

103^D CONGRESS
2^D SESSION

S. 1890

To require certain disclosures of financial information to expose espionage activities by foreign agents in the United States.

IN THE SENATE OF THE UNITED STATES

MARCH 7 (legislative day, FEBRUARY 22), 1994

Mr. HEFLIN introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

A BILL

To require certain disclosures of financial information to expose espionage activities by foreign agents in the United States.

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. FINANCIAL DISCLOSURE STATEMENTS RE-**
4 **QUIRED BY CERTAIN INTELLIGENCE COMMU-**
5 **NITY EMPLOYEES.**

6 (a) IN GENERAL.—(1) The head of each component
7 of the intelligence community of the United States shall
8 submit to the President and the intelligence committees
9 of Congress a report containing a list of all positions under
10 the component that are classified at or below a position

1 of GS–15 of the General Schedule and that require the
2 individuals occupying the positions to have access to infor-
3 mation critical to the national security interests of the
4 United States.

5 (2) The reports required by paragraph (1) shall be
6 submitted not later than 90 days after the date of enact-
7 ment of this Act.

8 (3) The President shall submit a report described in
9 paragraph (1) to the intelligence committees of Congress
10 with respect to staff positions on the National Security
11 Council.

12 (b) DISCLOSURE STATEMENTS.—Any individual oc-
13 cupying a position described in subsection (a) during any
14 calendar year who performs the duties of his position or
15 office for a period in excess of 60 days in that calendar
16 year shall file with the head of the appropriate agency or
17 component on or before May 15 of the succeeding year
18 a report containing the information described in section
19 102(a) of the Ethics in Government Act of 1978.

20 (c) REGULATIONS REQUIRED.—The President shall
21 prescribe such regulations as may be necessary to carry
22 out this section.

23 (d) DEFINITIONS.—For purposes of this section—

24 (1) the term “intelligence committees of Con-
25 gress” means the Permanent Select Committee on

1 Intelligence of the House of Representatives and the
2 Select Committee on Intelligence of the Senate; and

3 (2) the term “intelligence community” has the
4 meaning given to that term by section 3(4) of the
5 National Security Act of 1947.

6 **SEC. 2. FBI COUNTERINTELLIGENCE ACCESS TO**
7 **CONSUMER CREDIT RECORDS.**

8 Section 608 of the Fair Credit Reporting Act (15
9 U.S.C. 1681f) is amended—

10 (1) by striking “Notwithstanding” and insert-
11 ing “(a) DISCLOSURE OF CERTAIN IDENTIFYING IN-
12 FORMATION.—Notwithstanding”; and

13 (2) by adding at the end the following new sub-
14 section:

15 “(b) DISCLOSURES TO THE FBI FOR COUNTER-
16 INTELLIGENCE PURPOSES.—

17 “(1) CONSUMER REPORTS.—Notwithstanding
18 section 604, a consumer reporting agency shall fur-
19 nish a consumer report to the Federal Bureau of In-
20 vestigation when presented with a written request
21 for a consumer report, signed by the Director of the
22 Federal Bureau of Investigation or the Director’s
23 designee (hereafter in this section referred to as the
24 ‘Director’), which certifies compliance with this sub-
25 section. The Director’s designee may make such a

1 certification only if the Director has determined in
2 writing that—

3 “(A) such records are necessary for the
4 conduct of an authorized foreign counterintel-
5 ligence investigation; and

6 “(B) there are specific and articulable
7 facts giving reason to believe that the consumer
8 whose consumer report is sought is a foreign
9 power or an agent of a foreign power, as de-
10 fined in section 101 of the Foreign Intelligence
11 Surveillance Act of 1978.

12 “(2) IDENTIFYING INFORMATION.—Notwith-
13 standing section 604, a consumer reporting agency
14 shall furnish information respecting a consumer
15 which shall include, but shall not be limited to,
16 name, address, former addresses, places of employ-
17 ment, or former places of employment, to the Fed-
18 eral Bureau of Investigation when presented with a
19 written request, signed by the Director, which cer-
20 tifies compliance with this subsection. The Director
21 may make such a certification only if the Director
22 has determined in writing that—

23 “(A) such information is necessary to the
24 conduct of an authorized foreign counterintel-
25 ligence investigation; and

1 “(B) there is information giving reason to
2 believe that the consumer has been, or is about
3 to be, in contact with a foreign power or an
4 agent of a foreign power, as defined in section
5 101 of the Foreign Intelligence Surveillance Act
6 of 1978.

