

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.

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IN THE SENATE OF THE UNITED STATES

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

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## 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.