

Union Calendar No. 704

119TH CONGRESS
2D SESSION

H. R. 9098

[Report No. 119–805]

To protect the separation of powers enshrined in the United States
Constitution and end the weaponized surveillance of Members of Congress.

IN THE HOUSE OF REPRESENTATIVES

JUNE 2, 2026

Mr. KELLY of Pennsylvania (for himself, Mr. GOODEN, Mr. HUNT, Ms.
HAGEMAN, Mr. FRY, Mr. ONDER, and Mr. JORDAN) introduced the fol-
lowing bill; which was referred to the Committee on the Judiciary

SEPTEMBER 8, 2026

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 2, 2026]

A BILL

To protect the separation of powers enshrined in the United States Constitution and end the weaponized surveillance of Members of Congress.

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 “Congressional Records*
 5 *Protection Act of 2026”.*

6 **SEC. 2. PROHIBITION ON OBTAINING RECORDS FOR MEM-**
 7 **BERS OF CONGRESS.**

8 *(a) IN GENERAL.—Title 18, United States Code, is*
 9 *amended by adding at the end of part II the following:*

10 **“CHAPTER 239—CONGRESSIONAL**
 11 **RECORDS**

“Sec.

“3773. Prohibition on obtaining records for Members of Congress or congressional employees.

12 **“§ 3773. Prohibition on obtaining records for Members**
 13 **of Congress or congressional employees**

14 *“(a) PROHIBITION ON OBTAINING RECORDS.—*

15 *“(1) IN GENERAL.—Notwithstanding any other*
 16 *provision of Federal or State law, a governmental en-*
 17 *tity may not—*

18 *“(A) seek or obtain a search warrant, grand*
 19 *jury subpoena, court order, statutory authoriza-*
 20 *tion, certification, or subpoena that could rea-*
 21 *sonably be expected to return any covered mate-*
 22 *rial; or*

1 “(B) *issue an administrative order that*
 2 *could reasonably be expected to return any cov-*
 3 *ered material.*

4 “(2) *CRIMINAL EXCEPTION.—This subsection*
 5 *shall not apply if the subject of the search warrant,*
 6 *grand jury subpoena, court order, statutory author-*
 7 *ization, certification, subpoena, or administrative*
 8 *order is—*

9 “(A) *the target of a criminal investigation;*
 10 *or*

11 “(B) *a third party and the search warrant,*
 12 *grand jury subpoena, court order, statutory au-*
 13 *thorization, certification, subpoena, or adminis-*
 14 *trative order demands records, information, or*
 15 *the content of communications pertaining to a*
 16 *Member of Congress or congressional employee*
 17 *who is the target of a criminal investigation.*

18 “(3) *EXCEPTION REGARDING CERTAIN FORMS OF*
 19 *COVERED MATERIAL.—This subsection does not apply*
 20 *in the case of covered material described in subsection*
 21 *(d)(2)(B) to the extent that the access of the govern-*
 22 *mental entity to such covered material is subject to*
 23 *the requirements under subsection (b)(3).*

24 “(b) *NOTIFICATION REQUIREMENT.—*

25 “(1) *NOTICE.—*

1 “(A) *IN GENERAL.*—A governmental entity
2 shall notify the Member of Congress or congressional
3 employee—

4 “(i) prior to or concurrently with the
5 execution of a search warrant, grand jury
6 subpoena, court order, statutory authoriza-
7 tion, certification, administrative order, or
8 subpoena that could reasonably be expected
9 to return any covered material; or

10 “(ii) as soon as practicable following
11 the execution of a search warrant, grand
12 jury subpoena, court order, statutory au-
13 thorization, certification, administrative
14 order, or subpoena that unexpectedly re-
15 turns covered material.

16 “(B) *EXCEPTION.*—If a subject of the search
17 warrant, grand jury subpoena, court order, stat-
18 utory authorization, certification, subpoena, or
19 administrative order is the target of a criminal
20 investigation or if the subject is a third party
21 and the search warrant, grand jury subpoena,
22 court order, statutory authorization, certifi-
23 cation, subpoena, or administrative order de-
24 mands records, information, or the content of
25 communications pertaining to a Member of Con-

gress or congressional employee who is the target of a criminal investigation, a court may, upon application by the governmental entity, issue an order delaying the notice required under subparagraph (A)(i) with respect to an acquisition, subpoena, search, accessing, or disclosure that could reasonably be expected to return covered material in connection with such investigation for a period of not more than 10 days if the court determines that there is reason to believe that providing notice would—

“(i) endanger the life or physical safety of any person;

“(ii) result in flight from prosecution;

“(iii) result in destruction of or tampering with evidence;

“(iv) result in intimidation of potential witnesses; or

“(v) otherwise seriously jeopardize an investigation or unduly delay a trial.