7 “(3) CONFIDENTIALITY.—A consumer reporting
8 agency, or officer, employee, or agent of such
9 consumer reporting agency shall not—

10 “(A) disclose to any person, other than
11 those officers, employees, or agents of such
12 agency necessary to fulfill the requirement to
13 disclose information to the Federal Bureau of
14 Investigation under this subsection, that the
15 Federal Bureau of Investigation has sought or
16 obtained a consumer report or identifying infor-
17 mation respecting any consumer under para-
18 graph (1) or (2), or

19 “(B) include in any consumer report any
20 information that would indicate that the Fed-
21 eral Bureau of Investigation has sought or ob-
22 tained such a consumer report or identifying in-
23 formation.

24 “(4) PAYMENT OF FEES.—The Federal Bureau
25 of Investigation shall, subject to the availability of

1 appropriations, pay to the consumer reporting agen-
2 cy assembling or providing credit reports or identify-
3 ing information in accordance with procedures estab-
4 lished under this title, a fee for reimbursement for
5 such costs as are reasonably necessary and which
6 have been directly incurred in searching, reproduc-
7 ing, or transporting books, papers, records, or other
8 data required or requested to be produced under this
9 subsection.

10 “(5) LIMIT ON DISSEMINATION.—The Federal
11 Bureau of Investigation may not disseminate infor-
12 mation obtained pursuant to this subsection outside
13 of the Federal Bureau of Investigation, except to the
14 Department of Justice as may be necessary for the
15 approval or conduct of a foreign counterintelligence
16 investigation.

17 “(6) RULES OF CONSTRUCTION.—Nothing in
18 this subsection shall be construed to prohibit infor-
19 mation from being furnished by the Federal Bureau
20 of Investigation pursuant to a subpoena or court
21 order, or in connection with a judicial or administra-
22 tive proceeding to enforce the provisions of this title.
23 Nothing in this subsection shall be construed to au-
24 thorize or permit the withholding of information
25 from the Congress.

1 “(7) REPORTS TO THE CONGRESS.—On a semi-
2 annual basis, the Attorney General of the United
3 States shall fully inform the Permanent Select Com-
4 mittee on Intelligence and the Committee on Bank-
5 ing, Finance and Urban Affairs of the House of
6 Representatives, and the Select Committee on Intel-
7 ligence and the Committee on Banking, Housing,
8 and Urban Affairs of the Senate concerning all re-
9 quests made pursuant to paragraphs (1) and (2).

10 “(8) DAMAGES.—Any agency or department of
11 the United States obtaining or disclosing credit re-
12 ports, records, or information contained therein in
13 violation of this subsection is liable to the consumer
14 to whom such records relate in an amount equal to
15 this sum of—

16 “(A) \$100, without regard to the volume
17 of records involved;

18 “(B) any actual damages sustained by the
19 consumer as a result of the disclosure;

20 “(C) such punitive damages as a court
21 may allow, where the violation is found to have
22 been willful or intentional; and

23 “(D) in the case of any successful action to
24 enforce liability under this subsection, the costs

1 of the action, together with reasonable attor-
2 ney's fees, as determined by the court.

3 “(9) DISCIPLINARY ACTIONS FOR VIOLA-
4 TIONS.—If a court determines that any agency or
5 department of the United States has violated any
6 provision of this subsection and the court finds that
7 the circumstances surrounding the violation raise
8 questions of whether or not an officer or employee
9 of the agency or department acted willfully or inten-
10 tionally with respect to the violation, the agency or
11 department shall promptly initiate a proceeding to
12 determine whether or not disciplinary action is war-
13 ranted against the officer or employee who was re-
14 sponsible for the violation.

15 “(10) GOOD-FAITH EXCEPTION.—Any credit re-
16 porting agency, or agent or employee thereof, mak-
17 ing a disclosure of credit reports or identifying infor-
18 mation pursuant to this subsection in good-faith reli-
19 ance upon a certification by the Federal Bureau of
20 Investigation pursuant to this subsection shall not
21 be liable to any person for such disclosure under this
22 title, the constitution of any State, or any law or
23 regulation of any State or any political subdivision
24 of any State.

1 “(11) LIMITATION OF REMEDIES.—The rem-
2 edies and sanctions set forth in this subsection shall
3 be the only judicial remedies and sanctions for viola-
4 tions of this subsection.

5 “(12) INJUNCTIVE RELIEF.—In addition to any
6 other remedy contained in this subsection, injunctive
7 relief shall be available to require compliance with
8 this subsection. In the event of any successful action
9 under this subsection, costs, together with reason-
10 able attorney’s fees, as determined by the court, may
11 be recovered.”.

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