

111TH CONGRESS  
2D SESSION

# S. 4004

To amend section 798 of title 18, United States Code, to provide penalties for disclosure of classified information related to certain intelligence activities of the United States and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 2, 2010

Mr. ENSIGN (for himself, Mr. LIEBERMAN, and Mr. BROWN of Massachusetts) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend section 798 of title 18, United States Code, to provide penalties for disclosure of classified information related to certain intelligence activities of the United States 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 TITLES.**

4 This Act may be cited as the “Securing Human Intel-  
5 ligence and Enforcing Lawful Dissemination Act” or the  
6 “SHIELD Act”.

1 **SEC. 2. PENALTIES FOR DISCLOSURE OF CLASSIFIED IN-**  
 2 **FORMATION RELATED TO INTELLIGENCE AC-**  
 3 **TIVITIES.**

4 (a) IN GENERAL.—Subsection (a) section 798 of title  
 5 18, United States Code, is amended—

6 (1) in the matter preceding paragraph (1), by  
 7 inserting “or transnational threat” after “foreign  
 8 government”;

9 (2) in paragraph (3), by striking “or” at the  
 10 end;

11 (3) by redesignating paragraph (4) as para-  
 12 graph (6); and

13 (4) by inserting after paragraph (3) the fol-  
 14 lowing:

15 “(4) concerning the human intelligence activi-  
 16 ties of the United States or any foreign government;

17 “(5) concerning the identity of a classified  
 18 source or informant of an element of the intelligence  
 19 community of the United States; or”.

20 (b) DEFINITIONS.—Subsection (b) section 798 of  
 21 title 18, United States Code, is amended to read as fol-  
 22 lows:

23 “(b) DEFINITIONS.—In subsection (a):

24 “(1) CIPHER, CODE, CRYPTOGRAPHIC SYS-  
 25 TEM.—The terms ‘cipher’, ‘code’, and ‘cryptographic  
 26 system’ include in their meanings, in addition to

1        their usual meanings, any method of secret writing  
2        and any mechanical or electrical device or method  
3        used for the purpose of disguising or concealing the  
4        contents, significance, or meanings of communica-  
5        tions.

6            “(2) CLASSIFIED INFORMATION.—The term  
7        ‘classified information’ means information which, at  
8        the time of a violation of this section, is, for reasons  
9        of national security, specifically designated by a  
10       United States Government Agency for limited or re-  
11       stricted dissemination or distribution.

12           “(3) COMMUNICATION INTELLIGENCE.—The  
13        term ‘communication intelligence’ means all proce-  
14        dures and methods used in the interception of com-  
15        munications and the obtaining of information from  
16        such communications by other than the intended re-  
17        cipients.

18           “(4) FOREIGN GOVERNMENT.—The term ‘for-  
19        eign government’ includes in its meaning any person  
20        or persons acting or purporting to act for or on be-  
21        half of any faction, party, department, agency, bu-  
22        reau, or military force of or within a foreign coun-  
23        try, or for or on behalf of any government or any  
24        person or persons purporting to act as a government

1 within a foreign country, whether or not such gov-  
2 ernment is recognized by the United States.

3 “(5) HUMAN INTELLIGENCE.—The term  
4 ‘human intelligence’ means all procedures and meth-  
5 ods employed in the collection of intelligence through  
6 human sources.

7 “(6) INFORMANT.—The term ‘informant’ has  
8 the meaning given that term in section 606 of the  
9 National Security Act of 1947 (50 U.S.C. 426).

10 “(7) TRANSNATIONAL THREAT.—The term  
11 ‘transnational threat’ means—

12 “(A) any transnational activity (including  
13 international terrorism, narcotics trafficking,  
14 the proliferation of weapons of mass destruction  
15 and the delivery systems for such weapons, and  
16 organized crime) that threatens the national se-  
17 curity of the United States; or

18 “(B) any individual or group that engages  
19 in an activity referred to in subparagraph (A).

20 “(8) UNAUTHORIZED PERSON.—The term ‘un-  
21 authorized person’ means any person who, or agency  
22 which, is not authorized to receive information of the  
23 categories set forth in subsection (a), by the Presi-  
24 dent, or by the head of a department or agency of  
25 the United States Government which is expressly

1 designated by the President to engage in commu-  
2 nication intelligence or human intelligence activities  
3 for the United States.”.

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