

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 5862, as amended.

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. SMITH of Nebraska. 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 motion will be postponed.

## PROTECT REPORTERS FROM EXPLOITATIVE STATE SPYING ACT

Mr. KILEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4250) 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.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4250

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

### SEC. 2. DEFINITIONS.

In this Act:

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

(2) COVERED SERVICE PROVIDER.—

(A) IN GENERAL.—The term “covered service provider” means any person that, by an electronic means, stores, processes, or transmits information in order to provide a service to customers of the person.

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

(i) a telecommunications carrier and a provider of an information service (as such terms are defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153));

(ii) a provider of an interactive computer service and an information content provider (as such terms are defined in section 230 of the Communications Act of 1934 (47 U.S.C. 230));

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

(iv) a provider of electronic communication service (as defined in section 2510 of title 18, United States Code) to the public.

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

(4) FEDERAL ENTITY.—The term “Federal entity” means an entity or employee of the judicial or executive branch or an administrative agency of the Federal Government with the power to issue a subpoena or issue other compulsory process.

(5) JOURNALISM.—The term “journalism” means gathering, preparing, collecting,

photographing, recording, writing, editing, reporting, investigating, or publishing news or information that concerns local, national, or international events or other matters of public interest for dissemination to the public.

(6) PERSONAL ACCOUNT OF A COVERED JOURNALIST.—The term “personal account of a covered journalist” means an account with a covered service provider used by a covered journalist that is not provided, administered, or operated by the employer of the covered journalist.

(7) PERSONAL TECHNOLOGY DEVICE OF A COVERED JOURNALIST.—The term “personal technology device of a covered journalist” means a handheld communications device, laptop computer, desktop computer, or other internet-connected device used by a covered journalist that is not provided or administered by the employer of the covered journalist.

(8) PROTECTED INFORMATION.—The term “protected information” means any information identifying a source who provided information as part of engaging in journalism, and any records, contents of a communication, documents, or information that a covered journalist obtained or created as part of engaging in journalism.

(9) SPECIFIED OFFENSE AGAINST A MINOR.—The term “specified offense against a minor” has the meaning given that term in section 111(7) of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20911(7)).

### SEC. 3. LIMITS ON COMPELLED DISCLOSURE FROM COVERED JOURNALISTS.

In any matter arising under Federal law, a Federal entity may not compel a covered journalist to disclose protected information, unless a court in the judicial district in which the subpoena or other compulsory process is, or will be, issued determines by a preponderance of the evidence, after providing notice and an opportunity to be heard to the covered journalist, that—

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

(2) disclosure of the protected information is necessary to prevent a threat of imminent violence, significant bodily harm, or death, including specified offenses against a minor.

### SEC. 4. LIMITS ON COMPELLED DISCLOSURE FROM COVERED SERVICE PROVIDERS.

(a) CONDITIONS FOR COMPELLED DISCLOSURE.—In any matter arising under Federal law, a Federal entity may not compel a covered service provider to provide testimony or any document consisting of any record, information, or other communications stored by a covered provider on behalf of a covered journalist, including testimony or any document relating to a personal account of a covered journalist or a personal technology device of a covered journalist, unless a court in the judicial district in which the subpoena or other compulsory process is, or will be, issued determines by a preponderance of the evidence that there is a reasonable threat of imminent violence unless the testimony or document is provided, and issues an order authorizing the Federal entity to compel the disclosure of the testimony or document.

(b) NOTICE TO COURT.—A Federal entity seeking to compel the provision of testimony or any document described in subsection (a) shall inform the court that the testimony or document relates to a covered journalist.

(c) NOTICE TO COVERED JOURNALIST AND OPPORTUNITY TO BE HEARD.—

(1) IN GENERAL.—A court may authorize a Federal entity to compel the provision of testimony or a document under this section only after the Federal entity seeking the testimony or document provides the covered journalist on behalf of whom the testimony

or document is stored pursuant to subsection (a)—

(A) notice of the subpoena or other compulsory request for such testimony or document from the covered service provider not later than the time at which such subpoena or request is issued to the covered service provider; and

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

(2) EXCEPTION TO NOTICE REQUIREMENT.—

(A) IN GENERAL.—Notice and an opportunity to be heard under paragraph (1) may be delayed for not more than 45 days if the court involved determines there is clear and convincing evidence that such notice would pose a clear and substantial threat to the integrity of a criminal investigation, or would present an imminent risk of death or serious bodily harm, including specified offenses against a minor.

