, records, writes, edits, reports,  
4           or publishes news or information that concerns local,  
5           national, or international events or other matters of  
6           public interest for dissemination to the public.

7           (2) COVERED SERVICE PROVIDER.—

8           (A) IN GENERAL.—The term “covered  
9           service provider” means any person that, by an  
10          electronic means, stores, processes, or transmits  
11          information in order to provide a service to cus-  
12          tomers of the person.

13          (B) INCLUSIONS.—The term “covered  
14          service provider” includes—

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

19               (ii) a provider of an interactive com-  
20               puter service and an information content  
21               provider (as such terms are defined in sec-  
22               tion 230 of the Communications Act of  
23               1934 (47 U.S.C. 230));

1 (iii) a provider of remote computing  
2 service (as defined in section 2711 of title  
3 18, United States Code); and

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

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

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

17 (5) JOURNALISM.—The term “journalism”  
18 means gathering, preparing, collecting,  
19 photographing, recording, writing, editing, reporting,  
20 or publishing news or information that concerns  
21 local, national, or international events or other mat-  
22 ters of public interest for dissemination to the pub-  
23 lic.

24 (6) PERSONAL ACCOUNT OF A COVERED JOUR-  
25 NALIST.—The term “personal account of a covered

1       journalist” means an account with a covered service  
2       provider used by a covered journalist that is not pro-  
3       vided, administered, or operated by the employer of  
4       the covered journalist.

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

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

19 **SEC. 3. LIMITS ON COMPELLED DISCLOSURE FROM COV-**  
20 **ERED JOURNALISTS.**

21       In any matter arising under Federal law, a Federal  
22      entity may not compel a covered journalist to disclose pro-  
23      tected information, unless a court in the judicial district  
24      in which the subpoena or other compulsory process is, or  
25      will be, issued determines by a preponderance of the evi-

1 dence, after providing notice and an opportunity to be  
2 heard to the covered journalist that—

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

6 (2) disclosure of the protected information is  
7 necessary to prevent a threat of imminent violence,  
8 significant bodily harm, or death.

9 **SEC. 4. LIMITS ON COMPELLED DISCLOSURE FROM COV-**  
10 **ERED SERVICE PROVIDERS.**

11 (a) **CONDITIONS FOR COMPELLED DISCLOSURE.**—In  
12 any matter arising under Federal law, a Federal entity  
13 may not compel a covered service provider to provide testi-  
14 mony or any document consisting of any record, informa-  
15 tion, or other communication that relates to a business  
16 transaction between the covered service provider and a  
17 covered journalist, including testimony or any document  
18 relating to a personal account of a covered journalist or  
19 a personal technology device of a covered journalist, unless  
20 a court in the judicial district in which the subpoena or  
21 other compulsory process is, or will be, issued determines  
22 by a preponderance of the evidence that there is a reason-  
23 able threat of imminent violence unless the testimony or  
24 document is provided, and issues an order authorizing the

1 Federal entity to compel the disclosure of the testimony  
2 or document.

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

7 (c) NOTICE TO COVERED JOURNALIST AND OPPOR-  
8 TUNITY TO BE HEARD.—

9 (1) IN GENERAL.—A court may authorize a  
10 Federal entity to compel the provision of testimony  
11 or a document under this section only after the Fed-  
12 eral entity seeking the testimony or document pro-  
13 vides the covered journalist who is a party to the  
14 business transaction described in subsection (a)—

15 (A) notice of the subpoena or other com-  
16 pulsory request for such testimony or document  
17 from the covered service provider not later than  
18 the time at which such subpoena or request is  
19 issued to the covered service provider; and

20 (B) an opportunity to be heard before the  
21 court before the time at which the provision of  
22 the testimony or document is compelled.

23 (2) EXCEPTION TO NOTICE REQUIREMENT.—

24 (A) IN GENERAL.—Notice and an oppor-  
25 tunity to be heard under paragraph (1) may be

1           delayed for not more than 45 days if the court  
2           involved determines there is clear and con-  
3           vincing evidence that such notice would pose a  
4           clear and substantial threat to the integrity of  
5           a criminal investigation, or would present an  
6           imminent risk of death or serious bodily harm.

7           (B) EXTENSIONS.—The 45-day period de-  
8           scribed in subparagraph (A) may be extended  
9           by the court for additional periods of not more  
10          than 45 days if the court involved makes a new  
11          and independent determination that there is  
12          clear and convincing evidence that providing no-  
13          tice to the covered journalist would pose a clear  
14          and substantial threat to the integrity of a  
15          criminal investigation, or would present an im-  
16          minent risk of death or serious bodily harm  
17          under current circumstances.

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

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

21           (1) not be overbroad, unreasonable, or oppres-  
22          sive, and as appropriate, be limited to the purpose  
23          of verifying published information or describing any  
24          surrounding circumstances relevant to the accuracy  
25          of such published information; and

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

5 **SEC. 6. RULE OF CONSTRUCTION.**

6           Nothing in this Act shall be construed to—

7           (1) apply to civil defamation, slander, or libel  
8           claims or defenses under State law, regardless of  
9           whether or not such claims or defenses, respectively,  
10          are raised in a State or Federal court; or

11          (2) prevent the Federal Government from pur-  
12          suing an investigation of a covered journalist or or-  
13          ganization that is—

14                  (A) suspected of committing a crime;

15                  (B) a witness to a crime unrelated to en-  
16          gaging in journalism;

17                  (C) suspected of being an agent of a for-  
18          eign power, as defined in section 101 of the  
19          Foreign Intelligence Surveillance Act of 1978  
20          (50 U.S.C. 1801);

21                  (D) an individual or organization des-  
22          ignated under Executive Order 13224 (50  
23          U.S.C. 1701 note; relating to blocking property  
24          and prohibiting transactions with persons who



1           commit, threaten to commit, or support ter-  
2           rorism);

3           (E) a specially designated terrorist, as that  
4           term is defined in section 595.311 of title 31,  
5           Code of Federal Regulations (or any successor  
6           thereto); or

7           (F) a terrorist organization, as that term  
8           is defined in section 212(a)(3)(B)(vi)(II) of the  
9           Immigration and Nationality Act (8 U.S.C.  
10          1182(a)(3)(B)(vi)(II)).