“(2) *DELAYED REVIEW.*—

“(A) *IN GENERAL.*—The governmental entity may not review materials that are reasonably expected to contain covered material until the

1 *date that is 30 days after the date notice is made*
2 *pursuant to paragraph (1)(A)(i).*

3 “(B) *UNEXPECTED RETURN OF COVERED*
4 *MATERIALS.—In instances where a search war-*
5 *rant, grand jury subpoena, court order, statutory*
6 *authorization, certification, administrative*
7 *order, or subpoena unexpectedly returns covered*
8 *material, the governmental entity shall halt re-*
9 *view of the returned material upon the discovery*
10 *of the covered material until the date that is 30*
11 *days after the date notice is made pursuant to*
12 *paragraph (1)(A)(ii).*

13 “(C) *EXCEPTION.—Subparagraphs*
14 *(b)(2)(A) and (b)(2)(B) shall not apply when a*
15 *30-day delay in reviewing materials could cause*
16 *an imminent risk to life or serious bodily injury.*

17 “(3) *REVIEW OF CERTAIN FORMS OF COVERED*
18 *INFORMATION BY SPECIAL MASTER.—*

19 “(A) *IN GENERAL.—In the case of any exe-*
20 *cution by a governmental entity of a search war-*
21 *rant, grand jury subpoena, court order, statutory*
22 *authorization, certification, administrative*
23 *order, or subpoena that could reasonably be ex-*
24 *pected to return any covered material, the court*
25 *shall appoint, from among a list comprised of*

1 *three persons (who have previously served as spe-*
2 *cial master) nominated by the governmental en-*
3 *tity and three such persons nominated by the*
4 *Member of Congress or congressional employee*
5 *who is the subject of the search warrant, grand*
6 *jury subpoena, court order, statutory authoriza-*
7 *tion, certification, administrative order, or sub-*
8 *poena, a special master—*

9 *“(i) to locate and isolate all covered*
10 *material described in subsection (d)(2)(B)*
11 *from materials that are reasonably expected*
12 *to contain any covered material; and*

13 *“(ii) to review any such covered mate-*
14 *rial described in subsection (d)(2)(B) to*
15 *identify information that is privileged*
16 *under the Constitution.*

17 *“(B) RELEASE AND RETURN.—The special*
18 *master shall release only the covered material de-*
19 *scribed in subsection (d)(2)(B) that is not identi-*
20 *fied pursuant to subparagraph (A)(ii) to the gov-*
21 *ernmental entity.*

22 *“(C) COORDINATION.—The special master*
23 *may consult, for purposes of conducting a review*
24 *under subparagraph (A), with—*

1 “(i) *any party to a communication in-*
2 *cluded in the materials that are reasonably*
3 *expected to contain covered material; or*

4 “(ii) *the governmental entity that has*
5 *executed the search warrant, grand jury*
6 *subpoena, court order, statutory authoriza-*
7 *tion, certification, administrative order, or*
8 *subpoena.*

9 “(D) *REVIEW OF DETERMINATIONS.—Prior*
10 *to releasing any covered material under subpara-*
11 *graph (B), the special master shall accord each*
12 *Member of Congress or congressional employee*
13 *who is a party to a communication included in*
14 *the materials that are reasonably expected to*
15 *contain covered material an opportunity to re-*
16 *view the covered material proposed to be released*
17 *for such period of time as the court determines*
18 *to be reasonable and appropriate. On the motion*
19 *of such Member or employee, the court shall re-*
20 *view de novo a determination of the special mas-*
21 *ter under subparagraph (A)(ii).*

22 “(E) *NON-DISCLOSURE AGREEMENT.—The*
23 *special master appointed by the court shall agree*
24 *to be bound by a non-disclosure agreement ap-*
25 *proved by the court.*

1 “(F) *RULE OF CONSTRUCTION.*—*Nothing in*
2 *this paragraph may be construed to provide that*
3 *the requirement of notice under paragraph (1) or*
4 *the requirement of delayed review under para-*
5 *graph (2) do not apply by reason of the review*
6 *under this paragraph.*