(B) EXTENSIONS.—The 45-day period described in subparagraph (A) may be extended by the court for additional periods of not more than 45 days if the court involved makes a new and independent determination that there is clear and convincing evidence that providing notice to the covered journalist would pose a clear and substantial threat to the integrity of a criminal investigation, or would present an imminent risk of death or serious bodily harm, including specified offenses against a minor, under current circumstances.

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

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

(1) not be overbroad, unreasonable, or oppressive, and, as appropriate, be limited to the purpose of verifying published information or describing any surrounding circumstances relevant to the accuracy of such published information; and

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

### SEC. 6. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to—

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

(2) prevent the Federal Government from pursuing an investigation of a covered journalist or organization that is—

(A) suspected of committing a crime;

(B) a witness to a crime unrelated to engaging in journalism;

(C) suspected of being an agent of a foreign power, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801);

(D) an individual or organization designated under Executive Order 13224 (50 U.S.C. 1701 note; relating to blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism);

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

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

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. KILEY) and the gentleman from Georgia (Mr. JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. KILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to insert extraneous material on H.R. 4250.

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

There was no objection.

Mr. KILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, I am presenting bipartisan legislation to protect vital First Amendment freedoms from being infringed and chilled by overreaching government actions. I thank my colleagues across the aisle for their support of this issue.

This bill prohibits the Federal Government from compelling a journalist to disclose documents, communications, or other information obtained or created as part of the journalist's job.

Our Founders chose to enshrine the freedom of the press in the First Amendment of the Constitution, alongside freedom of speech and other fundamental freedoms, because it is a lynchpin of republican government. It is vital to the functioning of a free and democratic society.

As James Madison said: "A popular government without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or, perhaps both. . . . And a people who mean to be their own governors, must arm themselves with the power which knowledge gives."

Well, the most commonly understood form of potential abuse involves the output of a free press; that is, censorship. It is also critically important to protect the input; that is, the work of journalists in reporting on the affairs of the Nation. A key aspect of freedom of the press is the pursuit of the truth without government entanglements or intimidation.

If the government forces journalists to reveal sources or work product, it could undermine the gathering of information that is in the public interest. That is why 32 States and the District of Columbia have expressly protected this right with statutory shield laws, and 49 States have either a statutory or common law privilege that protects journalists from compelled disclosure. These laws allow journalists to do their jobs without fear that the government will unreasonably seize their records.

Today's legislation, the PRESS Act, does the same thing at the Federal level. Administrations from both parties have been guilty of unjustly targeting journalists and using compulsory processes to obtain information from them and their sources.

Now, over the years, versions of this very bill have received widespread support from across the political spectrum, and indeed, this bill passed through the Judiciary Committee on a unanimous, bipartisan vote.

Mr. Speaker, liberty depends on the freedom of the press, and journalists are often the first to expose government fraud, waste, abuse, and encroachments on personal freedoms.

In a free country, we need to make sure that the government cannot unmask journalists' sources without good cause, and that is why the need for this legislation is so strong. This bill provides those protections, and it is long past time for this legislation to be signed into law.

I will close by again thanking my Democrat colleagues for their support and especially my fellow Judiciary Committee colleague, Mr. RASKIN. This bill is proof that it is possible for Congress to set politics aside and act to protect the rights of all Americans.

Mr. Speaker, I urge support, and I reserve the balance of my time.

Mr. JOHNSON of Georgia. Mr. Speaker, I rise in strong support of H.R. 4250, the Protect Reporters from Exploitive State Spying Act, or the PRESS Act, and I yield myself such time as I may consume in support of this bill.

Introduced by my colleagues, Representatives KEVIN KILEY, DARRELL ISSA, HARRIET HAGEMAN, RUSSELL FRY, JAMIE RASKIN, and TED LIEU, H.R. 4250 is a reporter shield law that will ensure that journalists can engage in effective journalism while reducing the risks of putting themselves, or their confidential sources upon whom they rely to bring critical stories to the public's attention, in legal jeopardy.

Specifically, H.R. 4250 would create a strong but qualified Federal statutory privilege that protects journalists from being compelled by the Federal Government to reveal confidential sources and information.

The bill also allows the government to defeat this privilege under certain circumstances where a court determines that the disclosure is necessary to prevent or identify any perpetrator of an act of terrorism or to prevent a threat of imminent violence, significant bodily harm or death, and then only after the journalist is provided notice and an opportunity to be heard before the court.

