

114TH CONGRESS
2D SESSION

S. _____

To require the provision of data in an intelligible format to a government pursuant to a court order, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require the provision of data in an intelligible format to a government pursuant to a court order, 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 “Compliance with Court
5 Orders Act of 2016”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) no person or entity is above the law;

1 (2) economic growth, prosperity, security, sta-
2 bility, and liberty require adherence to the rule of
3 law;

4 (3) the Constitution and laws of the United
5 States provide for the safety, security, and civil lib-
6 erties of all United States persons and the protec-
7 tions and obligations of these laws apply to all per-
8 sons within United States jurisdiction;

9 (4) all providers of communications services and
10 products (including software) should protect the pri-
11 vacy of United States persons through implementa-
12 tion of appropriate data security and still respect the
13 rule of law and comply with all legal requirements
14 and court orders;

15 (5) to uphold both the rule of law and protect
16 the interests and security of the United States, all
17 persons receiving an authorized judicial order for in-
18 formation or data must provide, in a timely manner,
19 responsive, intelligible information or data, or appro-
20 priate technical assistance to obtain such informa-
21 tion or data; and

22 (6) covered entities must provide responsive, in-
23 telligible information or data, or appropriate tech-
24 nical assistance to a government pursuant to a court
25 order.

1 **SEC. 3. REQUIREMENT FOR PROVIDING DATA IN AN INTEL-**
2 **LIGIBLE FORMAT UPON RECEIPT OF A**
3 **COURT ORDER.**

4 (a) REQUIREMENT.—

5 (1) IN GENERAL.—Notwithstanding any other
6 provision of law and except as provided in paragraph
7 (2), a covered entity that receives a court order from
8 a government for information or data shall—

9 (A) provide such information or data to
10 such government in an intelligible format; or

11 (B) provide such technical assistance as is
12 necessary to obtain such information or data in
13 an intelligible format or to achieve the purpose
14 of the court order.

15 (2) SCOPE OF REQUIREMENT.—A covered enti-
16 ty that receives a court order referred to in para-
17 graph (1)(A) shall be responsible only for providing
18 data in an intelligible format if such data has been
19 made unintelligible by a feature, product, or service
20 owned, controlled, created, or provided, by the cov-
21 ered entity or by a third party on behalf of the cov-
22 ered entity.

23 (3) COMPENSATION FOR TECHNICAL ASSIST-
24 ANCE.—A covered entity that receives a court order
25 from a government as described in paragraph (1)
26 and furnishes technical assistance under subpara-

1 graph (B) of such paragraph pursuant to such order
2 shall be compensated for such costs as are reason-
3 ably necessary and which have been directly incurred
4 in providing such technical assistance or such data
5 in an intelligible format.

6 (b) DESIGN LIMITATIONS.—Nothing in this Act may
7 be construed to authorize any government officer to re-
8 quire or prohibit any specific design or operating system
9 to be adopted by any covered entity.

10 (c) LICENSE DISTRIBUTORS.—A provider of remote
11 computing service or electronic communication service to
12 the public that distributes licenses for products, services,
13 applications, or software of or by a covered entity shall
14 ensure that any such products, services, applications, or
15 software distributed by such person be capable of com-
16 plying with subsection (a).

17 **SEC. 4. DEFINITIONS.**

18 In this Act:

19 (1) COMMUNICATION IDENTIFYING INFORMA-
20 TION.—The term “communication identifying infor-
21 mation” means dialing, routing, addressing, sig-
22 naling, switching, processing, transmitting, or other
23 information that—

24 (A) does not constitute the contents of a
25 communication;

1 (B) identifies or assists in the identifica-
2 tion of the origin, direction, destination, date,
3 time, duration, termination, or status of each
4 communication generated, received, or con-
5 trolled by a user; and

6 (C) includes the following information or
7 the equivalent function thereof:

8 (i) Public and local source and des-
9 tination addressing, including—

10 (I) the local network and public
11 Internet Protocol addresses or any
12 similar or successor protocol; and

13 (II) addressing information that
14 may be dynamically or privately as-
15 signed, including port numbers or any
16 successor addressing method.

17 (ii) Addresses or other information
18 that uniquely identifies the equipment, fa-
19 cility, or service used to access a provider
20 or network by each party to the commu-
21 nication.