7 “(c) *RULE OF CONSTRUCTION.*—*This section may not*
8 *be construed to limit the scope of any protection applicable*
9 *under article I, section 6, clause 1 of the Constitution of*
10 *the United States.*

11 “(d) *DEFINITIONS.*—*In this section:*

12 “(1) *CONGRESSIONAL EMPLOYEE.*—*The term*
13 *‘congressional employee’ has the meaning given that*
14 *term in subparagraphs (1), (2), (3), and (5) of section*
15 *2107 of title 5 and includes current and former con-*
16 *gressional employees.*

17 “(2) *COVERED MATERIAL.*—*The term ‘covered*
18 *material’ means—*

19 “(A) *records, including all written mate-*
20 *rials, wire communications, and electronic com-*
21 *munications, that were prepared by, shared with,*
22 *or otherwise obtained by a Member of Congress*
23 *or congressional employee in the course of their*
24 *official duties, including electronic devices con-*
25 *taining such records; and*

1 “(B) records from an electronic or wire
2 communication service related to any accounts of
3 Members and from the time period of their serv-
4 ice in Congress or official congressional accounts
5 of congressional employees, or related to any
6 communications between a Member of Congress
7 or congressional employee and other Members of
8 Congress, other congressional employees, or exec-
9 utive branch employees while at least one party
10 to the communication was serving or working in
11 Congress and another party to the communica-
12 tion was serving or working in Congress or the
13 executive branch.

14 “(3) WIRE COMMUNICATION; ELECTRONIC COM-
15 MUNICATION.—The terms ‘wire communication,’ ‘elec-
16 tronic communication,’ and ‘electronic communica-
17 tion service’ have the meanings given those terms in
18 section 2510.

19 “(4) GOVERNMENTAL ENTITY.—The term ‘gov-
20 ernmental entity’ means a department or agency of
21 the United States or any State or political subdivi-
22 sion thereof.

23 “(5) MEMBER OF CONGRESS.—The term ‘Member
24 of Congress’ means a current or former Senator or

1 *Representative in, or Delegate or Resident Commis-*
2 *sioner to, the United States Congress.*

3 “(6) *EXECUTIVE BRANCH EMPLOYEE.*—*The term*
4 *‘executive branch employee’ has the meaning given*
5 *that term in subparagraph (2)(A) of section 78u1(h)*
6 *of title 15 and includes current and former executive*
7 *branch employees.*

8 “(7) *SUBJECT OF THE SEARCH WARRANT, GRAND*
9 *JURY SUBPOENA, COURT ORDER, STATUTORY AUTHOR-*
10 *IZATION, CERTIFICATION, SUBPOENA, OR ADMINISTRA-*
11 *TIVE ORDER.*—*The term ‘subject of the search war-*
12 *rant, grand jury subpoena, court order, statutory au-*
13 *thorization, certification, subpoena, or administrative*
14 *order’ means the person whose records are sought by*
15 *the governmental entity, or, if records are sought from*
16 *an electronic or wire communication service, the per-*
17 *son to whom the sought records pertain.*

18 “(8) *TARGET OF A CRIMINAL INVESTIGATION.*—
19 *The term ‘target of a criminal investigation’ means*
20 *a person whom a governmental entity has probable*
21 *cause to believe has committed a crime. If the person*
22 *is a Member of Congress or a congressional employee,*
23 *then the governmental entity shall submit an applica-*
24 *tion certifying to a magistrate judge with authority*
25 *in the district—or if there is none reasonably avail-*

1 *able, a judge of a court of record in the district—that*
 2 *there is probable cause to believe the person has com-*
 3 *mitted a crime. The judge must certify that the appli-*
 4 *cation establishes that probable cause exists prior to*
 5 *or concurrently with the governmental entity seeking,*
 6 *obtaining, or issuing a search warrant, grand jury*
 7 *subpoena, court order, statutory authorization, certifi-*
 8 *cation, subpoena, or administrative order for covered*
 9 *material.*

10 *“(9) THIRD PARTY.—The term ‘third party’*
 11 *means any person who is not a Member of Congress*
 12 *or congressional employee.”.*

13 *(b) CLERICAL AMENDMENT.—The table of chapters at*
 14 *the beginning of part II of title 18, United States Code,*
 15 *is amended by inserting after the item relating to chapter*
 16 *238 the following new item:*

“239. Congressional records 3773”.

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