Additionally, the bill prohibits the Federal Government from compelling an electronic service provider that stores a journalist's information to disclose that information, as well as information relating to the journalist's personal account or technology device to the government. The government can defeat this privilege only if a court determines that there is a reasonable threat of imminent violence absent the information's disclosure and subject to notice and other requirements and exceptions.

Lastly, the PRESS Act contains a rule of construction that provides that the act should not be construed to apply to civil defamation, slander, libel claims, or defenses under State law. The rule of construction also makes clear that the act does not prevent the Federal Government from pursuing an

investigation of a journalist or organization that is suspected of engaging in criminal or terrorist activity, is a witness to a crime unrelated to journalism, or is suspected of being an agent of a foreign power.

This is necessary and long-overdue legislation. Over the past several decades, Democratic and Republican Presidential administrations have attempted to crack down on leaks of classified information to media outlets, and these investigations have included efforts to obtain journalists' records.

In 2021, the Washington Post, the New York Times, and CNN reported that the Department of Justice, under the Trump administration, sought the information and records of their reporters. Previously, during the Obama administration, the Department reportedly searched FOX News reporter Jeffrey Rosen's emails and even listed him as a co-conspirator in an Espionage Act case against the source of leaked information.

These and other recent episodes further illustrate the need for stronger protections for journalists and their sources.

Indeed, one of the most critical roles that the free press plays in our democracy is to keep the public informed about the functioning of government and the policymaking process, including allegations of government wrongdoing or incompetence. Yet, the press' ability to carry out this role would be seriously eroded if a reporter could not obtain complete and accurate information about such wrongdoing or incompetence by assuring confidential sources their anonymity.

The PRESS Act would protect a journalist's ability to bring these important stories to the public's attention, stories which almost always hinge on protecting the identity of confidential sources without unwarranted interference by the Federal Government.

□ 1730

The lack of a Federal press shield law is quite striking given the broad and bipartisan support for such laws.

Currently, over 40 States and the District of Columbia have enacted press shield laws or otherwise afford similar privileges through their State constitutions or common law.

Here in Congress, there is longstanding and bipartisan support for a Federal press shield law. For example, former Vice President Mike Pence, when he was a Member of Congress back in 2005, introduced the Free Flow of Information Act, which was very similar in concept to H.R. 4250.

The Free Flow of Information Act subsequently passed the House twice in the 110th and the 111th Congresses, the first time by a 398-21 vote, and the second time by voice vote under suspension of the rules.

Last Congress, the House passed the PRESS Act by voice vote under suspension of the rules, as well.

In this Congress, the bill passed the Judiciary Committee by a 23-0 vote, and, unfortunately, despite this history of broad bipartisan support, the Senate has never acted on any of these bills, though hope springs eternal.

I am encouraged that, even as stark differences among Members of this body remain, this important legislation continues to enjoy bipartisan support.

I thank Chairman JORDAN for his work in helping to bring H.R. 4250 to the floor today, and I urge my colleagues to vote "yes."

Mr. Speaker, I reserve the balance of my time.

Mr. KILEY. Mr. Speaker, I have no further speakers. I am prepared to close, and I reserve the balance of my time.

Mr. JOHNSON of Georgia. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I note that the PRESS Act is endorsed by a number of First Amendment and press freedom organizations, including the ACLU, the Center for Democracy and Technology, the Committee to Protect Journalists, Demand Progress, the Electronic Frontier Foundation, the First Amendment Coalition, the Freedom of the Press Foundation, the Knight First Amendment Institute at Columbia University, the National Association of Broadcasters, PEN America, the Protect The 1st Foundation, the Radio Television Digital News Association, and the Reporters Committee for Freedom of the Press.

Mr. Speaker, I urge my colleagues to vote "yes" on H.R. 4250, a necessary and long overdue Federal protection for journalists and their sources.

Mr. Speaker, I yield back the balance of my time.

Mr. KILEY. Mr. Speaker, I thank the gentleman for his remarks. I again thank Mr. RASKIN for working with me on this legislation, as well as Chair JORDAN and Ranking Member NADLER for helping to get it through the Judiciary Committee with unanimous bipartisan support.

I very much look forward to seeing this bill get to the President's desk and get signed into law this year. I urge all of my colleagues here in the House to support it.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. KILEY) that the House suspend the rules and pass the bill, H.R. 4250.

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. KILEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

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

The point of no quorum is considered withdrawn.