22 (iii) Service addresses and identifiers
23 generated or received by each party to the
24 communication.

1 (iv) Information identifying quantity
2 or quality of the communication, including
3 packet size, quality of service information,
4 or other information from which the size or
5 priority of the communication can be
6 ascertained.

7 (v) Specification of the time zone as
8 an offset from Coordinated Universal Time
9 (UTC).

10 (2) COMMUNICATION.—The term “communica-
11 tion” has the same meaning as the terms “wire com-
12 munication”, “oral communication”, and “electronic
13 communication” in section 2510 of title 18, United
14 States Code.

15 (3) COURT ORDER.—The term “court order”
16 means any order or warrant issued by a court of
17 competent jurisdiction to investigate or prosecute—

18 (A) a crime resulting in death or serious
19 bodily harm or a threat of death or serious bod-
20 ily harm;

21 (B) foreign intelligence, espionage, and ter-
22 rorism, including an offense listed in chapter
23 113B of title 18, United States Code;

1 (C) a Federal crime against a minor, in-
2 cluding sexual exploitation and threats to phys-
3 ical safety;

4 (D) a serious violent felony (as defined in
5 section 3559 of title 18, United States Code);

6 (E) a serious Federal drug crime, includ-
7 ing the offense of continuing criminal enterprise
8 described in section 408 of the Controlled Sub-
9 stances Act (21 U.S.C. 848); or

10 (F) State crimes equivalent to those in
11 subparagraphs (A), (B), (C), (D), and (E).

12 (4) COVERED ENTITY.—The term “covered en-
13 tity” means a device manufacturer, a software man-
14 ufacturer, an electronic communication service, a re-
15 mote computing service, a provider of wire or elec-
16 tronic communication service, a provider of a remote
17 computing service, or any person who provides a
18 product or method to facilitate a communication or
19 the processing or storage of data.

20 (5) DATA.—The term “data” includes—

21 (A) communications and any information
22 concerning the identity of the parties to such
23 communications or the existence, substance,
24 purport, or meaning of such communications;

1 (B) information stored remotely or on a
2 device provided, designed, licensed, or manufac-
3 tured by a covered entity;

4 (C) communication identifying information;
5 and

6 (D) information identifying a specific de-
7 vice.

8 (6) ELECTRONIC COMMUNICATION SERVICE.—
9 The term “electronic communication service” has
10 the meaning given such term in section 2510 of title
11 18, United States Code.

12 (7) FEATURE.—The term “feature” means a
13 property or function of a device or software applica-
14 tion.

15 (8) GOVERNMENT.—The term “government”
16 means the Government of the United States and the
17 government of the District of Columbia, or any com-
18 monwealth, territory, or possession of the United
19 States, of an Indian tribe, or of any State or polit-
20 ical subdivision thereof.

21 (9) INDIAN TRIBE.—The term “Indian tribe”
22 has the meaning given such term in section 4 of the
23 Indian Self-Determination and Education Assistance
24 Act (25 U.S.C. 450b).

1 (10) INTELLIGIBLE.—The term “intelligible”,
2 with respect to information or data, means—

3 (A) the information or data has never been
4 encrypted, enciphered, encoded, modulated, or
5 obfuscated; or

6 (B) the information or data has been
7 encrypted, enciphered, encoded, modulated, or
8 obfuscated and then decrypted, deciphered, de-
9 coded, demodulated, or deobfuscated to its
10 original form.

11 (11) REMOTE COMPUTING SERVICE.—The term
12 “remote computing service” has the meaning given
13 such term in section 2711 of title 18, United States
14 Code.

15 (12) TECHNICAL ASSISTANCE.—The term
16 “technical assistance”, with respect to a covered en-
17 tity that receives a court order pursuant to a provi-
18 sion of law for information or data described in sec-
19 tion 3(a)(1), includes—

20 (A) isolating such information or data;

21 (B) rendering such information or data in
22 an intelligible format if the information or data
23 has been made unintelligible by a feature, prod-
24 uct, or service owned, controlled, created, or

1 provided by the covered entity or by a third
2 party on behalf of the covered entity; and

3 (C) delivering such information or data—

4 (i) concurrently with its transmission;

5 or

6 (ii) expeditiously, if stored by a cov-

7 ered entity or on a device.