# REMOTE ACCESS TO COURT PROCEEDINGS FOR VICTIMS OF THE 1988 BOMBING OF PAN AM FLIGHT 103 OVER LOCKERBIE, SCOTLAND

Mr. VAN DREW. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3250) to provide remote access to court proceedings for victims of the 1988 Bombing of Pan Am Flight 103 over Lockerbie, Scotland.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3250

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

## SECTION 1. REMOTE ACCESS TO COURT PROCEEDINGS FOR VICTIMS OF THE 1988 BOMBING OF PAN AM FLIGHT 103 OVER LOCKERBIE, SCOTLAND.

(a) DEFINITION OF VICTIM OF CRIMES ASSOCIATED WITH THE BOMBING OF PAN AM FLIGHT 103.—In this section:

(1) IN GENERAL.—Subject to paragraph (2), the term "victim of crimes associated with the bombing of Pan Am Flight 103" means any individual—

(A) who suffered direct or proximate harm as a result of the bombing of Pan Am Flight 103 that occurred over Lockerbie, Scotland, on December 21, 1988, and was present at or near the scene of the bombing when it occurred, or immediately thereafter; or

(B) who is the spouse, legal guardian, parent, child, brother, sister, next of kin, or other relative of, or who is determined by the applicable district court of the United States to be an individual who possesses a relationship of similar significance to, an individual described in subparagraph (A) or an individual otherwise described in this subsection.

(2) LIMITATION.—The term "victim of crimes associated with the bombing of Pan Am Flight 103" does not include an individual who participated or conspired in the crimes associated with the bombing of Pan Am Flight 103.

(b) AUTHORIZATION.—

(1) IN GENERAL.—On and after the date of enactment of this Act, and notwithstanding any provision of the Federal Rules of Criminal Procedure or other law or rule to the contrary, in order to permit victims of crimes associated with the bombing of Pan Am Flight 103 to access court proceedings in the criminal case against Abu Agila Mohammed Mas'ud Kheir Al-Marimi and against any co-conspirator subsequently charged and prosecuted in a court of the United States for crimes related to the 1988 bombing of Pan Am Flight 103, the district court of the United States in such a case shall order that reasonable efforts be made to make remote video and telephonic access to proceedings in the case available to victims of crimes associated with the bombing of Pan Am Flight 103.

(2) NO LIMIT ON LOCATION.—Remote video and telephonic access to proceedings shall be made available under paragraph (1) to a victim of crimes associated with the bombing of Pan Am Flight 103 without regard to the location of the victim of crimes associated with the bombing of Pan Am Flight 103.

(c) DISTRICT COURT DISCRETION.—Nothing in this section shall be construed to eliminate or limit the discretion of a district court of the United States to control the manner, circumstances, or availability of re-

mote video or telephonic transmissions where necessary to control the courtroom or protect the integrity of court proceedings or the safety of parties, witnesses, or other participants in the proceedings.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. VAN DREW) and the gentleman from Georgia (Mr. JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

### GENERAL LEAVE

Mr. VAN DREW. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to insert extraneous materials on S. 3250.

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

There was no objection.

Mr. VAN DREW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on December 21, 1988, a bomb planted by Libyan terrorists detonated on Pan Am Flight 103 while it was flying over Lockerbie, Scotland; 270 people, including 190 Americans, 34 of which were from my home State, the State of New Jersey, lost their lives in this tragic attack.

Over 30 years later, the Department of Justice announced the arrest and indictment of the alleged bomb maker. His trial is scheduled to take place in Washington, D.C., with pretrial hearings that are already underway.

However, given the time that has passed and the attack's international impact, surviving families are generally older, and some of them are physically unable to attend these hearings. Others live scattered across the United States of America and the world, making it difficult to travel and to attend.

In light of this fact, the government filed an unopposed motion with the court to provide remote access to the proceedings for the victims of this bombing. Unfortunately, the court denied the motion, finding that no statute or case law authorized such an accommodation.

This bill, fortunately and importantly, provides that authorization. S. 3250 provides the court with a limited, one-time only authorization to accommodate the victims of the Pan Am 103 bombing by making remote video and telephonic access available to these victims and their families.

Additionally, there is precedent for this type of measure. Congress passed similar laws authorizing access to trials for victims of September 11 and again during the COVID-19 pandemic.

This bill is supported by Victims of Pan Am Flight 103, which is an organization comprised of family members whose loved ones were killed on the flight. Their unyielding resolve in holding those responsible for the murder of their loved ones is the embodiment of American tenacity and American spirit.